



Policy Name: Polygraph Examinations – Instructions for Imposing Licence Conditions for Polygraph on People Convicted of Sexual Offences (PCoSOs), Terrorist and Terrorist Connected Offences

Reference: N/A

Re-Issue Date: 18 January 2023 **Implementation Date:** 24 June 2021

Replaces the following documents (e.g. PSIs, PSOs, Custodial Service Specs) which are hereby cancelled: PSI 36/2014 and PI 53/2014 - Polygraph Examinations: Instructions for Imposing Licence Conditions for the Polygraph on Sexual Offenders

Introduces amendments to the following documents: N/A

Action required by:

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

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

Context: Her Majesty’s Prison and Probation Service is committed to reducing sexual and terrorist offending and the risk of serious harm associated with those offences. The use of polygraph examination for those convicted of serious sexual offences, terrorist offences and those offences with a terrorist element, is one of the strategies being utilised to monitor and manage those who pose a risk of committing further offences. It is also used to support effective risk management and assist in reducing the number of new victims that are created.

Associated Documents:

- Generic Parole Process Policy Framework (issued February 2020)
- Recall, Review and Re-Release of Recalled Prisoners Policy Framework (issued July 2021)
- Licence Conditions Policy Framework (issued July 2022)
- National Standards for Counter Terrorism Polygraph Examinations.

How will this Policy Framework be audited or monitored? Provider of Probation Services – compliance is monitored by Regional Probation Directors (RPDs) in their region and by senior contract managers.

Public Prisons – Prison Group Directors will monitor their prisons’ compliance with the Framework’s requirements.

Privately Managed Prisons – monitoring of compliance will be through the standard contract management processes.

Resource Impact: Requesting and managing polygraph conditions and undertaking polygraph examinations are responsibilities of the Probation Service.

Polygraph examiners have already been appointed as Probation Service employees and regions are already managing cases with polygraph examination conditions. Terrorist and terrorist connected cases are managed within the Probation Service National Security Division (NSD), which operates across Probation Service regional boundaries. This was previously estimated as requiring 5% of probation practitioner time per caseload to cover the extra tasks associated with managing these cases including liaison with the examiner, liaising with and updating MAPPA and reviewing sentence plans where needed. Probation practitioners should incorporate discussions about polygraph examinations into supervision, both pre-release and post-release. This should include motivating the individual to take and comply with testing and being available to contribute to the post test phase of the examination. Preparing and motivating the individual to take the polygraph examination and using the information from the polygraph reports in the management of the individual will form part of the core tasks within the specification for “Manage the custodial and post-release periods”.

Line management of polygraph examiners undertaking examinations on those convicted of sexual offences is provided either through the Probation Service Regions or through the NSD. Public Protection Group have strategic oversight of the work and management of the national polygraph secure mailbox. Each examiner is accountable to and managed by their individual Region.

For terrorist and terrorist connected cases, line management is provided via the NSD Units and all referrals for terrorist cases are channelled via the relevant unit. Each examiner is accountable and is managed from within the NSD Units.

The original resources identified for these processes were included in the Polygraph Examination full business case at the point that polygraph testing was first introduced in 2014. Additional examiners have since been recruited to resource polygraph testing of people with terrorist and terrorist connected offences and to strengthen the existing resource.

Prisons are already issuing licences with the required wording, confirming that the additional condition is necessary and proportionate, as with all additional licence conditions. The licence template has been amended to reflect this.

Therefore, this update to the previous PI/PSI introduces no new mandatory requirements and requires no additional resources.

Contact: For sex offending referrals: amso@justice.gov.uk
For terrorist offending referrals: NSDPS.PEreferrals@justice.gov.uk

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

Approved by OPS for publication: Sarah Coccia and Ian Barrow, Joint Chairs, Operational Policy Sub-board, May 2021

Revisions

| Date | Changes |
|---------------|---|
| November 2022 | Policy Framework updated to reflect the changes resulting from the PCSC Act |
| Jan 2023 | Typo amended in Para 4.50 and Annex 6; Contents page updated |

CONTENTS

| Section | Title | Page |
|----------------|--|-------------|
| 1 | Purpose | 6 |
| 2 | Evidence | 6 |
| 3 | Outcomes | 7 |
| 4 | Requirements | 8 |
| | Arrangements for the provision of polygraph examinations | 8 |
| | Polygraph examination eligibility criteria | 8 |
| | Legal criteria | 9 |
| | HMPPS criteria | 9 |
| | Decision to seek the polygraph condition | 10 |
| | Suitability for polygraph examination | 12 |
| | Health and fitness for examination | 12 |
| | Requesting the polygraph condition | 13 |
| | The role of the probation practitioner | 13 |
| | Adding a polygraph condition for a “qualifying individual” currently on licence | 16 |
| | Informing and preparing an individual subject to polygraph examination | 16 |
| | Testing Sites | 17 |
| | Description and requirements of a polygraph examination | 17 |
| | Responding to the outcome of the polygraph examination | 18 |
| | Enforcement action | 19 |
| | Re-release after recall | 20 |
| | Oral hearings | 21 |
| | Discontinuing testing | 20 |
| | Storage and recording | 21 |
| 5 | Constraints | 22 |
| Annex 1 | Sections of Offender Management Act 2007 relating to polygraph condition | 24 |
| Annex 2 | Sections of Counter Terrorism and Sentencing Act 2021 relating to terrorist and terrorist connected offences | 27 |
| Annex 3 | List of Specified Sexual Offences | 28 |
| Annex 4 | List of Specified Terrorist Offences | 33 |

| | | |
|----------|---|----|
| Annex 5 | Example wording for proposing a polygraph licence condition | 35 |
| Annex 6 | Case Recording Instruction CRI009 – Polygraph Testing | 38 |
| Annex 7 | Storage of polygraph records/data access requests | 43 |
| Annex 8 | Complaints | 56 |
| Annex 9 | Storage of polygraph records/data access requests | 57 |
| Annex 10 | List of abbreviations | 57 |

1. **Purpose**

- 1.1 Polygraph examination is used to support effective management of licences for people convicted of sexual offences (PCoSOs) who are assessed as posing a high or very high risk of re-offending and a high risk of harm and those convicted of terrorist and terrorist connected offences who are assessed as presenting a very high or high risk of harm.
- 1.2 This policy framework sets out the arrangements for imposing a licence condition requiring certain PCoSOs and terrorist and terrorist connected offenders sentenced to a term of imprisonment of 12 months or more to undergo polygraph examinations. It details how probation practitioners should identify which PCoSOs and terrorist and terrorist connected offences must be made subject to the polygraph examination condition. This must be in accordance with the criteria specified by HMPPS within this Policy Framework which requires that tests be arranged for all relevant people on probation. It includes instructions for identifying those meeting the mandatory criteria, and advice on the process Probation Service regions and NSD Units will need to put in place to enable testing on a small number of discretionary cases.

2. **Evidence**

Background

- 2.1 In 2007, following several high-profile cases in which PCoSOs on licence offended against (and killed) children, the government published the Review of the Protection of Children from PCoSOs. The then National Offender Management Service (now HMPPS) subsequently piloted polygraph examination on PCoSOs on licence and commissioned research into its effectiveness as a case management tool.
- 2.2 The legal mandate for the pilot was contained in the Offender Management Act 2007 (“the Act”). Sections 28 – 30 of the Act enable a ‘polygraph condition’ to be inserted in the release licence of certain PCoSOs, as specified in the Act. Section 30 of the Act makes it clear that information obtained during any part of the polygraph examination, including the physiological responses from the tested individual, may *not* be used in criminal proceedings against the examined person. This includes the pre-test interview, the post-test interview and the examination itself. The policy position is that the result of a polygraph examination cannot be used as the basis of recall. However, information gathered from any part of the polygraph session may be passed onto the police or other relevant agencies, where a legal gateway permits. The police may use the information to conduct further investigations which may result in further charges and/or recall. Additionally, any disclosures made by the person on probation during the polygraph process, that suggest the individual can no longer be safely managed in the community can be used as the basis for recall. The original Commencement Order for the above sections of the Act, made in January 2009¹, restricted polygraph examination to the geographical area of East and West Midlands Probation Regions for the purpose of a pilot (January 2009 to March 2012). The pilot was accompanied by independent research, which showed that mandatory polygraph

¹ The Offender Management Act 2007 (Commencement No. 3) Order 2009. No 32 (C.1) 13 January 2009

examination was a useful, additional risk management tool for probation practitioners. A national roll-out of mandatory polygraph examination followed².

- 2.3 From 6 January 2014 it became possible to add a polygraph examination condition to the licence of certain individuals with sexual convictions across England and Wales, targeting those individuals convicted of sexual offences assessed as posing the highest risk of further offending and harm.
- 2.4 Although there has not been a pilot of testing terrorist and terrorist connected offenders within the Probation Service, the Government made a decision, based on the success of testing of individuals convicted of sexual offences and following the terrorist attacks at Fishmongers Hall and in Streatham, that testing should also be imposed in certain terrorist cases.
- 2.5 In relation to terrorist cases, the legislation that permits the Secretary of State for Justice to impose polygraph examinations on certain terrorist and terrorist connected offenders was added to section 28 of the Act by the Counter Terrorism and Sentencing Act 2021. The arrangements and basis for testing mirror those convicted of sexual offences already contained in the Act. These changes came into force on midnight of the 29 June 2021.

“Polygraph test” or “polygraph examination”

- 2.6 The term polygraph ‘examination’ rather than ‘test’ is preferred when discussing polygraphy. However, historically the word ‘test’ has been used. Indeed, it is used in the wording of the licence condition itself. ‘Examination’ should be used wherever possible, but it is acknowledged that this will not always be consistent. The term ‘lie detector’ should not be used either verbally with the individual or in any written form.

3. Outcomes

- 3.1 This policy framework aims to ensure that:
 - Probation practitioners understand the criteria that must be met for a polygraph licence condition to be made – both the legal criteria and the policy criteria;
 - Individuals who meet the criteria undergo polygraph examinations as a licence condition in compliance with the legislation;
 - Referral to the polygraph examiners is timely so that the polygraph examination process is arranged to the correct timescales after release;
 - Probation practitioners are equipped to provide advice to Governors and to the Parole Board in PAROMs about use of the polygraph condition to manage an individual’s risk, demonstrating necessity and proportionality;
 - Probation practitioners and polygraph examiners liaise effectively to secure best outcomes from polygraph examinations;
 - The polygraph condition is properly managed and enforced and;
 - Those subject to a polygraph examination are well informed about the process and probation practitioners use the information from examinations to improve management of such cases.

² The Offender Management Act 2007 (Commencement No. 6) Order 2013. No 1963 (C.82) 6 August 2013, coming into force 6 January 2014

3.2 The Policy Framework replaced PI 53/2014 and PSI 36/2014 and includes:

- a) Guidance on the use of the polygraph examination licence condition, including the mandatory requirements, delivery arrangements, the legal and HMPPS criteria for testing, information on individual not suitable for testing and a description of the polygraph examination;
- b) Additional guidance relating to:
 - Suggested wording for the preparation of reports;
 - Data access issues, data storage arrangements and complaints procedures;
 - Detail of the sections of the Offender Management Act 2007 relating to polygraph examinations and the list of 'relevant sexual offences' and 'relevant terrorism offences' to which the condition can be applied;
 - A list of abbreviations used in documents relating to polygraph examinations

4. Requirements

4.1 The Act stipulates that mandatory polygraph examinations can only be imposed as a licence condition for those convicted of qualifying sexual and terrorist offences, who are on licence for a polygraph-eligible offence for which they were sentenced to a custodial sentence of 12 months or more. As a polygraph licence condition can only be imposed on those released on licence, polygraph examinations cannot be imposed on a person released on a notice of supervision. Polygraph conditions may *only* be imposed in the prescribed legislative circumstances and polygraphing an individual outside the legislative and policy framework may breach their Article 8 right to privacy. Therefore, polygraph examinations must only be used for PCoSOs and terrorist and terrorist connected offenders who have a polygraph licence condition. They must *not* be used for any other individual, including those on release on temporary licence or subject to community orders. Individuals with a polygraph licence condition, who are also subject to Terrorism Prevention and Investigation Measures (TPIM), can be required to participate in a polygraph examination. Polygraph examination as a licence condition will take precedence in this situation to avoid any duplication in testing of the same individual.

Arrangements for the provision of polygraph examinations

- 4.2 Polygraph examiners are Probation Service probation practitioners who are experienced in working with high-risk cases. They are trained, and their subsequent practice is quality assured through an independent polygraph training provider accredited by the American Polygraph Association (APA). The contract is overseen by the HMPPS Assessment and Management of Sexual Offending Policy Team. Their training includes Post Conviction Sex Offender Training (PCSOT). Examiners must be qualified probation practitioners, must receive polygraph training and pass examinations in both polygraph examination and PCSOT. The requirements for accreditation and training for polygraph examiners are set out in secondary legislation (the Polygraph Rules 2009) and these standards must therefore be complied with in order that the examinations remain lawful and beyond reproach in terms of standards.
- 4.3 Polygraph examiners are responsible for testing in the Region they are assigned to, however they are also part of a national team and are required to cover other regions as necessary, for example to cover annual leave or sickness, or when there are spikes in demand.
- 4.4 Examiners who test terrorist and terrorist connected cases are generally assigned to a specific NSD unit but are required to cover other areas as required.

Polygraph examination eligibility criteria

- 4.5 In order to be made subject to a polygraph examination licence condition, **all** cases must fit the legal criteria as outlined below without exception.
- 4.6 Where the legal criteria are met, it is mandatory that those cases that fit the HMPPS criteria below **must** be referred for a polygraph licence condition.
- 4.7 Where the legal criteria are met, but the HMPPS criteria are not met, there is scope for certain cases to be referred on a discretionary basis.

Legal criteria

- 4.8 The legal criteria for the polygraph condition are contained in section 28 of the Offender Management Act 2007 (recorded in full in Annex 1) . The criteria are:
- Individuals age 18 or over (male or female);
 - Released on licence from a sentence of imprisonment of 12 months or more for a relevant offence to an address in England or Wales;
 - A relevant sexual offence includes all offences listed in Schedule 3 to the Sexual Offences Act 2003, or Part 2 of Schedule 15 to the Criminal Justice Act 2003 and its Scottish and Northern Irish equivalents (see Annex 2, for the full list) (**relevant sexual offences**);
 - A relevant terrorist offence as defined in section 28(4A) and (4B) of the Act, which means (see annex 3 for the full list):
 - (a) An offence that is specified in Part 1 or 2 of Schedule 19ZA to the Criminal Justice Act 2003 (terrorism offences carrying restricted eligibility for release on licence)
 - (b) An offence that was determined to have a terrorist connection by the sentencing judge, as specified in section 247A(7A) of the Criminal Justice Act 2003 (meaning of offences determined to have a terrorist connection).³
 - For all cases, this also includes those who have been transferred on a restricted basis from another area within the UK, or repatriated to the UK from outside the UK. This will only apply to individuals who are repatriated to the UK whilst still serving a custodial sentence, and then released on an England and Wales prison licence.
 - This also includes those who have been sentenced to a corresponding service offence where the offender is sentenced in a military court – but only where the offender is serving their sentence in a civilian prison.
 - The changes for repatriated and service offenders were made recently. Polygraph conditions should be applied retrospectively to the licences of individuals who meet the legal and policy criteria who were sentenced in a military court or have been repatriated

³ Note that the ‘terrorism connection’ legislation only came into force as of 18 June 2009, so those sentenced before that date will not fall into scope.

to England and Wales and are currently serving a custodial sentence or have already been released on licence.

HMPPS criteria

- 4.9 The polygraph licence condition must be necessary and proportionate to manage the individual's risk. Any case, meeting the legal criteria outlined above, and assessed as high/very high Risk of Serious Harm using OASys and high/very high risk of proven sexual reoffending using OSP/C would meet this criterion and so **must** be tested. All terrorist and terrorist connected cases must have a completed Extremism Risk Guidance 22+ and be Very High or High risk of harm using OASys.
- 4.10 Where someone has a polygraph testing licence condition already added to their licence based on their RM2000 score, this condition will remain in place even if their newly calculated OSP/C score means that they do not fit the criteria for mandatory testing. As per the existing process, the individual will remain subject to polygraph testing until such time at their Risk of Serious Harm assessment is reviewed and is no longer high or very high.
- 4.11 There will be cases falling outside these criteria for whom there are serious risk concerns. So, in addition to those individuals who are required to be examined, a limited number of PCoSO and terrorist and terrorist connected cases who fall outside of the HMPPS criteria may be examined on a discretionary basis each year after liaison with, and approval by, a polygraph examiner.
- 4.12 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 mandatory or discretionary criteria for testing. Such cases should be *very rare* and discussion about the appropriateness of referring such cases for testing must be discussed firstly with polygraph examiner and then escalated to the polygraph operational lead, Head of Public Protection/Head of National Security Unit for discussion with the Polygraph policy team, by emailing Polygraph@justice.gov.uk. It is important to remember that in all cases the individual must meet the legal criteria to be tested.
- 4.13 Probation Service Heads of Probation Delivery Units must ensure that probation practitioners responsible for managing individuals who are eligible for the polygraph condition:
- identify relevant individuals at least six months before release and prepare reports for the Parole Board or Governor of the releasing prison outlining the need for the inclusion of the polygraph condition where relevant;
 - follow referral procedures pre and post-release to ensure that individuals with the polygraph licence condition are tested in line with required timescales;
 - incorporate any information related to risk arising from any part of the polygraph session into the management of the individual. This must include updating the risk management plan, taking enforcement action where necessary and notifying other agencies such as the police;
 - Share information from the polygraph examination with partners under MAPPA or other appropriate information sharing arrangements e.g. section 14 of the Offender Management Act 2007
 - record all information properly on the case record according to agency and inter-agency requirements;
 - ensure polygraph reports are uploaded to ViSOR.

4.14 Governors of public and privately managed prisons from which relevant PCoSOs and terrorist and terrorist connected cases will be released with a polygraph condition must ensure that when such a condition is requested by a probation practitioner:

- the individual meets the legal criteria for the condition;
- the appropriately worded condition is inserted into the licence.

4.15 Probation Service Heads of Public Protection are required to act as the single point of contact (SPOC) for operational matters relating to polygraph examinations. The SPOC must ensure that policy and operational communications about polygraph examination are disseminated to relevant staff in regions. For terrorist and terrorist connected cases, the NSD Unit Heads are required to act as SPOCs and should be contacted for operational matters concerning this cohort.

4.16 Probation practitioners should contact the SPOC for general queries about polygraph examination but contact their local polygraph examiner for questions relating to specific cases. For terrorist and terrorist connected cases the specialist terrorism polygraph examiners should be contacted.

Decision to seek the polygraph condition

Sexual Offending: Mandatory cases

4.17 Probation practitioners **must** request the polygraph examination condition when the PCoSO:

- Is aged 18 years and over
- Will be subject to a period on licence having received a custodial sentence of 12 months or more for a relevant sexual offence as per Part 2 of Schedule 15 of the Criminal Justice Act (2003) (or, where they are transferred from another jurisdiction within the UK, paras 1-21 of Schedule 16 or Part 2 of Schedule 17). This includes both determinate and indeterminate sentenced prisoners
- Is assessed as High/Very High Risk of Serious Harm using OASys **and** High/Very High risk of sexual reoffending using OSP/C

Sexual Offending: Discretionary cases

4.18 There is also provision for the testing on a discretionary basis of those PCoSOs who meet the legal criteria (first two bullet points) and are high/very high risk of serious harm on OASys, but who do not meet the criteria of being high/very high risk of sexual reoffending (third bullet point). It is appropriate to submit a discretionary referral for such cases where it can be evidenced that polygraph examination is a necessary and proportionate measure to manage the risk the individual poses in the community. Within the referral form the probation practitioner must outline their rationale for submitting a discretionary referral and set out the evidence that supports their rationale. The decision must be made on a case by case basis, but these discretionary referrals would include those assessed as low or medium on OSP/C and those for whom OSP/C does not apply, such as women, where one of the following is present:

- Evidence that dynamic risk factors are active. For example, someone assessed as high Risk of Serious Harm who is about to be released after one serious sexual offence may not score as high or very high on OSP/C. If, even after completing a treatment programme in prison, was displaying or expressing offence-supportive beliefs, for example, that they intended to pursue their victim on release, or intended still to seek out vulnerable women with children whom they might groom, then it would

be appropriate to submit a referral for a polygraph condition to strengthen their risk management plan;

- no evidence of sufficient protective factors or relapse prevention strategies in place;
- history of non-compliance with licence conditions such as entering exclusion zones or seeking contact with victims, or other risk management strategies such as breaching their notification requirements;
- where there is reliable intelligence from another agency, such as the police, to support that the licence condition is necessary, and the practitioner can explain in the referral form how this intelligence informs dynamic risk.

4.19 The final decision regarding discretionary testing will be the responsibility of the polygraph examiner. Authorisation from the examiner must be sought *before* requesting a condition be added to a licence, by submitting a referral to the polygraph functional mailbox (Polygraph@justice.gov.uk).

Terrorist and Terrorist-connected Cases

4.20 The polygraph examination condition can be added to terrorist and terrorist-connected cases, as outlined in the criteria noted below. For ease of reference within this policy framework, the phrase 'terrorist and terrorist connected' cases will be referred to by the acronym 'TACT'.

Terrorist Offences: Mandatory Cases

- aged 18yrs and over
- male or female;
- has been sentenced to a custodial sentence of 12 months or more and released on licence;
- convicted of a relevant terrorist offence (as defined in section 28(4A) of the Act, which includes service offences and terrorist connected offences);
- convicted of an offence where the Judge, at the point of sentence has stated that the offence was motivated by terrorism. For example, someone who is charged with murder, but where the motivation was terrorism;
- is assessed as very high or high risk of harm on OASys and has had an ERG 22+ completed.

Suitability for polygraph examination

4.21 Polygraph examinations are suitable for most people providing they understand the difference between a truth and a lie. A polygraph condition can be applied to individuals of any gender including anyone who is transitioning from one gender to another. Please see the suggested wording in Annex 4 for those cases for whom a static risk assessment tool is not available.

4.22 Legislation does not allow for polygraph examinations to be used with any individual who was released whilst under the age of 18 years of age, regardless of the offence they have committed or what age they are at the time they would come under consideration for the condition. If they are recalled, however, and re-released on the same sentence and are over the age of 18, a polygraph condition can be added at the point of re-release.

4.23 Assessment of suitability for testing is a three-part process involving:

- consultation with the probation practitioner regarding physical, mental health or other factors that may impact on testing based on available professional assessments (e.g.,

psychological reports, IQ assessments, etc.) and the practitioner's professional knowledge of the case.

- a pre-test interview and review with a suitability screening form conducted by the examiner. Examiners receive specialist training regarding physical and mental health conditions that may affect an examinee's suitability for testing.
- a 'practice' examination, known as an acquaintance test, which enables the examiner to assess the examinee's ability to understand and follow instructions and also whether any health or other factors adversely affects the examinee's physiological responses, health and fitness for examination

Health and fitness for examination

- 4.24 In the overwhelming majority of cases a physical or mental health condition will not make an examinee unsuitable for testing, and examiners are expected to review the examinee themselves on the day of the test. If an examinee is unsuitable for testing the examiner must inform the probation practitioner and either postpone the examination to a later date or indicate that the examinee cannot be tested.
- 4.25 Some conditions which could impede a polygraph examination may only manifest themselves on the day of the appointment. For example, running a fever may interfere with the test itself. Under these circumstances, the examiner must inform the probation practitioner and postpone the examination to a later date.
- 4.26 If an examiner finds that an examinee is not suitable for polygraph testing due to a long-term physical, mental health issue or other factor that will not change in the future, then the practitioner must apply for removal of condition (see 4.84) and review the individual's risk management plan, to include considering further licence conditions in order to manage the risk. The probation practitioner must ensure that there is medical evidence supporting the health condition before removing the polygraph licence condition. If the person on probation becomes suitable again in the future, then the licence condition can be requested again.

Presenting, or suspected to be presenting, under the influence of alcohol or drugs

- 4.27 An examination will not be carried out if the individual is under, or is suspected of being under, the influence of drink or drugs. In these circumstances, this information will be given to the probation practitioner who will decide whether enforcement action is required and arrange a new examination to take place as soon as possible.

Requesting the polygraph condition

- 4.28 Prior to requesting the addition of a polygraph condition in PCoSO cases, the responsible officer must send a completed referral to the polygraph functional mailbox Polygraph@justice.gov.uk and receive confirmation that the referral has been accepted. In terrorism cases, the relevant functional mailbox is NSDPS.PEreferrals@justice.gov.uk.
- 4.29 Probation practitioners must then request the additional licence condition via the PAROM 1 or PD1, as appropriate to the case. It must be requested in all PAROMs for mandatory cases to be included as a proposed condition and, if appropriate, for all discretionary cases, even where release is not being supported. This is to ensure a robust risk management plan is in place in all cases where the Parole Board may direct release.
- 4.30 The wording of the condition must be:
- 4.31 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.

- 4.32 Where the probation practitioner has requested the polygraph licence condition, governors of public and privately managed prisons must ensure the individual meets the legal criteria for such a condition.

The role of the probation practitioner - Sexual Offending and Terrorist Cases

Pre-release

- 4.33 When considering a polygraph licence condition, probation practitioners must complete and submit the “Polygraph Examination Combined Referral and Notification Form” pre-release and wait for confirmation that the referral has been accepted, before requesting the condition be added to the licence. Referrals for sex offending cases must be sent to Polygraph@justice.gov.uk. For TACT cases, the referral form should be sent to NSDPS.PEreferrals@justice.gov.uk. The forms are available in NDelius. To ensure the correct and most up to date version of the forms are used, probation practitioners should only use the forms available on NDelius, and not any previously saved versions.
- 4.34 At the earliest opportunity after the probation practitioner has had confirmation that the referral has been accepted, they should make contact with the individual to advise them that polygraph will be requested as one of their licence conditions. This is to ensure that they are aware of the condition before they are released. The COM (community offender manager) should also notify the POM (prison offender manager) that a polygraph licence condition will be requested. This will ensure that the individual has the opportunity to ask them any questions that they have about polygraph examinations. It will also help to ensure that they understand the requirement.

Post-release referral

- 4.35 Within five working days of release, the probation practitioner must confirm to the national polygraph secure mailbox that the individual has been released and must send a copy of the licence. Referrals for sex offending cases must be sent to Polygraph@justice.gov.uk. For terrorist cases the referral form should be sent to NSDPS.PEreferrals@justice.gov.uk
- 4.36 The examiner will liaise with the probation practitioner to arrange the first examination, normally within 8-16 weeks of date of release. The polygraph examination should take place early in the licence period but after sufficient time has elapsed for aspects of an individual’s behaviour to be tested. However, in exceptional circumstances where it may be important for risk management to undertake a polygraph test before 8 weeks (e.g. prior to someone moving on from an Approved Premises), the probation practitioner can request an earlier examination through discussion with the polygraph examiner. For TACT cases, the core group supporting the individual should make the decision regarding when the first test takes place based on all the relevant information that is available. For this group of individuals active management of the case is supported by meetings between a concentrated Core Group of professionals involved in the management of the case. Information related to the polygraph test will be shared within this context as necessary and in accordance with the Data Protection Act 2018.
- 4.37 The probation practitioner must provide the individual with details of the test, including the polygraph leaflet, and a copy of the Statement of Understanding which they must be asked to sign. The probation practitioner must upload signed copy of the Statement of Understanding to the NDelius case record. In the event that the individual refuses to sign the

Statement of Understanding, the probation practitioner should make a note of this on the Statement of Understanding to confirm that it has been discussed with the individual, and a copy of the form should be uploaded to the NDelius record. It is important that the probation practitioner discusses the polygraph information leaflet with the individual in detail. This is particularly important where the individual has a disability which may require additional explanation of the detail of the leaflet e.g. a learning difficulty, or a physical disability such as a visual impairment.

Setting questions for the polygraph examination

- 4.38 Probation practitioners must make themselves available for a telephone conversation with the polygraph examiner (the examiner will initiate contact) at an agreed date and time prior to the polygraph examination taking place. This is to discuss and agree areas that questions should focus on during the examination. The actual construction of the questions will be the responsibility of the polygraph examiner, who will have received specialist training in this area. The role of the probation practitioner will be to flag up the areas that concern them with regard to risk management, the individual's current attitude, health, compliance etc. The examiner will devise suitable questions to give the probation practitioner the information they need to assist in the management of the case. The questions are contained in the polygraph examiner's report that is uploaded onto NDelius.
- 4.39 For TACT cases, the core group should discuss what questions should be asked of the individual but ultimately it is for the probation practitioner and the examiner to determine what should be asked.

First examination

- 4.39 The details (time, date and location) of the examination will be confirmed by the examiner, and the probation practitioner will then inform the examinee, preparing them for examination (see section 4.17) and providing travel costs (if appropriate). The probation practitioner and polygraph examiner must agree how immediate post-test feedback will be provided if the probation practitioner is unable to attend the post-test phase of the examination. If attendance is not possible the post-test feedback must be handed over to the practitioner via an alternative method.
- 4.40 Having completed the examination, the examiner must prepare the polygraph report within five working days of the examination and place it on NDelius, informing the probation practitioner via email when the report is uploaded.
- 4.41 The examiner will also inform the probation practitioner of the time frame of the next examination, which will depend on the examination outcome. This will be:
- within four weeks if the current result is "inconclusive" or "no opinion",
 - in approximately three months if the current result is "significant response" and
 - in approximately six months if the current result is "no significant response".

Subsequent examinations

- 4.42 The examiner will make contact with the probation practitioner about the date of the next examination no later than three weeks before the test date. As per the first examination, the same subsequent actions are required. That is, the probation practitioner must inform the individual of the examination, prepare them for it, agree what their contribution to the post-test phase will be and receive information from the examiner about the polygraph examination and the time-frame for the next examination.

Involvement in the post-test phase of the examination

- 4.43 It is important for the probation practitioner to be available for, and to contribute to, the post-test phase of the examination. They should inform the individual of this in advance.

Cancelling examinations and/or informing about recall to custody

- 4.44 The polygraph examination provision is an important and finite resource. A probation practitioner must inform the examiner immediately if an examination needs to be cancelled/rearranged and provide a reason why.
- 4.45 If the individual has been recalled to custody and will still be assessed as appropriate for the polygraph condition on re-release, the probation practitioner will need to complete a new referral.
- 4.46 The probation practitioner must inform the polygraph examiner within five days of a polygraph condition being removed from an individual's licence.

Recording of information

- 4.47 Probation practitioners must record any issues or concerns arising from the polygraph examination and/or an individual's response to it that have an impact on the risk assessment and/or management of the case on NDelius. They must also communicate directly with partners who are involved in the management of the case.
- 4.48 The polygraph report should be uploaded to ViSOR within five days of the probation practitioner receiving it, unless there is any concern that it contains information that may be assessed/classified as 'Secret' or 'Top Secret'. In these circumstances, the polygraph examiner should discuss with the Head of National Security Division Portfolio lead for Polygraph for further consideration and decisions about storage.

Notification to other agencies

- 4.49 The probation practitioner must alert relevant partner agencies to the fact that a PCoSO has a polygraph condition on their licence. Where relevant, they must also inform the partner agencies of the outcomes of any examinations which take place, including any significant disclosures made by the individual during the examination. Information shared by partner agencies may help to identify areas to be examined.

Adding a polygraph condition for a "qualifying individual" currently on licence

- 4.50 There are cases where a PCoSO or individual convicted of TACT offences is released on licence without a polygraph examination condition but the assessment of the risk of serious harm or reoffending increases. Once released, if the risk assessment changes and as a result the individual meets the mandatory criteria for testing the polygraph licence condition must be sought. For cases released into the community where changes to the risk assessment indicates the polygraph licence condition may be necessary but the mandatory criteria are not met; permission must be sought to add the condition on a discretionary basis. In both cases, the probation practitioner should submit a referral to the relevant mailbox, i.e. Polygraph@justice.gov.uk in PCoSO cases and NSDPS.PEreferrals@justice.gov.uk in TACT cases. If the referral is accepted, the probation practitioner should request the addition of a polygraph examination condition to the licence.
- 4.51 Once authorised by a polygraph examiner, the application to have the licence varied is via the appropriate process for applying to vary licence conditions contained in the Licence

Conditions Policy Framework, depending on the sentence imposed. That is, for those released automatically from prison, a licence variation should be requested through the Assistant Chief Officer (ACO) of the local Probation Service Probation Delivery Unit. For those released via the Parole Board, the request for variation should be submitted via the Parole Eligible Casework (PEC) team within the Public Protection Casework Section (PPCS). Contact details are contained within the Licence Conditions Policy Framework. Probation practitioners must provide PPCS with a copy of the confirmation of the polygraph referral acceptance from HMPPS for the condition to be added for those released via the parole board.

Informing and preparing an individual for a polygraph examination

- 4.52 The probation practitioner should discuss the polygraph condition with the individual, using the polygraph leaflet, as part of normal sentence management practice from the time when release is being discussed and planned. The implications and practicalities of regular polygraph examinations should be discussed with the individual and every opportunity should be taken to secure compliance and “buy in” from them.
- 4.53 As well as ensuring the individual understands that polygraph supports risk management, probation practitioners should explain how the polygraph can help the individual successfully complete their licence. It can support the individual to manage their own behaviour and provide additional information about their compliance with their licence conditions. This information will be used as part of the usual review of the supervised individual’s risk of serious harm and will be considered alongside a range of other evidence to review their licence conditions with the potential to have conditions removed as a result.
- 4.54 Imposition of a polygraph condition should not come as a surprise to an individual when they are handed their licence on the day of their release. If the community probation practitioner is not able to discuss it directly with the individual prior to their release, the individual can be prepared by the probation practitioner in the prison.
- 4.55 It is a requirement on probation practitioners to explain licence conditions at the initial induction meeting (Licence Conditions Policy Framework).
- 4.56 Though the date of the first polygraph examination is unlikely to be available during the first few supervision sessions, the individual should be informed that it will normally be scheduled for between 8 and 16 weeks after release.
- 4.57 The probation practitioner must provide the individual with the leaflet: “Information about Polygraph Licence Condition” and make sure the individual understands it. The condition should be explained at the beginning of the individual’s licence period, and they should be reminded of it when the date of the polygraph examination draws near. The probation practitioner must go through the Statement of Understanding with the individual and upload a signed copy to NDelius. These are available on EQUIP.

Testing sites

- 4.58 In order to maximise the number of polygraph examinations each examiner can undertake each day testing locations will be limited. Actual locations will be determined locally and through agreement between the examiners/HMPPS and Probation Service regions. This will take into account the location of examinees, the availability of suitable examination locations and the practicalities of the examiners’ schedules.

Description and requirements of a polygraph examination

4.59 As well as being fit for the examination (see paragraph 4.9), the polygraph examination requires that the individual:

1. is able to sit still for the duration of the actual testing phase of each examination (three or four periods of at least three to five minutes per test)
2. is able to attend the entire session that can last for up to four hours. More typically it will last for two to three hours
3. is able to understand the difference between telling the truth and lying
4. complies with all reasonable instructions given to him or her by the polygraph examiner

4.60 The polygraph examination is experienced by most people as a significant and serious event; it feels important. Though the style of an individual examiner will vary, many aspects of the polygraph session (comprising pre-examination, examination/test and post-examination phases) will be standard.

4.61 The examination does not hurt the individual but they may experience some pressure on one arm from a cardio-vascular cuff. It may also be difficult for some examinees to sit very still during the actual testing phase of the examination. This is required to enable the equipment to collect physiological data of sufficiently good quality. These potential difficulties may be managed more easily if the examinee is briefed about them by the probation practitioner in advance so they know what to expect.

4.62 Each examination will include:

- Recording of the entire session using audio-visual equipment (see 4.63)
- A full explanation of how the examination will work
- A pre-test interview which will include settling the individual into the session, an assessment of suitability, discussion about the background details of the individual's history, discussion of dynamic risk factors, e.g. sexual preoccupation, current situation, review of compliance with licence conditions, the actual questions that will be asked during the examination etc. An individual may make disclosures at this point
- A data collection phase involving the collection of physiological data while the examinee is asked and answers the polygraph questions
- A post-test interview in which the individual's response to the polygraph examinations are discussed. The individual may make disclosures during this phase which explain his/her polygraph examination result
- The examiner will send a polygraph report to the probation practitioner with their conclusions and details of any disclosures made within five working days of the examination

4.63 Examinations can only be undertaken using Lafayette⁴ equipment, as approved by the Secretary of State.

4.64 The examinee is not permitted to make their own recordings of any part of the polygraph test, either audio or video. This is stated in the Statement of Understanding, therefore the individual will be aware of this prior to attending for the polygraph examination.

⁴ Lafayette is the brand currently approved for use by the Secretary of State. Any proposed change to the brand of equipment would first require approval by the Secretary of State.

Responding to the outcome of the polygraph examination

- 4.65 Probation practitioners must make arrangements either to attend a post-polygraph examination three-way meeting at the end of the polygraph session or, where this is not possible, make themselves or another named individual available to receive information by telephone from the polygraph examiner. This may include immediate issues relating to the management of an individual's risk that have emerged directly from the polygraph session. It is important to note that significant disclosures and information may have been gathered, irrespective of the outcome of the examination (i.e., regardless of whether the outcome of the examination is 'significant response' or 'no significant response'). Probation practitioners should follow up with further enquiry on disclosures made during the test and test outcomes where a 'significant response' is concluded.
- 4.66 Where any information arising from the polygraph examination indicates that identifiable victim(s), individuals or members of the public are at risk, the probation practitioner must consult with a manager and initiate appropriate action commensurate with the risk identified. This could include for example, informing the police and the Victim Liaison Officer (VLO) if a previous victim is at risk, instigating emergency recall or taking action to verify the information.
- 4.67 Probation practitioners should share any information gained from the polygraph examination with others involved in the management of the individual. Where there is an indication that the risk has increased, information must be shared with the police immediately and recall must be urgently considered. For TACT cases, anything which suggests raised risk must be shared immediately with the police and recall should be considered. This will include where the individual has made disclosures at any point in the polygraph examination. A polygraph examination report will be provided by the examiner within five working days of the examination. Actions arising from the examination must be recorded and the risk of serious harm reviewed in accordance with relevant Probation Service policies. The sharing of polygraph examination reports with subjects and other MAPPAs agencies must also follow current information and data sharing policies and be compliant with relevant legislation.
- 4.68 Following receipt of the next examination details from the polygraph examiner, the probation practitioner must inform the individual of the date, time and venue of the examination at their next appointment or immediately, by letter, if the polygraph test falls between supervision appointments. The probation practitioner should confirm that the individual knows how to get to the examination venue and provide them with whatever fares/travel warrant assistance is appropriate.

Enforcement action

- 4.69 Sections 28-30 of the Act 2007 provide the Secretary of State with the authority to include polygraph examination as a condition of a prisoner's release from prison on licence. The polygraph condition requires the released person to participate in the polygraph sessions as instructed and comply with the instructions given to them by the person conducting the session.
- 4.70 An examination result alone cannot be used to justify recall to custody. Regardless of the outcome of the test – Significant Response, No Significant Response or Inconclusive – this alone cannot be used to recall an individual to custody.

- 4.71 However, if during the examination, the individual admits to or discloses behaviour that would constitute a breach and/or which indicates that they can no longer be safely managed in the community, enforcement action, including recall, must be considered.
- 4.72 Failure to attend (unacceptable absence), deliberately sabotaging the examination (using countermeasures) or failure to co-operate with the examiner as instructed would constitute a breach of the licence condition. Under these circumstances, the probation practitioner must consider taking enforcement action, particularly if the sabotage or failure to comply happens on more than one occasion.
- 4.73 In either of the above scenarios, enforcement action in response to a failure to comply with the polygraph condition, or to admitting breaching other conditions, could include:
- Immediate recall
 - Warning letter from ACO grade
 - Breach warning letter from the probation practitioner
 - The addition of further licence conditions in order to manage the risk
- 4.74 When deciding the most appropriate and proportionate response to a breach of the polygraph licence condition, issues such as past compliance, current behaviour and risk of serious harm should be considered. The enforcement decision should also be discussed with the probation practitioner's line manager. Where information from the polygraph examination raises concerns about the released person's current behaviour and potential level of risk of serious harm, the probation practitioner should liaise with the local police public protection team . If risk-related information is disclosed within the polygraph examination process, the risk of serious harm assessment must be reviewed in the light of this information, and the risk management plan updated accordingly.
- 4.75 Where recall action is not taken, the probation practitioner could also consider referral to MAPPA level 2/3 or bringing forward a planned MAPPA meeting for those already managed at level 2 or 3. This should also be discussed with their line manager.
- 4.76 It is possible that investigations undertaken as a result of polygraph examinations and disclosures will uncover evidence which would indicate that recall is required to protect the public. In this instance recall would be based on the risk-related evidence rather than the significant responses in the polygraph examination.
- 4.77 Probation practitioners must follow the instructions and guidance in the Recall, Review and Re-Release of Recalled Prisoners Policy Framework. Where the polygraph condition has been breached (e.g., through deliberate non-compliance) or where a polygraph examination has resulted in intelligence that one or more other licence conditions have been breached, the relevant details must be recorded in the Part A Recall report. This includes breaches of the standard conditions of good behaviour.
- 4.78 The date of any relevant polygraph examination should be detailed in the Part A Recall Report and information from the polygraph report and/or discussion with the polygraph examiner should be included. These will form part of the information used by PPCS when deciding whether to authorise the recall request.
- 4.79 The VLO, if involved, must be informed of the recall by the probation practitioner and again when the individual has been arrested as set out in the Victims Chapters on EQUIP.

4.80 Where the test result is No Significant Response (NSR – i.e., assessed as not deceptive), this will enable the probation practitioner to give encouragement and positive feedback to the individual. It is unlikely that the risk assessment will be altered after a first polygraph examination. However, several successive NSR outcomes may, alongside the individual's general response to supervision and progress against supervision objectives, inform a review of the assessment of risk of serious harm. It could also prompt consideration of suspension of the polygraph licence condition.

Re-release after recall

4.81 It is likely that many PCoSOs or TACT cases who have a polygraph condition and who are recalled to custody will be subject to standard recall. It is probable that a further polygraph licence condition will be appropriate in these cases when they are being considered for re-release. Consequently, a 28-day Risk Management report (Part B of the recall paperwork) should be prepared within the required timescales and a further polygraph licence condition proposed (see Recall, Review and Re-Release of Recalled Prisoners Policy Framework).

4.82 Where a PCoSO or a TACT case who did not have a polygraph condition has been recalled and is being considered for re-release, probation practitioners can consider whether a polygraph condition is appropriate and request its addition on the Part B (please see Annex 4 for wording suggestions which may assist). However, before doing so they must submit a referral and have confirmation that it has been accepted, as per the process outlined above.

4.83 For those cases who were initially released under the age of 18 without a polygraph condition, it is appropriate for a condition to be added to their licence upon re-release following recall, provided they are age 18 or over on the date of re-release and they meet the criteria as outlined in 4.5 Polygraph examination eligibility criteria.

Concurrent sentences

4.84 Where an individual is serving concurrent sentences, and only one of these makes them eligible for polygraph testing, the probation practitioner must ensure that polygraph testing ceases at the point the polygraph-eligible sentence terminates and applies for the condition to be removed from the licence. This principle does not apply to consecutive sentences, where the condition can remain in place throughout the duration of the sentence envelope.

Oral Hearings

4.85 Where the individual requests it or the case demands it, an oral hearing may be scheduled to consider the recall decision and possible re-release. The Parole Board may require the attendance of the polygraph examiner as well as the probation practitioner at the oral hearing. They may also require a copy of the polygraph report, and/or the polygraph charts, and/or the audio-visual recording of the polygraph session. The probation practitioner is responsible for obtaining these. They must be sent to PPCS for the oral hearing dossier, not directly to the Parole Board. If the audio-visual recording or chart printouts are directed by the Parole Board, the probation practitioner must liaise immediately with the polygraph examiner to arrange for extraction of the recordings from the electronic archive held on the Probation Service Data Storage System and provide these to PPCS. The probation practitioner must also inform the examiner immediately if their attendance at the hearing is required. Whilst there will be Parole Board members who specialise in dealing with TACT cases, not all in attendance at a hearing will have the required vetting levels for the disclosure of sensitive material. Therefore, for all TACT cases, a discussion with the ACO and counter-terrorist

police colleagues must take place to decide if information that impacts on national security should be redacted prior to the hearing.

Discontinuing testing

- 4.86 As with other licence conditions, the probation practitioner (following discussion in the core group in the case of people convicted of TACT offences) may decide to suspend the polygraph condition if they consider it is no longer necessary. This may be, for example, because a review of the risk of harm assessment indicates that the risk of serious harm is no longer high or very high risk. If the decision has been made to discontinue examinations, the licence condition should remain in place for a period of time for monitoring of compliance and behaviour in case of further risk escalation.
- 4.87 However, if risk remains lowered and it is felt the condition is no longer necessary and proportionate to manage the individual, the probation practitioner must consider applying to vary the licence by removal of the condition as per paragraph 3.62 in the Licence Conditions Policy Framework. Application to remove the condition should be made to the ACO of the local Probation Delivery Unit in the case of determinate sentenced prisoners or to the Parole Board, via PPCS. If any licence variation is agreed, the probation practitioner must inform the VLO, however the victim will not be informed of changes to conditions that are not linked to them.

Storage/Recording

- 4.88 There is clearly defined guidance for recording and storage of individual Polygraph files. Polygraph examiners are required to follow a clear process to ensure the storage of polygraph files is sufficiently secure (see Annex 5 for further details of the recording/storage process).
- 4.89 The processing of personal data under this Policy Framework must be done in accordance with the Data Protection Act 2018/UK General Data Protection Regulation, as set out in PSI 3/2018 (The Data Protection Act 2018 and UK General Data Protection Regulation). Access to the information relating to this Policy Framework and other related information thereto will also be considered under The Freedom of Information Act 2000, and Environmental Information Regulations 2004).

Marking

- 4.90 All documents and data that is stored following the polygraph examination should be marked as Official Sensitive. Where documents or data contain information relating to national security they should be marked as 'Secret' or 'Top Secret' and handled in accordance with this classification. The polygraph examiner should discuss with the Head of National Security Division Portfolio lead for Polygraph for further consideration and decisions about storage.

5. Constraints

- 5.1 The use and scope of polygraph examination is controlled by legislation. As such, despite the seriousness of cases such as sexually motivated murder, if the individual has not been convicted of a relevant sexual offence, they are not eligible for polygraph examination.
- 5.2 Polygraph examinations are not permitted in the Probation Service in any circumstances not already described in this policy framework. In particular (but not exhaustively), it is not permitted in the following circumstances:

- It is not to be used for those subject to community orders or Release on Temporary Licence (ROTL);
- For any PCoSO or people convicted of TACT offences who do not have a polygraph condition on their licence.
- The polygraph condition can only be added to the licence of an individual who will be 18 years or over on the day of release. The condition cannot, therefore, be added to the licence of someone who was under the age of 18 on the day of their release.
- If the polygraph-eligible sentence terminates but a concurrent continues and the individual remains subject to licence.

Additional guidance and information regarding the use of polygraph examinations with those convicted of sexual offences

| Annex | Title | Page |
|-----------------|---|-------------|
| Annex 1 | Sections of Offender Management Act 2007 relating to polygraph condition | 24-27 |
| Annex 2 | Sections of Counter Terrorism and Sentencing Act 2021 relating to terrorist and terrorist connected offences | 27 |
| Annex 3 | List of Specified Sexual Offences | 28-32 |
| Annex 4 | List of specified Terrorist Offences | 33-35 |
| Annex 5 | Example wording for proposing a polygraph licence condition | 35-37 |
| 5.1 | Parole cases | 36 |
| 5.2 | Suggested wording for proposing a licence condition in a discretionary case | 36 |
| 5.3 | Suggested wording for outlining the reason for a polygraph condition in a discretionary case | 37 |
| 5.4 | Cases with automatic release/non-Parole Board cases Example 2 | 37 |
| 5.5 | Cases with automatic release/non-Parole Board cases | 37-8 |
| 5.6 | Suggested wording for proposing a licence condition on a PD1 | 39-52 |
| Annex 6 | Case Recording Instruction CRI009 - Polygraph Testing | 38-42 |
| Annex 7 | Combined Referral and Notification Form for Mandatory & Discretionary Polygraph Examinations | 43-55 |
| Annex 8 | Storage of polygraph records/data access requests | 56 |
| Annex 9 | Complaints | 57 |
| Annex 10 | List of abbreviations | 57-58 |

Sections of Offender Management Act 2007 relating to polygraph examinations.

The Sections of the Offender Management Act 2007 that enable polygraph examination as an additional licence condition are reproduced below:

28 Application of polygraph condition

(1) The Secretary of State may include a polygraph condition in the licence of a person to whom this section applies.

(2) This section applies to a person serving a relevant custodial sentence in respect of a relevant sexual offence or a relevant terrorist offence who—

(a) is released on licence by the Secretary of State under any enactment; and

(b) is not aged under 18 on the day on which he is released.

(3) In this section "*relevant custodial sentence*" means—[

(a) a life sentence within the meaning of Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (see section 34(2) of that Act), or

(b) a fixed-term sentence within the meaning of Chapter 6 of Part 12 of the Criminal Justice Act 2003 (see section 237 of that Act) of a term of 12 months or more.

]¹

(4) In this section "*relevant sexual offence*" [means an offence specified in any one or more of—

(a) Schedule 3 to the Sexual Offences Act 2003 (sexual offences attracting notification requirements),

(b) Part 2 of Schedule 15 to the Criminal Justice Act 2003 (sexual offences under the law of England and Wales specified for certain purposes),

(c) paragraphs 1 to 21 of Schedule 16 to that Act (sexual offences under the law of Scotland specified for certain purposes), as that Schedule had effect immediately before its repeal on 14 July 2008, and

(d) Part 2 of Schedule 17 to that Act (sexual offences under the law of Northern Ireland specified for certain purposes), as that Schedule had effect immediately before its repeal on 14 July 2008.

]²

[

(4ZA) In determining for the purposes of subsection (4) whether an offence is specified in Schedule 3 to the Sexual Offences Act 2003, any limitation in that Schedule referring to the circumstances of a particular case (including the sentence imposed) is to be disregarded.

]³

(4A) In this section "*relevant terrorist offence*" means—

(a) an offence that is specified in Part 1 or 2 of Schedule 19ZA to the Criminal Justice Act 2003 (terrorism offences carrying restricted eligibility for release on licence), [or]⁴

[...]⁴

(c) an offence that was determined to have a terrorist connection.

(4B) In subsection (4A)—[...]⁵

(b) paragraph (c) is to be read in accordance with section 247A(7A) of the Criminal Justice Act 2003 (meaning of offences determined to have a terrorist connection).

[

(4C) A sentence in respect of a service offence is to be treated for the purposes of this section as if it were a sentence in respect of the corresponding offence.

(4D) In subsection (4C)—

(a) "*service offence*" means an offence under—

(i) section 42 of the Armed Forces Act 2006,

(ii) section 70 of the Army Act 1955 or the Air Force Act 1955, or

(iii) section 42 of the Naval Discipline Act 1957;

(b) "*corresponding offence*" means—

(i) in relation to an offence under section 42 of the Armed Forces Act 2006, the corresponding offence under the law of England and Wales within the meaning of that section;

(ii) in relation to an offence under section 70 of the Army Act 1955 or the Air Force Act 1955, the corresponding civil offence within the meaning of that Act;

(iii) in relation to an offence under section 42 of the Naval Discipline Act 1957, the civil offence within the meaning of that section.

(4E) Section 48 of the Armed Forces Act 2006 (Supplementary provisions relating to ancillary service offences) applies for the purposes of subsection (4D)(b)(i) above as it applies for the purposes of the provisions of that Act referred to in subsection (3)(b) of that section.

]⁶

29 Effect of polygraph condition

(1) For the purposes of section 28, a polygraph condition is a condition which requires the released person—

(a) to participate in polygraph sessions conducted with a view to—

(i) monitoring his compliance with the other conditions of his licence; or

(ii) improving the way in which he is managed during his release on licence;

(b) to participate in those polygraph sessions at such times as may be specified in instructions given by an appropriate officer; and

(c) while participating in a polygraph session, to comply with instructions given to him by the person conducting the session (“the polygraph operator”).

(2) A polygraph session is a session during which the polygraph operator—

(a) conducts one or more polygraph examinations of the released person; and

(b) interviews the released person in preparation for, or otherwise in connection with, any such examination.

(3) For the purposes of subsection (2), a polygraph examination is a procedure in which—

(a) the polygraph operator questions the released person;

(b) the questions and the released person’s answers are recorded; and

(c) physiological reactions of the released person while being questioned are measured and recorded by means of equipment of a type approved by the Secretary of State.

(4) In subsection (1)(b) “appropriate officer” means an officer of a provider of probation services or an officer of a local probation board.

(5) An appropriate officer giving instructions as mentioned in subsection (1)(b) must have regard to any guidance issued by the Secretary of State.

(6) The Secretary of State may make rules relating to the conduct of polygraph sessions.

(7) The rules may, in particular—

(a) require polygraph operators to be persons who satisfy such requirements as to qualifications, experience and other matters as are specified in the rules;

(b) make provision about the keeping of records of polygraph sessions; and

(c) make provision about the preparation of reports on the results of polygraph sessions.

(8) The power to make rules under subsection (6) is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

30 Use in criminal proceedings of evidence from polygraph sessions

(1) Evidence of any matter mentioned in subsection (2) may not be used in any proceedings against a released person for an offence.

(2) The matters so excluded are—

(a) any statement made by the released person while participating in a polygraph session; and

(b) any physiological reactions of the released person while being questioned in the course of a polygraph examination.

(3) In this section “polygraph examination” and “polygraph session” have the same meaning as in section 29.

Annex 2

Sections of Counter Terrorism and Sentencing Act 2021 relating to terrorist and terrorist connected offences

Polygraph licence conditions for terrorist offenders: England and Wales

(1) The Offender Management Act 2007 is amended as follows.

(2) In section 28 (application of polygraph condition)—

(a) in subsection (2), before “who” insert “or a relevant terrorist offence”;

(b) after subsection (4) insert—

“(4A) In this section “relevant terrorist offence” means—

(a) an offence that is specified in Part 1 or 2 of Schedule 19ZA to the Criminal Justice Act 2003 (terrorism offences carrying restricted eligibility for release on licence),

(b) a service offence as respects which the corresponding civil offence is so specified, or an offence that was determined to have a terrorist connection.

(4B) In subsection (4A)—

(a) in paragraph (b), “service offence” and “corresponding civil offence” have the same meaning as in the Counter-Terrorism Act 2008 (see section 95 of that Act);

(b) paragraph (c) is to be read in accordance with section 247A(7A) of the Criminal Justice Act 2003 (meaning of offences determined to have a terrorist connection).”

(3) In section 29 (effect of polygraph condition), after subsection (7) insert—

“(7A) Rules under subsection (6) may make—

(a) different provision for different purposes or different areas;

(b) incidental, supplemental, consequential, saving or transitional provision.”

Specified Sexual Offences

A Polygraph Condition can be made in the case of people on probation sentenced to any of the following offences, as defined in Schedule 3 to the Sexual Offences Act 2003, Part 2 of Schedule 15 to the Criminal Justice Act 2003 (specified sexual offences); paragraphs 1-21 of Schedule 16 to the 2003 Act and Part 2 of Schedule 17 of the 2003 Act (as they were before they were repealed);

SCHEDULE 15 PART 2 2003 ACT - SPECIFIED SEXUAL OFFENCES

66 An offence under section 1 of the Sexual Offences Act 1956 (c. 69) (rape).

67 An offence under section 2 of that Act (procurement of woman by threats).

68 An offence under section 3 of that Act (procurement of woman by false pretences).

69 An offence under section 4 of that Act (administering drugs to obtain or facilitate intercourse).

70 An offence under section 5 of that Act (intercourse with girl under thirteen).

71 An offence under section 6 of that Act (intercourse with girl under 16).

72 An offence under section 7 of that Act (intercourse with a defective).

73 An offence under section 9 of that Act (procurement of a defective).

74 An offence under section 10 of that Act (incest by a man).

75 An offence under section 11 of that Act (incest by a woman).

76 An offence under section 14 of that Act (indecent assault on a woman).

77 An offence under section 15 of that Act (indecent assault on a man).

78 An offence under section 16 of that Act (assault with intent to commit buggery).

79 An offence under section 17 of that Act (abduction of woman by force or for the sake of her property).

80 An offence under section 19 of that Act (abduction of unmarried girl under eighteen from parent or guardian).

81 An offence under section 20 of that Act (abduction of unmarried girl under sixteen from parent or guardian).

82 An offence under section 21 of that Act (abduction of defective from parent or guardian).

- 83 An offence under section 22 of that Act (causing prostitution of women).
- 84 An offence under section 23 of that Act (procurement of girl under twenty-one).
- 85 An offence under section 24 of that Act (detention of woman in brothel).
- 86 An offence under section 25 of that Act (permitting girl under thirteen to use premises for intercourse).
- 87 An offence under section 26 of that Act (permitting girl under sixteen to use premises for intercourse).
- 88 An offence under section 27 of that Act (permitting defective to use premises for intercourse).
- 89 An offence under section 28 of that Act (causing or encouraging the prostitution of, intercourse with or indecent assault on girl under sixteen).
- 90 An offence under section 29 of that Act (causing or encouraging prostitution of defective).
- 91 An offence under section 32 of that Act (soliciting by men).
- 92 An offence under section 33 of that Act (keeping a brothel).
- 93 An offence under section 128 of the Mental Health Act 1959 (c. 72) (sexual intercourse with patients).
- 94 An offence under section 1 of the Indecency with Children Act 1960 (c. 33) (indecent conduct towards young child).
- 95 An offence under section 4 of the Sexual Offences Act 1967 (c. 60) (procuring others to commit homosexual acts).^{*5}
- 96 An offence under section 5 of that Act (living on earnings of male prostitution).
- 97 An offence under section 9 of the Theft Act 1968 (c. 60) of burglary with intent to commit rape.
- 98 An offence under section 54 of the Criminal Law Act 1977 (c. 45) (inciting girl under sixteen to have incestuous sexual intercourse).

⁵ 'This offence has now been repealed. Whilst it is currently listed as an offence in Part 2 of Schedule 15 of the Criminal Justice Act 2003, people convicted under this offence can apply for a pardon. This issue is being considered following implementation of this polygraph policy framework.'

- 99 An offence under section 1 of the Protection of Children Act 1978 (c. 37) (indecent photographs of children).
- 100 An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (penalty for fraudulent evasion of duty etc.) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (c. 36) (indecent or obscene articles).
- 101 An offence under section 160 of the Criminal Justice Act 1988 (c. 33) (Possession of indecent photograph of a child).
- 102 An offence under section 1 of the Sexual Offences Act 2003 (c. 42) (rape).
- 103 An offence under section 2 of that Act (assault by penetration).
- 104 An offence under section 3 of that Act (sexual assault).
- 105 An offence under section 4 of that Act (causing a person to engage in sexual activity without consent).
- 106 An offence under section 5 of that Act (rape of a child under 13).
- 107 An offence under section 6 of that Act (assault of a child under 13 by penetration).
- 108 An offence under section 7 of that Act (sexual assault of a child under 13).
- 109 An offence under section 8 of that Act (causing or inciting a child under 13 to engage in sexual activity).
- 110 An offence under section 9 of that Act (sexual activity with a child).
- 111 An offence under section 10 of that Act (causing or inciting a child to engage in sexual activity).
- 112 An offence under section 11 of that Act (engaging in sexual activity in the presence of a child).
- 113 An offence under section 12 of that Act (causing a child to watch a sexual act).
- 114 An offence under section 13 of that Act (child sex offences committed by children or young persons).
- 115 An offence under section 14 of that Act (arranging or facilitating commission of a child sex offence).
- 116 An offence under section 15 of that Act (meeting a child following sexual grooming etc.).
- 117 An offence under section 16 of that Act (abuse of position of trust: sexual activity with a child).
- 118 An offence under section 17 of that Act (abuse of position of trust: causing or inciting a child to engage in sexual activity).

- 119 An offence under section 18 of that Act (abuse of position of trust: sexual activity in the presence of a child).
- 120 An offence under section 19 of that Act (abuse of position of trust: causing a child to watch a sexual act).
- 121 An offence under section 25 of that Act (sexual activity with a child family member).
- 122 An offence under section 26 of that Act (inciting a child family member to engage in sexual activity).
- 123 An offence under section 30 of that Act (sexual activity with a person with a mental disorder impeding choice).
- 124 An offence under section 31 of that Act (causing or inciting a person with a mental disorder impeding choice to engage in sexual activity).
- 125 An offence under section 32 of that Act (engaging in sexual activity in the presence of a person with a mental disorder impeding choice).
- 126 An offence under section 33 of that Act (causing a person with a mental disorder impeding choice to watch a sexual act).
- 127 An offence under section 34 of that Act (inducement, threat or deception to procure sexual activity with a person with a mental disorder).
- 128 An offence under section 35 of that Act (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception).
- 129 An offence under section 36 of that Act (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder).
- 130 An offence under section 37 of that Act (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception).
- 131 An offence under section 38 of that Act (care workers: sexual activity with a person with a mental disorder).
- 132 An offence under section 39 of that Act (care workers: causing or inciting sexual activity).
- 133 An offence under section 40 of that Act (care workers: sexual activity in the presence of a person with a mental disorder).
- 134 An offence under section 41 of that Act (care workers: causing a person with a mental disorder to watch a sexual act).
- 135 An offence under section 47 of that Act (paying for sexual services of a child).

- 136 An offence under section 48 of that Act (causing or inciting sexual exploitation of a child]).
- 137 An offence under section 49 of that Act ((controlling a child in relation to sexual exploitation]).
- 138 An offence under section 50 of that Act (arranging or facilitating sexual exploitation of a child]).
- 139 An offence under section 52 of that Act (causing or inciting prostitution for gain).
- 140 An offence under section 53 of that Act (controlling prostitution for gain).
- 141 An offence under section 57 of that Act (trafficking into the UK for sexual exploitation).
- 142 An offence under section 58 of that Act (trafficking within the UK for sexual exploitation).
- 143 An offence under section 59 of that Act (trafficking out of the UK for sexual exploitation).
- 144 An offence under section 61 of that Act (administering a substance with intent).
- 145 An offence under section 62 of that Act (committing an offence with intent to commit a sexual offence).
- 146 An offence under section 63 of that Act (trespass with intent to commit a sexual offence).
- 147 An offence under section 64 of that Act (sex with an adult relative: penetration).
- 148 An offence under section 65 of that Act (sex with an adult relative: consenting to penetration).
- 149 An offence under section 66 of that Act (exposure).
- 150 An offence under section 67 of that Act (voyeurism).
- 151 An offence under section 69 of that Act (intercourse with an animal).
- 152 An offence under section 70 of that Act (sexual penetration of a corpse).
- 153 An offence of—
- (1) aiding, abetting, counselling or procuring the commission of an offence specified in this Part of this Schedule,
 - (2) An attempt to commit such an offence.
 - (3) Conspiracy to commit such an offence.
 - (4) Incitement to commit such an offence.
 - (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed.

Specified Terrorist or Terrorist Related Offences

A Polygraph Condition can be made in the case of people on probation sentenced to any of the following offences, as defined in

List of specified Terrorist Offences

An offence under any of the following provisions of the Terrorism Act 2000—

- (a) section 54 (weapons training);
- (b) section 56 (directing a terrorist organisation);
- (c) section 59 (inciting terrorism overseas: England and Wales), other than an offence which is an offence by virtue of subsection (2)(c) of that section;
- (d) section 60 (inciting terrorism overseas: Northern Ireland), other than an offence which is an offence by virtue of subsection (2)(c) of that section;
- (e) section 61 (inciting terrorism overseas: Scotland).

2 An offence under any of the following provisions of the Terrorism Act 2006—

- (a) section 5 (preparation of terrorist acts);
- (b) section 6 (training for terrorism);
- (c) section 9 (making or possession of radioactive device or material);
- (d) section 10 (misuse of radioactive device or material for terrorist purposes etc);
- (e) section 11 (terrorist threats relating to radioactive devices etc).

3(1) An attempt to commit an offence specified in a preceding paragraph of this Part of this Schedule (“a listed offence”).

(2) Conspiracy to commit a listed offence.

(3) An offence under Part 2 of the Serious Crime Act 2007 in relation to which a listed offence is the offence (or one of the offences) which the person intended or believed would be committed.

(4) Incitement to commit a listed offence.

(5) Aiding, abetting, counselling or procuring the commission of a listed offence.

4 An offence that—

- (a) was abolished before the coming into force of this Schedule, and
- (b) if committed on the day on which this Schedule came into force, would have constituted an offence specified in any of the preceding paragraphs of this Part of this Schedule

An offence under any of the following provisions of the Terrorism Act 2000—

- (a) section 11 (membership of a proscribed organisation);

- (b) section 12 (inviting or expressing support for a proscribed organisation);
- (c) section 15 (fund-raising);
- (d) section 16 (use of money or property for terrorist purposes);
- (e) section 17 (involvement in terrorist funding arrangements);
- (f) section 17A (insuring payments made in response to terrorist threats);
- (g) section 18 (laundering of terrorist property);
- (h) section 19 (failure to disclose professional belief or suspicion about terrorist offences);
- (i) section 21A (failure in regulated sectors to disclose knowledge or suspicion about terrorist offences);
- (j) section 38B (failure to disclose information about acts of terrorism);
- (k) section 39 (disclosure of information prejudicial to a terrorist investigation etc);
- (l) section 57 (possession of article for terrorist purposes);
- (m) section 58 (collection of information likely to be of use to a terrorist);
- (n) section 58A (publishing information about members of the armed forces etc);
- (o) section 58B (entering or remaining in a designated area);
- (p) section 59 (inciting terrorism overseas: England and Wales), in the case of an offence which is an offence by virtue of the reference in subsection (2)(c) of that section to an offence under section 23 of the Offences against the Person Act 1861;
- (q) section 60 (inciting terrorism overseas: Northern Ireland), in the case of an offence which is an offence by virtue of the reference in subsection (2)(c) of that section to an offence under section 23 of the Offences against the Person Act 1861.

6 An offence under section 113 of the Anti-terrorism, Crime and Security Act 2001 (use of noxious substances to harm or intimidate).

7 An offence under any of the following provisions of the Terrorism Act 2006—

- (a) section 1 (encouragement of terrorism);
- (b) section 2 (dissemination of terrorist publications);
- (c) section 8 (attendance at a place used for terrorist training).

8 An offence under section 54 of the Counter-Terrorism Act 2008 (breach of police notification requirements etc).

9 An offence under section 23 of the Terrorism Prevention and Investigation Measures Act 2011 (breach of notices imposing terrorism prevention and investigation measures).

10 An offence under section 10 of the Counter Terrorism and Security Act 2015 (breach of temporary exclusion order).

11(1) An attempt to commit an offence specified in a preceding paragraph of this Part of this Schedule (“a listed offence”).

(2) Conspiracy to commit a listed offence.

(3) An offence under Part 2 of the Serious Crime Act 2007 in relation to which a listed offence is the offence (or one of the offences) which the person intended or believed would be committed.

(4) Incitement to commit a listed offence.

(5) Aiding, abetting, counselling or procuring the commission of a listed offence.

12 An offence that—

(a) was abolished before the coming into force of this Schedule, and

(b) if committed on the day on which this Schedule came into force, would have constituted an offence specified in any of the preceding paragraphs of this Part of this Schedule.

Annex 5

Example wording for proposing a polygraph licence condition

5.1 Parole cases

Consideration of the imposition of appropriate licence conditions forms part of the PAROM 1 report that probation practitioners complete for the prisoner's Parole Board review. The PAROM1 should be provided to the prison for inclusion in the full dossier in line with the process laid out in the Generic Parole Process Policy Framework, via the attached link [Generic Parole Process](#).

For those cases which do not fit the 'must be tested' criteria, but where the probation practitioner has consulted with the polygraph examiner and agreed suitability to be tested as a discretionary case, the following are examples which may be useful for probation practitioners to use when formulating appropriate wording for this section of the PAROM1.

5.2 Suggested wording for proposing a licence condition in a discretionary case

'X does not meet the criteria for a mandatory referral for a polygraph licence condition, as set out in the Policy Framework, however I consider that a polygraph licence condition is necessary to manage the risk posed because [insert your reason] and that it is proportionate because [insert your reason].'

5.3 Suggested wording for outlining the reason for a polygraph condition in a discretionary case

The reasons why someone may be considered suitable for discretionary testing include evidence that dynamic risk factors are active; no evidence of sufficient protective factors or relapse prevention strategies in place; a history of non-compliance with licence conditions such as entering exclusion zones or seeking contact with victims; or non-compliance with other risk management strategies such as breaching their notification requirements.

Example 1: Low or Medium risk of sexual reconviction, but with previous history of non-compliance linked to negative attitude towards victim.

'Whilst in custody X has expressed feeling angry towards the victim and continues to assert that they have been the victim of a miscarriage of justice regarding their guilt. In addition, during a previous period on licence, they failed to comply with the conditions of their exclusion zone and made attempts to contact the family of the victim. If release from custody is directed, polygraph examinations would, in my view, assist in monitoring whether or not X is complying with their licence conditions and enable the appropriate actions to take place in order to protect others if not.

Example 1a: Terrorist case not high risk on ERG 22+

Prior to release from prison, X was found to still be in contact with other known people convicted of TACT offences and had expressed views that suggest s/he is still radicalised. If X is released it is therefore suggested that the polygraph licence condition would assist in the management of the case. For example, polygraph examinations could be used to ask X questions regarding any contact with other known terrorists or whether or not s/he is accessing the internet to seek out terrorist related information.

5.4 Example 2: Medium risk of sexual reoffending, Very High RoSH. PCoSO

X is assessed as medium risk of sexual reconviction using OSP/C. This is because, despite the seriousness of the offence, this is their first conviction. As stated earlier, some of the dynamic risk factors that were present at the time of the offence have been reduced. They are expressing determination to comply with a condition not to contact the victim, with whom they are still infatuated. They also express a commitment to abstain from alcohol, a very long-term problem before their incarceration. However, this resolve is as yet untested in the community and so the risk of serious harm is assessed as very high. I believe that a polygraph licence condition, that will ask questions about their compliance with their licence conditions and the aims of supervision, will assist in the management of this case and is necessary and proportionate to manage the risks.

5.5 Cases with automatic release/non-Parole Board cases

For most determinate sentenced prisoners, licence conditions should be requested via the Pre-discharge form – the PD1. Additional licence conditions are approved by the Governor of the prison in which the individual is detained prior to release. Probation practitioners should receive the PD1 form from the prison at least 13 weeks before the expected release date and this must be completed by the required deadline of no later than 28 days before the person on probation's release (Licence Conditions Policy Framework)

6.6 Suggested wording for proposing a licence condition on a PD1

Example 1: Sexual offending case, high OSP/C and high RoSH so mandatory referral

X is assessed as presenting both a high risk of sexual reoffending using OSP/C and a high risk of serious harm using OASys. Management of his risk would be improved by the addition of a polygraph condition as the polygraph examination will be used to monitor his compliance with the "no contact condition" also requested, as well as with other objectives of supervision such as his use of alcohol. X meets the criteria for the polygraph condition and it is both necessary and proportionate to manage the risks he is assessed to present on release.

Example 2: Terrorist case, high RoSH and high risk on Extremism Risk Guidance 22+ (ERG).
Mandatory referral

X is assessed as presenting a high risk of harm and high risk using the ERG 22+. Therefore, the inclusion of the polygraph licence condition would assist in the management of this case. The polygraph examination would be used to monitor X's compliance with other licence conditions and to also monitor any dynamic risk factors that may emerge.

Example 3: Sexual offending case, female on probation, no static risk assessment available, high RoSH

A full assessment has been undertaken and X is assessed as posing a significant risk of further serious harm to young children. X fits the legal criteria for a polygraph condition and it is considered both necessary and proportionate to manage the risks X poses by, for example, monitoring her adherence to another licence condition relating to the disclosure of all new adult relationships to her probation practitioner.

Example 4: Terrorist case, person on probation is high RoSH but not high risk on ERG 22+

A full assessment has been undertaken and X is assessed as posing a high risk of serious harm and the imposition of the polygraph licence condition is considered both necessary and proportionate to manage the risks X poses by, for example, monitoring compliance with other licence conditions such as contact with other people convicted of TACT offences.



**Ministry of
JUSTICE**
National Offender
Management Service

National Delius

Probation Case Management System (PCMS) Case Recording Instruction CRI009 - Polygraph Testing

Distribution

| Name | Role | Organisation |
|----------------------------|------|----------------------------|
| National Delius User Group | N/A | N/A |
| HMPPS | | National Probation Service |

Reference Materials

| Name | Role | Organisation |
|---|------------|-------------------------------------|
| PI53/2014 – Polygraph Examinations | 08/08/2014 | NOMS |
| Offender Management & Public Protection Group | Sept 2014 | Directorate of Operational Services |

Document history

| Version | Date | Changed By | Summary of Changes |
|---------|------------|-----------------------------|---|
| v0.01 | 15/08/14 | Greg Tillett | Case Recording Instruction Draft |
| v0.02 | 25/09/14 | Karen Armer | Formatting and updated |
| V0.03 | 16/12/14 | Karen Armer | Included IWP processes |
| V0.04 | 04/09/15 | Greg Tillett | Updated screen shots IWP process reviewed New 'Senior Manager Warning' Contact Type added |
| V1.0 | 17/09/2015 | Karen Armer/ Kevin Price | Updated IWP process and screenshots. |
| V1.1 | March 2020 | Karen Baker | Updated Annexe A with new NAT Template and New Annexe B - COVID-19 recording. |
| V2.0 | 18/01/2021 | Karen Baker | Updated post review by Sex Offender Unit |

| | | | |
|------|------------|-------------------------------------|-----------------------------|
| V2.0 | 12/04/2021 | Karen Baker/Rachael Loveridge | Baselined post final review |
|------|------------|-------------------------------------|-----------------------------|

Contents

| | |
|--|-----------|
| Purpose | 41 |
| Background | 41 |
| Creating the Polygraph Referral | 41 |
| Create a Polygraph Non-Statutory Intervention | 45 |
| NSI Caseload – Diary View | 46 |
| Recording Attendance Contacts | 46 |
| Recording Exam Results | 47 |
| Recording a ‘Disclosure’ Contact | 50 |
| Polygraph Completion | 52 |
| Further Information | 53 |
| Annexe A | 54 |
| Polygraph Examination Referral Form | 54 |
| Annexe B | 56 |
| NDelius Recording for COVID-19 Exceptional Delivery Model (EDM) - Polygraph | 56 |
| Suspension | 56 |
| Annexe C | 57 |
| Supplementary Case Recording Guidance for Polygraph Examinations | 57 |

Purpose

The Purpose of this Case Recording Instruction is to provide National Probation Service staff with guidance on recording Polygraph Testing within nDelius.

Background

In accordance with PI 53/2014 (PSI 36/2014) Polygraph Examinations, nDelius has been updated to allow the recording of Polygraph Testing against relevant sexual offenders who have been released from custody on licence.

Offender Managers must complete the ‘Polygraph Examination Combined Referral and Notification Form’ for all cases prior to release when considering licence conditions. This referral form is now available as a National Template within nDelius.

Creating the Polygraph Referral

For all cases that meet the relevant suitability criteria, the Offender Manager should create a referral and record within nDelius.

To create an nDelius Polygraph referral complete as follows:

1. Find the Offender
2. Navigate to the appropriate **Event**
3. **View** the Event
4. Select '**Referrals**' from the Navigation pane



Figure 1 - Event level navigation menu referrals option

5. Select '**Add Referral**' button
6. Select '**Polygraph**' from the Referral Type
7. **Referral date** = date Referral was sent
8. **Referral Source** = Select **Offender Manager**
9. Referral **Team** and **Officer** = OM making the referral
10. Referral **Outcome** = select appropriate option i.e. Accepted
11. **Save**

 A screenshot of the 'Add Referral' form. The form has a white background and a purple border. It contains several fields:

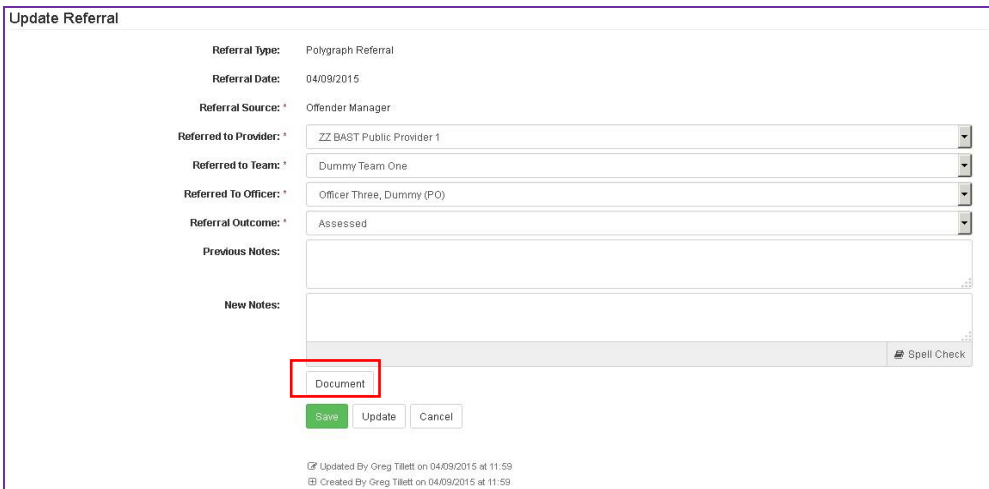
- Referral type:** A dropdown menu with 'Polygraph Referral' selected and highlighted by a red box.
- Referral Date:** A date field showing '04/09/2015'.
- Referral Source:** A dropdown menu with 'Offender Manager' selected.
- Referred to Provider:** A dropdown menu with 'ZZ BAST Public Provider 1' selected.
- Referred to Team:** A dropdown menu with 'Dummy Team One' selected.
- Referred To Officer:** A dropdown menu with 'Officer Three, Dummy (PO)' selected.
- Referral Outcome:** A dropdown menu with '[Please Select]' selected.
- Notes:** A text area with a dropdown menu showing a list of options: '[Please Select]', 'Accepted', 'Accepted Deferred Start', 'Accepted Pending Assessment', 'Assessed', 'Further Information Required', 'Rejected Insufficient Funding', 'Rejected Insufficient Information', 'Rejected Not Suitable', and 'Rejected Other - see Notes'. The 'Accepted' option is highlighted in blue.

 At the bottom of the form are three buttons: 'Save', 'Update', and 'Cancel'.

Figure 2 – Add Polygraph Referral screen

Uploading the Referral Document

1. Select the **Document** option button (at the lower end of the screen).



The screenshot shows the 'Update Referral' form with the following fields:

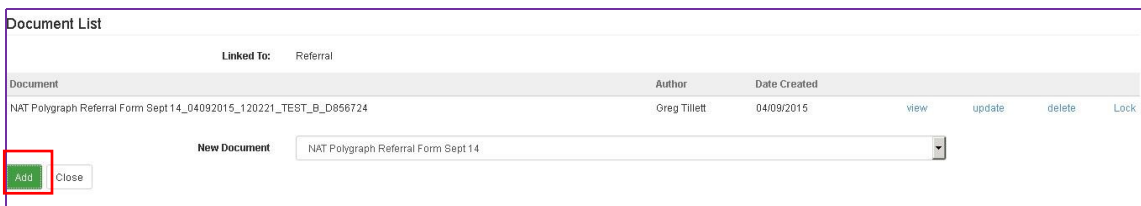
- Referral Type: Polygraph Referral
- Referral Date: 04/09/2015
- Referral Source: Offender Manager
- Referred to Provider: ZZ BAST Public Provider 1
- Referred to Team: Dummy Team One
- Referred To Officer: Officer Three, Dummy (PO)
- Referral Outcome: Assessed
- Previous Notes: (empty text area)
- New Notes: (empty text area)

At the bottom of the form, there are three buttons: 'Save', 'Update', and 'Cancel'. A red box highlights the 'Document' button, which is located below the 'New Notes' field. A 'Spell Check' icon is also visible in the bottom right corner of the form area.

Figure 3 - update referral screen uploading referral document

Click **Confirm** when prompted

2. Now choose the Polygraph Referral Document from the drop down list.
3. Select the **Add** option button.



The screenshot shows the 'Document List' screen with the following table:

| Document | Author | Date Created | | | | |
|--|-------------|--------------|------|--------|--------|------|
| NAT Polygraph Referral Form Sept 14_04092015_120221_TEST_B_D856724 | Greg Tillet | 04/09/2015 | view | update | delete | Lock |

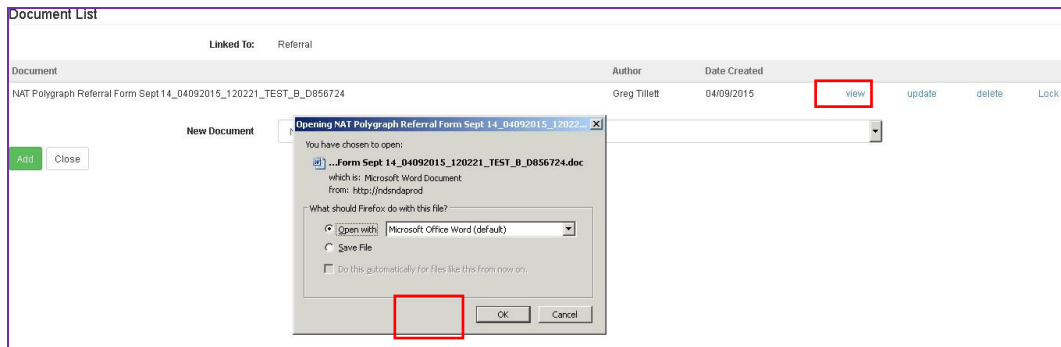
Below the table, there is a 'New Document' dropdown menu with the text 'NAT Polygraph Referral Form Sept 14'. At the bottom left, there are two buttons: 'Add' (highlighted with a red box) and 'Close'.

Figure 4 – document list screen add option

4. This will add a copy of the referral document to nDelius with offender details, see figure 4 above. **Please note at this point the document is still a blank template.** Click the **update** hyperlink next to the **Document** you have just created (the name and date will be next to it) to edit the document.

- When you see the windows pop-up message, select the **OK** option button which opens the Document in Word for you to update/amend. Enter any additional information you need in the Word document you have created. Figure 5.

Figure 5 – open document dialogue box



- Once you've edited your document select the File>**Save AS icon** button in the **'Word'** menu. (Auto Save will send you directly to ND folder) Save into the **ND** Folder within your **MY Documents** **Don't** change the name of the document. Don't forget to Print – where necessary.

Combined Referral and Notification Form for Mandatory & Discretionary Polygraph Examinations

Figure 6 – Image of polygraph referral form

7. Close Word - **now go back to nDelius screen.**
8. From the top of the screen select the **My Documents** button in nDelius. It will come up with a Browse dialogue, figure 7 and 8 Click **Upload**', Click the **Browse** button. Choose the **ND** folder in your **My Documents Folder**, click **Open** to select your document and click **Upload Button**.

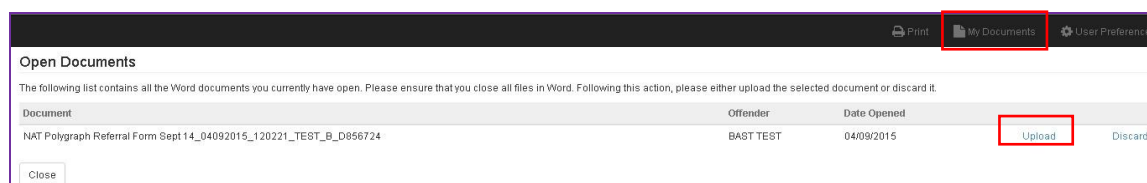


Figure 7 - open document screen upload hyperlink displayed

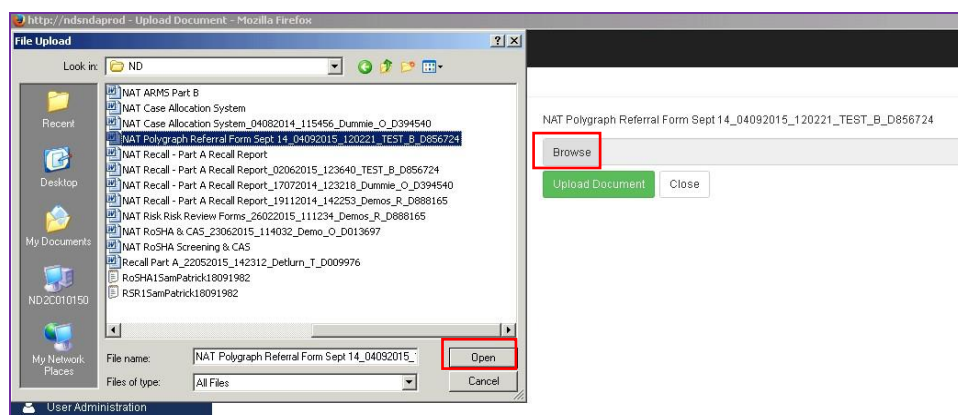


Figure 8 - document upload screen browsing to user My Documents folder

The Document is now saved in nDelius.

Create a Polygraph Non Statutory Intervention

Creating an Polygraph Testing NSI allows Polygraph Examiners to record attendances and other contacts during the period of time Polygraph Examination is taking place.

By creating a NSI and transferring ownership to the relevant Polygraph Examiner, the Examiner will be granted direct access to the offender record and will be able to access the offender record directly via their NSI Caseload Diary view.

1. Find offender
2. Navigate to the appropriate event
3. View the event
4. Select the '**Non-Statutory Intervention**' option from the Navigation pane

- Click 'Add Non-Statutory Intervention' button
- Select 'Polygraph Testing' from the drop down for both Intervention Type and Subtype fields.

Figure 9 – Add Non Statutory Intervention

- Enter 'Referral Date' = date creating the NSI
- Enter 'Actual Start Date' = as referral date
- Complete **Provider**, **Team** and **Officer** as the person completing the NSI
- Enter **Status** as 'Polygraph testing active'
- Enter **Status Date** = as Actual Start date
- Save**

Upon save this creates a system generated record in the contact log

| Relates To | Date | Type | Outcome | Att | Comp | Officer | Docs? |
|--|------------------|--------------------------|---------|-----|------|----------------------|----------------------|
| 25 - Polygraph Testing (Polygraph Testing) | 04/09/2015 09:00 | Polygraph Testing Status | | | | Officer Three, Dummy | N view update delete |
| 25 - Polygraph Testing (Polygraph Testing) | 04/09/2015 00:00 | NSI Referral | | | | Officer Three, Dummy | N view |

Figure 10 - contact log screen system generated contact visible

NSI Caseload – Diary View

To assist examiners there is a diary view available which lists all active Polygraph NSIs.

- From Navigation Pane select option 'Officer Diary'
- Select 'NSI Caseload' option
- Enter provider, Team and Officer in the search criteria if they have not defaulted.
- Select 'Polygraph Testing' in the Type field
- Click 'Search' button

Non Statutory Interventions

SEARCH CRITERIA

Provider: * ZZ BAST Public Provider 1

Cluster: [Please Select]

LDU: [Please Select]

Team: * Dummy Team One

Officer: * Officer Three, Dummy (PO)

Level: Event

Type: Polygraph Testing

Show Terminated NSIs?: No

Search

SEARCH RESULTS

| Risk | CRN | Offender Name | Non Statutory Intervention | Status | Status Date | Docs? | | |
|------|---------|---------------|----------------------------|--------------------------|-------------|-------|------|--------|
| ● | D856724 | BAST TEST | Polygraph Testing | Polygraph testing active | 04/09/2015 | N | view | update |

Print

Figure 11 - Officer Diary Non Statutory Intervention caseload screen filtered to event level

Listed below will be all the active polygraph NSIs.

Click on 'View' hyperlink – this takes you into a read only view of the NSI

Click on 'Update' hyperlink – this takes you into an 'editable' version of the NSI to be able to update the status where necessary.

Recording Attendance contacts

Attendance Contacts can be recorded against the relevant NSI in the Contact List and works like a Supervision appointment.

Record as follows:

1. Find Offender
2. Navigate to Contact List
3. Click '**Add Contact**' Button (at bottom of screen)

Add Contact Details

Relates To: * NSI - Z5 - Polygraph Testing (Polygraph Testing)

Contact Category: * Offender Management

Contact Type: * Polygraph Attendance (NS)

Alert?: * No

Date: * 04/09/2015

Start Time: * 12:00

Provider: * ZZ BAST Public Provider 1

Team: * Dummy Team One

Location: * Location 1

Officer: * Officer Three, Dummy (PO)

Contact Outcome: * Attended - Complied

Sensitive Contact?: * No

Select Yes to mark the contact as a sensitive contact.

Notes: Notes added...

Spell Check

NEXT APPOINTMENT

Next Contact Date: [Calendar Icon] [Date Field]

Save Update Document Print Cancel

Figure 12 - Add Contact Details screen relating to Polygraph NSI

4. Select '**Polygraph**' NSI option from the Relates to field
5. Select Contact Category as '**Offender Management**'
6. Select Contact Type as '**Polygraph Attendance**'
7. Enter **Date** of the appointment
8. Enter **Start Time** of the appointment
9. Enter **Provider, Team, Location** and **Officer**
10. Enter **Outcome** i.e. 'Attended Complied' (please note if a Failed to Attend outcome is entered the Enforcement field will be triggered)
11. Enter **Notes** here if applicable
12. Enter **Next Contact Date** if Applicable
13. **Save**

Repeat for each attendance you have undertaken.

Recording Exam Results

Once the Polygraph exam has taken place the Polygraph Examiner will record the result.

The exam outcome is to be recorded on nDelius as follows:

1. Find Offender
2. Navigate to Contact List
3. Click '**Add Contact**' button
4. Select '**Polygraph Testing**' NSI option from the Relates To field
5. Select Contact Category as '**Offender Management**'
6. Select Contact Type as '**Polygraph Exam**'

The screenshot shows a web form titled 'Add Contact Details'. It features several dropdown menus and text input fields. The 'Relates To' dropdown is set to 'Polygraph Testing (Polygraph Testing)'. The 'Contact Category' dropdown is set to 'Offender Management'. The 'Contact Type' dropdown is set to 'Polygraph Exam'. The 'Alert the OM?' dropdown is set to 'No'. The 'Date' field is set to '22/04/2021' with a calendar icon. The 'Start Time' field is set to '14:17' with a clock icon. The 'Provider' dropdown is set to 'ZZ BAST Public Provider 1'. The 'Team' dropdown is set to 'Error Handling Team'. The 'Location' dropdown is set to '[Please Select]'. The 'Officer' dropdown is set to 'Baker, Karen (NPS - Other)'. There is also an empty 'Description' field.

Figure 13 – add contact details screen

7. Enter **Date and Start time** of the exam
8. Enter **Provider, Team, Location** and **Officer** details

9. Enter appropriate **Outcome** of the exam

Upload External Document

Contact Outcome: [Please Select]

Include in ViSOR Extract? [Please Select]

Sensitive Contact?: PG - Failed to co-operate

Notes: PG - Inconclusive

PG - No Opinion

PG - No significant response

PG - Refused Polygraph

PG - Significant response

PG - Test Terminated: NPS Responsible

Figure 14 – Add contact details screen

If you select an unacceptable outcome then the Enforcement field would be triggered. Select the appropriate outcome for the enforcement from the drop down options.

Contact Outcome: PG - Failed to co-operate

Upload External Document

Filename *

Upload

Figure 15 - Contact Outcome field within Contact details screen displaying Failure Outcome and enforcement action example

10. Enter **Notes**
11. Click **'Update'**

The Examiner will upload the Polygraph Report.

12. Click **'Document'** button
13. Click **'Confirm'** button

Figure 16 – Upload external documents screen

14. Click **'Upload New Document'** button
15. Enter 'Filename' i.e. ExamresultsTestbastD123456 – best practice to ensure offender details to be identified.

16. Click '**Browse**' button and navigate to location of results sheet

Figure 17 - Upload external Documents screen completed

17. Click '**upload new document**' button

Figure 18 - document list screen with added results visible

18. Click 'Close' button.

19. **Save** contact

Repeat for each exam completed.

SEARCH RESULTS

| Relates To | Date | Type | Outcome | Att | Comp | Officer | Docs? |
|--|------------------|--------------------------------------|---------------------------|-----|------|----------------------|----------------------|
| ▶ 14 - ORA Community Order | 07/09/2015 09:00 | CP/UPW - Appointment/Attendance (NS) | | | | Unallocated | N view update |
| ▶ 25 - Polygraph Testing (Polygraph Testing) | 04/09/2015 12:18 | Refer to Offender Manager | | | | Officer Three, Dummy | N view update delete |
| ▶ 25 - Polygraph Testing (Polygraph Testing) | 04/09/2015 12:10 | Polygraph Exam | PG - Failed to co-operate | Y | N | Officer Three, Dummy | Y view update delete |
| ▶ 25 - Polygraph Testing (Polygraph Testing) | 04/09/2015 12:00 | Polygraph Attendance (NS) | Attended - Complied | Y | Y | Officer Three, Dummy | N view update delete |
| ▶ 25 - Polygraph Testing (Polygraph Testing) | 04/09/2015 09:00 | Polygraph Testing Status | | | | Officer Three, Dummy | N view update delete |
| ▶ 25 - Polygraph Testing (Polygraph Testing) | 04/09/2015 00:00 | NSI Referral | | | | Officer Three, Dummy | N view |

Figure 19 – Contact log search result screen

Recording a 'Disclosure' contact

If at any point the offender discloses information to the Offender Manager or the Examiner, then a contact is to be recorded in nDelius Contact List.

Record as follows:

1. Find Offender
2. Navigate to the Contact List
3. Click '**Add Contact**' button
4. Select '**Polygraph Testing**' NSI option from Relates To
5. Select Contact Category as '**Offender Management**'
6. Select Contact Type as '**Polygraph Disclosure**'

Figure 20 - Add contacts screen with Polygraph disclosure contact type

7. Enter contact **time** and **date**.
8. Enter **Provider, Team, Location** and Officer
9. Enter **Outcome** as appropriate from drop down menu

10. Where PG – Enforceable Disclosure is selected – enforcement action field will become active

Note – For examiners completing step 10, the Enforcement action should be ‘Refer to Offender Manager’ as they will progress the action where necessary. Skip step 11

Figure 21 - Add Contact screen

ROs to complete step 11 only

11. Select the appropriate Enforcement action from the drop-down menu

Figure 22 – Enforcement Actions Menu

12. Enter notes
13. **Save**

Polygraph completion

Closing the Polygraph NSI

1. Find Offender
2. Navigate to the appropriate Event and View
3. Select '**Non-Statutory Intervention**' option from the Navigation Pane
4. Select '**Update**' hyperlink against the Polygraph Testing NSI

Update Non Statutory Intervention

Non Statutory Intervention: Polygraph Testing

Non Statutory Intervention Sub-type: Polygraph Testing

Referral Date: 04/09/2015

Expected Start Date:

Actual Start Date:

Provider: ZZ BAST Public Provider 1

Team:

Officer:

Transfer Date: 04/09/2015

Status:

Status Date:

Status Time:

Next Status Date:

Notes:

Figure 23 – Update Non-Statutory Intervention Screen

5. Change NSI Status to '**Polygraph Testing Ended**' from drop down Menu

Expected End Date:

Actual End Date:

Outcome:

Figure 24 – NSI Outcome Statutory Intervention screen

6. Enter **Status Date** – date will be the date that the Governor agreed to the removal
7. Enter **Notes** where applicable
8. Enter '**Actual End Date**' as Status date
9. Enter NSI Outcome of '**Polygraph Testing Ended**'
10. **Save**

Please note that this will terminate the NSI and therefore the examiner will not have the ability to update this record further.

Non Statutory Intervention List

Show Terminated NSIs:

| Start Date | Description | Status | Status Date | Manager | Docs? | | | | |
|------------|---|-------------------------|-------------|----------------------|-------|------|--------|--------|------------------|
| | Polygraph Testing - Polygraph Testing | Polygraph testing ended | 04/09/2015 | Officer Three, Dummy | N | view | update | delete | |
| | Breach Request - Community Order / SBO | Warrant Issued | 28/08/2015 | Unallocated | N | view | update | delete | request transfer |
| | ES - Drugs / Alcohol NSF - Alcohol Education Programme: | Active | 14/08/2015 | Unallocated | N | view | update | delete | request transfer |

Figure 25 - Non Statutory Intervention List with completed Polygraph NSI

Further Information

Annexe A – Copy of Polygraph Examination Combined Referral and Notification Form

Annexe B – COVID-19 Suspension Guidance

Annexe C – Supplementary Case Recording Guidance for Polygraph Examinations

For queries relating to the process described in this Briefing Note please contact
nDeliusQueries@noms.gsi.gov.uk

Annex A (part of annex 5)

Polygraph Examination

Polygraph Examination

Combined Referral and Notification Form for

Mandatory & Discretionary Polygraph Examinations

Please complete this form in full for all individuals required to be subject to a polygraph licence condition or for whom you want to request a condition (discretionary cases).

Please confirm if this is a referral for:

sexual offending examinations or domestic abuse examinations and email to
Polygraph@justice.gov.uk

terrorist offending examinations, and email to NSDNPS.PEreferrals@justice.gov.uk

Name of Probation Practitioner:

Email address:

Phone Contact Number:

Location of Probation Practitioner:

Region:

National Security Division:

Date of Referral:

Referral Type: Mandatory Discretionary (SO only)

Name of Offender:

PNC Number:

Date of Birth:

Gender:

NOMIS/ Prison Number (HMPPS):

Index Offence:

Please highlight the risk levels below:

Risk of Reoffending (RM2000, OSP/C, OSP/I) SO Cases

Risk of Reconviction (SARA) DA cases

Risk of Harm (OASys)

Has the ERG 22+ assessment been completed?

Is this a CPPC case?

Is this a MAPPA level 3 case?

Expected date of release:

Length of Licence and expiry date:

For discretionary referrals please provide additional evidence to support your application, with consideration to the following: current acute dynamic risk factors; current victim issues (such as evidence of recent attempted or actual victim contact etc.); history of non-compliance (including recall, breach or poor compliance during current or previous recent sentence/s, and poor prison or community behaviour which has not resulted in enforcement action/adjudications); prison or police intelligence, etc.:

Licence Conditions (please list all)

Any other issues apart from the licence conditions to be covered during the polygraph session:

Annex B (part of annex 5)

NDelius Recording for COVID-19 Exceptional Delivery Model (EDM) – Polygraph Suspension

To support the government guidance on Social Distancing Polygraph testing is to be suspended.

To support this 2 NSI Statuses have been added to the **Polygraph Testing** NSI.

Examiners should update their NSI caseloads with the following sub type:

- **POLY03 - Testing Suspended – EDM**

The following NSI Status should be used to trigger resumption of testing when direction to commence testing has been given:

- **POLY04 - Testing Resumed - EDM**

Update Polygraph Testing NSI

1. Find Offender
2. Navigate to the appropriate Event and View
3. Select '**Non-Statutory Intervention**' option from the Navigation Pane
4. Select '**Update**' hyperlink against the Polygraph Testing NSI
5. Change **NSI Status** to '**Testing Suspended – EDM**' from drop down Menu

| | |
|--|---------------------------|
| Non Statutory Intervention: * | Polygraph Testing |
| Non Statutory Intervention Sub type: * | Polygraph Testing |
| Referral Date: * | <input type="text"/> |
| Expected Start Date: | <input type="text"/> |
| Actual Start Date: | <input type="text"/> |
| Provider: * | ZZ BAST Public Provider 1 |
| Team: | [Please Select] |
| Officer: | [Please Select] |
| Status: * | Testing Suspended - EDM |
| Status Date: * | 27/03/2020 |
| Status Time: * | 16:37 |
| Next Status Date: | <input type="text"/> |
| Notes: | <input type="text"/> |

6. Enter status date and time
7. Enter notes – where applicable
8. Save

Once testing has been resumed complete steps 1 – 4 and enter 'Testing Resumed – EDM' at step 5. Complete the steps 6-8 thereafter.

Annex C (part of annex 5)

Supplementary Case Recording Guidance for Polygraph Examinations

Please read in conjunction with the Case Recording Instruction CRI009 – Polygraph Testing

Context

Accurate recording for Polygraph is important for the case and for enabling the accurate extraction of management information relating to all aspects of Polygraph testing. This guidance is useful for Case Administrators, Case Managers and Polygraph Examiners and aims to ensure that responsibilities for recording are clear at each stage of the testing process.

Accurate recording relies on the Polygraph NSI being set up and used for recording all associated contacts.

Creating the Polygraph NSI

This task should be completed by the **Case Manager or Case Administrator** acting on behalf of the Case Manager once the service user has been released into the community with the polygraph condition attached to their licence. It is recommended that this task is completed at the same time as a copy of the licence is sent to the Polygraph functional mailbox, polygraph@justice.gov.uk.

Recording attendance contacts

The **Polygraph Examiner** is responsible for recording attendance for an examination or a failure to attend. Attendance contacts must be recorded against the NSI by selecting the 'Polygraph Attendance' contact type. A failure to attend outcome will trigger the enforcement field. This field must be completed by the Examiner to ensure that the Case Manager is alerted to act.

Recording Polygraph examination results

The **Polygraph Examiner** should enter the results of the examination using contact type 'Polygraph Exam'. This contact type enables the Examiner to record whether there was a significant response or no significant response or whether there were any other problems completing the test successfully.

A 'failure to comply' result will trigger the enforcement field. This must be completed by the Examiner to ensure that the Case Manager is alerted to act.

After recording the examination result the **Polygraph Examiner** is responsible for uploading the Polygraph Report.

Recording a 'Disclosure' Contact

If the service user makes any disclosures during the polygraph examination the

Polygraph Examiner must record these using the 'Polygraph Disclosure' contact type. The Polygraph Examiner can select either 'Enforceable disclosure' or 'Non-enforceable disclosure'.

An 'Enforceable disclosure' will trigger the enforcement field. This must be completed by the Examiner to ensure that the Case Manager is alerted to act.

Recording the Enforcement Action

The **Case Manager** should record the action taken resulting from the enforceable disclosure made. The enforcement 'drop down' menu will enable the Case Manager to record any action taken such as warnings, recall or amendments to the risk management plan. The Case Manager is also required to record if 'no further action' is taken.

Polygraph Completion

Where the Case Manager no longer requires testing to be undertaken the Polygraph NSI should be closed. The **Case Manager or Case Administrator** acting on behalf of the Case Manager should update the Polygraph NSI and change the status to **Polygraph testing ended**.

Annex 8**Storage of polygraph records/data access requests**

Once produced, the polygraph report written by the polygraph examiner, will be uploaded onto NDelius, for use by the probation practitioner.

Any video/audio recordings of polygraph tests that are audited for quality control purposes are anonymised and only viewed at HMPPS sites.

Any requests from “data subjects” for access for their polygraph report or polygraph audio/video recording should be dealt with by the probation region responsible for managing the individual in the same way as any other request for Agency data, according to Agency policy. It is crucial to ensure that any information within the polygraph report which might identify a victim, if the report were to go beyond the person on probation, is redacted from the report.

Subject Access Requests (SARs) for disclosure of the audio/video recording of the polygraph examination may be requested by data subjects pursuant to rights of access under the Data Protection Act 2018. SARs will be considered and processed on a case-by-case basis by the HMPPS SAR processing team who will liaise with the Probation Service following receipt of a SAR. Each SAR will be responded to within relevant statutory timescale following considerations of any appropriate exemptions available under the Data Protection Act 2018 (DPA).

SARs for the polygraph video/audio recording will be processed by HMPPS SAR processing team. The probation region is responsible for submitting the video/audio recording to the HMPPS SAR team upon request to enable the SAR team to process the request in accordance with the DPA.

All digital recordings of polygraph sessions will be saved onto Probation Service shared data by the examiner within five days. All such video recordings will be kept for six years following the end of any contact with the organisation and after the expiry of an individual's licence.

Any requests for access to the above information should be directed to:

- the Head of Public Protection for the appropriate region, in sexual offending cases,
- the Probation Counter Terrorism Lead who will refer on to the relevant National Security Division ACO.

Annex 9**Complaints****From individuals subject to polygraph examinations**

- i) Any complaint from an individual subject to polygraph examination should be dealt with according to the Probation Service region's complaints policy and procedures. This information is included on the information leaflet that the person on probation should be given at the beginning of the licence period. The appropriate person in the region should then arrange to answer the individual's complaint.
- ii) Some complaints will require information/input from the Probation Service National Polygraph Team, for example, if the complaint is about the conduct of a polygraph examiner. Many will be answerable at regional level, for example, responding to a person on probation who does not want to be tested.

Regions are invited to seek policy advice directly from the HMPPS PPG Assessment and Management of Sexual Offending Policy Team when responding to complaints.

Annex 10**List of abbreviations**

| | |
|-----------|---|
| "The Act" | Offender Management Act 2007 |
| ACO | Assistant Chief Officer |
| APA | American Polygraph Association |
| CSD | Clinically Significant Disclosure |
| DI | Deception Indicated |
| EDS | Extended Determinate Sentence |
| ERG | Extremism Risk Guidance 22+ |
| H | High |
| HMPPS | Her Majesty's Prison and Probation Service |
| L | Low |
| MAPPA | Multi Agency Public Protection Arrangements |
| M | Medium |
| NDI | No Deception Indicated |
| NSDU | National Security Divisional Units |
| OASys | Offender Assessment System |
| OMPPG | Offender Management and Public Protection Team |
| OSP | OASys Sexual reoffending Predictor |
| PAROM 1 | Probation Practitioner's report to the Parole Board |
| PD1 | Pre-discharge form |

| | |
|--------|---|
| PCSOT | Post conviction sexual offender testing |
| PCOSO | Person/People Convicted of Sexual Offence |
| PS | Prison service |
| RM2000 | Risk Matrix 2000 |
| RoSH | Risk of serious harm |
| ROTL | Release on temporary licence |
| S.I. | Statutory Instrument |
| TACT | Counter Terrorism offenders |
| VCU | Victim Contact Unit |
| VH | Very High |
| VLO | Victim Liaison Officer |