



Policy name: Home Detention Curfew (HDC) Policy Framework

Reference: N/A

Re-issue Date: 06 March 2024

Implementation Date: 06 March 2024

Replaces the following documents which are hereby cancelled:

- PSO 6700 Home Detention Curfew.
- PSI & PI 01/2018 Home Detention Curfew Assessment Process.
- PSI 43/2012 Home Detention Curfew,
- PSI 17/2008 Amendments to PSO 6000; PSO 6300 and PSO 6650, in relation to calculation of release dates for DCR prisoners.
- PSI 41/2008 Introduction of Cross Border Arrangements between England and Wales and Scotland for Home Detention Curfew purposes.
- PSI 49/2007 Bail and HDC Support Services.
- PSI 31/2006 Impact of CJA 2003 & consolidation of guidance (and guidance on presumed unsuitability).
- PSI 31/2003 Changes to HDC (guidance on presumed unsuitability).
- PC 82/1998 HDC – Accommodation and outstanding HDC issues.
- PC 44/1998 HDC: The Role of the Probation Service National Probation Service Policy Statement: Safeguarding and Promoting the Welfare of Children; National Probation Service Policy Statement: Safeguarding Adults at Risk.

Introduces amendments to the following documents: N/A

Action required by:

<input type="checkbox"/>	HMPPS HQ	<input checked="" type="checkbox"/>	Probation Service
<input checked="" type="checkbox"/>	Public Sector Prisons	<input checked="" type="checkbox"/>	HMPPS Contract Managers
<input checked="" type="checkbox"/>	Contracted Prisons	<input checked="" type="checkbox"/>	Other Providers of Probation and Community Services
<input checked="" type="checkbox"/>	Governors	<input type="checkbox"/>	HMPPS-run Immigration Removal Centres (IRCs)
<input type="checkbox"/>	Heads of Groups	<input checked="" type="checkbox"/>	Youth Custody Estate

For Information: By the implementation date Governors¹ of Public Sector Prisons and Contracted Prisons and Probation Service Heads of Probation Delivery Units (HoPDUs) must ensure that their local procedures achieve the required Outcomes and comply with the Requirements as set out in this Policy Framework.

¹ In this document the term Governor also applies to Directors of Contracted Prisons. Any decision ascribed to the Governor may only be delegated in accordance with this framework.

Governors and HoPDUs must ensure that any new local policies that they develop because of this Policy Framework are compliant with relevant legislation, including the Public-Sector Equality Duty (Equality Act, 2010).

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

Audit/monitoring: HMPPS Deputy Directors of Custody and Controllers, the Executive Director of Probation and Youth Offending Teams (YOT) in England and Director of HMPPS in Wales will monitor compliance with the mandatory requirements set out in this framework. HMPPS contract management will hold providers to account for the delivery of mandated requirements as required in the contract.

Resource Impact: No additional resource demand will be made by this Policy Framework.

Contact: The HDC Policy Helpline can be contacted on releasepolicyteam@justice.gov.uk

Deputy/Group Director sign-off: Alan Webster, Deputy Director, June 2023

Approved by: Sarah Coccia (Executive Director, Prisons) and Ian Barrow (Executive Director, Probation), Joint Chairs of Operational Policy Sub-board, May 2023

Revisions

Date	Changes
29 April 2020	Addition of Covid-19 related offences to Annex E
18 December 2020	Change to sentencing code – para 4.1.4 and 4.11.1. Change to the decision-making level in contracted prisons – para 4.2.5
25 June 2021	Changes to reflect advent of Unified Probation Service – para 4.5.11; Annex G; HDC Address Checks Form
6 June 2023	<ul style="list-style-type: none"> • Changes at 4.1.1 and thereafter to reflect the new statutory maximum period of HDC (180 days) applicable to releases from 6 June 2023 • Changes at 4.2.2 OMU Case Admin to check HDC eligibility on reception (including on transfer) and when submitting to decision-maker. • Changes at 4.2.2 OMU Case Admin to notify the VLO of the eligibility decision. • Changes at 4.2.4 COM to consult POM at the Address Checks/Risk Management stage. • Changes at 4.2.5 Decision-maker to consult POM. • Changes to 4.3.6 and Annex E - added stalking, harassment, coercion and control, and non-fatal strangulation and suffocation offences to the list of offences presuming people unsuitable for HDC. • Changes to 4.2.4 to clarify the criteria for determining address suitability. • Changes to 4.2.4 to clarify operation of target for completing Address Checks. • Changes to 4.2.4 to incorporate mandate for requests to the Police and Children’s Services for information relating to domestic abuse and child well-being. • Changes to 4.2.4 and 4.5.7 to underline that Prisons and Probation must work together in determining whether the risks are manageable. • Changes to 4.2.5 to underline that the decision-maker must take into account all relevant information.

	<ul style="list-style-type: none"> • Changes to 4.6.5 and 4.6.6 requiring postponement of HDC in certain cases where the offender is segregated or where there is an outstanding application under the Unduly Lenient Sentence Scheme. • Changes at 4.5.10 - COM to establish mental health treatment requirements in specific cases. • Changes to 4.5.10 and Annex G underline the need to take account in risk management planning of those with identified mental health issues linked to risk. • New section (4.12 and Annex M) formalising current arrangements for reviewing HDC decision-making in cases of serious further offending on HDC. • Annex L – HDC Eligibility Checklist
07 March 2024	<ul style="list-style-type: none"> • Changes to Paragraph 4.3.6, Annex E, Annex K and Annex L, removing Covid related offences from presumed unsuitable list. • Changes to Paragraph 4.3.6 changing the lifetime ban to one within two years of the current sentence for recalls for poor behaviour on HDC. • Changes to Paragraph 4.3.6, 4.5.9, Annex E, Annex G, Annex K and Annex L, adding high/very high RoSH offenders subject to MAPPA Level 2 & 3 to the presumed unsuitable list. • Changes to Paragraph 4.5.6 CAS2 referrals to be considered if address unsuitable. • Addition of Annex N, Calculation the HDC Eligibility Date.

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1. PURPOSE

- 1.1. The Home Detention Curfew (HDC) scheme provides a managed transition from prison to community for offenders serving short sentences. Release on HDC should be a normal part of a sentence for most eligible offenders, and refusal of HDC for those eligible and not presumed unsuitable for release the exception.

2. EVIDENCE

- 2.1. People released early from prison on HDC are subject to an electronically monitored (EM) curfew. Research evidence about the impact on reoffending rates of using EM curfew with early release is inconclusive but promising, and it appears highly cost effective. The research suggests that the overall outcomes under HDC – especially when costs are taken into account – are preferable to keeping eligible offenders in custody at the end of the custodial element of their sentence. EM is a tool to monitor compliance with the curfew, which is part of the sentence, and so enhance supervision in the community.
- 2.2. Research into the experience of being on EM suggests it may help some people to break habits and limit opportunities to commit crime, enhancing opportunities for employment and training, and allowing relationships, including those of mutual benefit, to develop. The evidential certainty that electronic monitoring provides may act as a deterrent and incentive to comply, although monitoring alone is unlikely to help people to think and behave differently, and successfully desist from crime, in the longer-term. Compliance while on EM may be enhanced by making the process feel as procedurally just as possible, and this means transparent, consistent decisions and procedure, and ensuring people are treated with respect and courtesy.

3. OUTCOMES

- 3.1. This Policy Framework aims to ensure that:

- Eligible offenders will be identified accurately and early.
- The process will operate to time without unnecessary delays, particularly to HDC releases.
- Release on HDC will be the norm for eligible offenders, so that most can benefit from the extra stability on release that HDC offers.
- HDC will be refused or postponed for eligible offenders by exception. This includes:
 - when there are outstanding proceedings for offences committed during the current sentence; or
 - where it is not possible to safely manage the early release of the offender in the community; or
 - where the risk management plan cannot be put in place at the proposed release address.
- Those on HDC will be supported to complete HDC successfully by timely consideration of licence variation requests.

4. REQUIREMENTS

4.1. Legal Requirements

- 4.1.1. The statutory requirements of the scheme are set out primarily in section 246 of the Criminal Justice Act 2003. Although there is no statutory entitlement to release on HDC, the policy is

that offenders who are eligible and suitable for the scheme are released on, or shortly after the HDC eligibility date (HDCED), wherever possible. HDC is only available to offenders who are serving a sentence of imprisonment of at least 12 weeks but less than four years who have served the requisite custodial period of the sentence. This is reached once the offender has served at least a quarter of the sentence, and a minimum of 28 days. The maximum period of release is 180 days. As with any sentence, the custodial period might include time on remand in custody or on bail with an EM curfew (“tagged bail”), so release can occasionally take place very soon after sentence, although the law requires at least 14 days in custody post sentence before an offender can be released on HDC.

- 4.1.2. On release, the offender must be subject to an EM curfew. This must be for at least 9 hours per day by law, and generally for 12 hours per day as a matter of policy, reflecting the fact that the offender is still serving the custodial element of the sentence. The curfew requirement must remain in force until what would have been the conditional or automatic release date (CRD or ARD) at the halfway point of the sentence.
- 4.1.3. Certain offenders are excluded in law, and therefore cannot be released on HDC under any circumstances (listed at paragraph 4.3.1.), and others are presumed unsuitable for HDC in policy (listed at paragraph 4.3.7.).
- 4.1.4. The scheme applies to people of any age, including children and young people located at under 18 YOIs, Secure Training Centres (STCs) and Secure Children’s Homes (SCHs) who are serving sentences of detention under section 250 of the Sentencing Code (formerly section 91 of the Powers of Criminal Courts (Sentencing) Act 2000) for certain specified serious offences. HDC does not apply to those sentenced to Detention and Training Orders (DTOs) under section 233 of the Sentencing Code (formerly section 100 of the Powers of Criminal Courts (Sentencing) Act 2000); separate early release arrangements apply to them.

4.2. OTHER REQUIREMENTS

- 4.2.1. Section 4.2 lists the key actions that must be completed throughout the HDC process, which are expanded on in more detail in sections 4.3 to 4.11. .
- 4.2.2. **Governors must ensure there are processes in place to determine eligibility for HDC.**
 - i. The OMU must calculate an offender’s HDCED when calculating their CRD or ARD within 5 business days of reception, initial or post transfer. Within a further 5 business days, the case administrator must establish the offender’s eligibility for HDC, whether they are statutorily excluded or presumed unsuitable, and notify the offender, the prison offender manager (POM) - or COM, if currently responsible, the Victim Liaison Officer, and the Pre-Release Team in the prison of the outcome using the appropriate form (all forms are provided at Annex K). The VLO details may not be available at this point but once a victim opts into the Victim Contact Scheme, the VLO will email the POM or COM, who should immediately forward a copy of the form to the VLO.
 - ii. At least 13 weeks before HDCED in any case where an offender’s current immigration status is unclear, the prison should send the HDC – FNP form to the Home Office in order to establish the current position.
 - iii. The Governor must consider any representations submitted by offenders who are presumed unsuitable for HDC. This function may exceptionally be delegated but never below Deputy Governor/Deputy Director level.
 - iv. If there are any changes in circumstances which affect an offender’s release dates (e.g. other remand, time spent unlawfully at large, additional days awarded), then the

offender's HDCED must be recalculated as well as all other release dates, and the impact of the changes upon HDC eligibility must be considered.

- v. The offender must not be released on HDC where there are fewer than ten days remaining to the CRD as this will not allow sufficient time for the benefits of HDC.
- vi. Where there are 28 days or fewer between the date at which the offender's eligibility has been established and the CRD, the HDC process must not start unless the Governor has agreed to this.
- vii. A checklist to help determine eligibility and avoid release in error is at Annex L. Evidence from previous case reviews shows that particular care should be taken to identify previous recalls on HDC and advice is given in annex L and also annex C which provides details of the different types of recall or return to custody and the effect that this has on HDC eligibility.

4.2.3. Governors must ensure that there are processes in place to facilitate eligible offenders to propose addresses for release; that the Community Accommodation Service – Tier 2 (CAS – 2) Service (formerly BASS) is used where necessary; and that a check of the proposed release address/area is commissioned promptly.

- i. At least 10 weeks prior to the HDCED, where possible, the offender must be provided with the Address form. They must be encouraged to provide more than one address if possible and prioritise them so that they can be assessed in order of preference.
- ii. The prison must encourage the offender to complete the Address form and ensure that they can understand the purpose of the form and complete it, offering support where needed (e.g. for language barriers or literacy issues.).
- iii. If an offender wishes to opt out of HDC the reason why must be recorded.
- iv. If an offender is unable to propose an address, they must be told about CAS2 accommodation and asked if they wish to proceed with an application with this accommodation.²
- v. No earlier than nine weeks before the HDCED (to ensure a COM has been allocated), the case administrator must commission Address Checks from the COM via the Digital Service.

4.2.4. HoPDUs must assure themselves that there are processes in place to ensure that the Risk Management page in the Digital Service is completed accurately and, so far as possible, within 10 business days of receipt, and that all HDC actions are properly recorded on the Digital Service and nDelius as detailed in the CRI (case recording instruction).

- i. In respect of the proposed address, the COM must confirm:
 - whether they have spoken to the main occupier and whether they give their informed consent to HDC (further guidance to COMs is provided in section 4.5. below, and in Annex G);
 - whether it is possible to manage the offender safely in the community, if released to the proposed address on HDC;
 - whether there are any risk management planning actions that must take place prior to release;

² CAS-2(formerly BASS) is a national service which seeks to support HDC releases by providing suitable accommodation for offenders whose lack of a suitable address prevents their release on HDC. All CAS-2 properties are deemed to be suitable addresses for HDC in principle.

- that mandatory requests for information about domestic abuse and child well-being have been made of the police and children services, and that this information has been taken into account in this assessment. This includes whether any children at the address are likely to be impacted by the offender's behaviour whilst subject to HDC;
 - that they have consulted the Prison Offender Manager (POM) for information about the prisoner's current progress in custody;
 - whether this is a Victim Contact Scheme (VCS) qualifying case and, if so, whether the victims have had an opportunity to comment;
 - whether the address has an electricity supply;
 - the reporting instructions;
 - any non-standard licence conditions, including any variation on the usual 7pm-7am curfew hours; e.g. to accommodate a work pattern (these should be included even where the address is not considered suitable for HDC); and
 - whether further information has been sought and when it is expected.
- ii. The Risk Management page must be completed so far as possible within 10 business days of the prison commissioning the Address Checks.
 - iii. Where the COM is still waiting for information, they must indicate this clearly in the box provided on the page and should not at this point indicate whether or not the address is suitable.
 - iv. As soon as the information becomes available the COM should complete the risk management page in full.
 - v. Where the COM has a query about something that the prison has inputted to the Digital Service (or vice versa), they must contact each other directly.
 - vi. The COM must be asked to check one address at a time. If the offender's preferred address is found unsuitable then the second address may be submitted to the COM and a further 10 business days is allowed to complete the checks, and so on.
 - vii. Once the proposed addresses are exhausted, CAS2 options should be explored. Where the person in prison is ineligible for CAS2, or there are no spaces available, their COM should refer them to the regional Commissioned Rehabilitative Services provider (Accommodation contractor for men or Women's Services contractor for women). If the provider identifies a possible address, and there is still time, its suitability for HDC should be assessed.

4.2.5. Governors must ensure that suitability for release on HDC is considered consistently and promptly.

- i. At least five weeks before the HDCED, where possible, once the Risk Management page has been completed, the prison case administrator must check that the prisoner remains eligible for HDC and complete sections 1 – 3 of the Assessment & Decision page and submit to the delegated HDC decision maker.
- ii. The decision whether or not to release an offender on HDC must be taken by the Governor, who may delegate the decision to a competent member of staff (of at least functional head level).
- iii. The decision maker in consultation with the POM must consider whether the offender's circumstances and behaviour have changed since the risk management page was completed to the extent that release to the proposed address should be refused or the COM should be asked to review the risk management plan.
- iv. The decision maker must review any representations made via the VLO to ensure that they have been taken into account in the proposed licence conditions.
- v. The decision-maker must assure themselves that the mandatory requests for information about domestic abuse and child well-being have been made of the police and children services, and that this information has been taken into account in this assessment.

- vi. Before releasing any offender subject to additional criminal proceedings, prison case admin must check whether there is a remand warrant in relation to any outstanding charges whether or not committed during the current sentence. The release decision must be postponed until that is resolved and the case should be recorded as “Postponed – Investigation”.
- vii. Prison case admin must also confirm whether or not there is an outstanding application under the unduly lenient sentence scheme (ULS) under which the Attorney General can refer sentences to the Court of Appeal to consider whether they are too lenient. The release decision must be postponed until the application has been resolved and the case should be recorded as “Postponed – Investigation”.
- viii. The decision-maker must authorise release unless any of the exceptional grounds to refuse HDC, or to postpone the decision, listed at paragraphs 4.6.3. and 4.6.5. apply.

4.2.6. Governors and HoPDUs must have in place processes to ensure that decisions are notified to the offender and relevant third parties.

- i. Where HDC has been authorised, the prison must notify the offender using the HDC Approved form.
- ii. Where HDC has been authorised, the prison must also notify the COM, the Electronic Monitoring Field & Monitoring Service Provider (EM Provider), the National Identification Service (NIS) at New Scotland Yard, the home police service and, in relevant cases, Home Office Immigration Enforcement, using the HDC Agency Notification form. Notification should take place as soon as possible, ideally at least 14 days before release and release must be delayed if at least 24 hours’ notice is not possible.
- iii. Where the decision maker is satisfied that there are exceptional reasons to refuse HDC, or the decision is being postponed, the offender must be notified using one of the HDC Address Unsuitable/HDC Postponed/HDC Not Enough Time/HDC Refused forms at Annex K, making clear that they may submit an appeal against the refusal and/or submit another address for consideration. Appeals are processed via the prison complaints system and should be prioritised. Reasons must be provided where HDC is refused. Where a prisoner remains dissatisfied with the refusal, having received a response at appeal through the prison complaints system, they may complain to the Prisons and Probations Ombudsman. This should be made clear to the prisoner on receipt of the appeal rejection
- iv. Where HDC has been refused the prison must copy the appropriate form to the COM.
- v. On receipt of the HDC Agency Notification form, the COM must notify the Victim Liaison Officer of the outcome in VCS qualifying cases, so that the victim can be notified of the outcome and any victim focused conditions on the licence.
- vi. If circumstances change after release has been agreed and the offender is no longer suitable for HDC, or the details in the HDC Agency Notification form change, notification of the change must be sent using the HDC Cancellation/Variation of Agency Notification form to the other agencies originally notified.

4.2.7. Governors must have in place processes to ensure that appropriate release arrangements are made.

- i. Offenders must be released on licence using the HDC licence template available in the Digital Service.
- ii. The decision-maker must set the curfew hours to reflect the particular needs of the case, taking account of the COM’s recommendations.
- iii. Before release, offenders must have the licence conditions explained to them and must sign the licence, to confirm they accept the conditions.
- iv. Offenders cannot be released on HDC until the requisite period has been served. Where an offender’s HDCED falls on a weekend or Bank Holiday the offender must not be released on HDC until the next business day.

- v. On the day of release the offender must be released in sufficient time to ensure that they can attend any appointment necessary on the day of release and arrive at their home address in advance of the curfew.

4.2.8. Governors must ensure there are processes in place for inter-prison transfer during the HDC process.

- i. Inter-prison transfers should be done as quickly as possible to the appropriate prison. If the offender reaches the point at which HDC should be started then the holding prison must ensure the process is commenced, keeping clear records on NOMIS and the Digital Service.
- ii. Governors must ensure that there is a process in place so that all Offender Management Unit (OMU) paperwork, including that for ongoing HDC, is sent with an offender moving to a new prison as part of a planned transfer.
- iii. If the process fails for any reason, the sending OMU must contact the receiving OMU to inform them of the HDC stage that has been reached and make sure that any paperwork not recorded on NOMIS and any reports received after transfer are forwarded as a priority.
- iv. HDC paperwork that has not travelled with the offender or entered onto the HDC Digital Service must be scanned and/or sent by email to the appropriate functional mailbox at the receiving prison.

4.2.9. HoPDUs must have in place processes to consider requests to vary conditions attached to HDC licences and requests to authorise absences from curfew.

- i. The HoPDU must consider any request for a variation in licence conditions on its merits. Licence conditions must not normally be changed where it is reasonable to expect the offender to continue to abide by them and they do not conflict with the objective of providing a stable transition back into the community. Documentary evidence (e.g. of changes in working hours) may be required.
- ii. Where the offender applies to vary the licence conditions they must be advised by the COM that they must abide by the current licence conditions until the variation has been authorised.
- iii. The HoPDU must not agree to a new curfew address without the COM undertaking an assessment of the suitability of the new address including mandatory enquiries to Police and Children's Services and obtaining informed consent.
- iv. The EM provider may authorise one-off absences from curfew in circumstances prescribed in paragraphs 4.9.11. and 4.9.12. below but other one-off absences and any permanent changes to licence conditions must be authorised by the HoPDU on behalf of the Secretary of State.

4.2.10. Governors and HoPDUs must ensure there are processes in place to drive and monitor the timeliness of the HDC process, and that records of all HDC actions are properly recorded on NOMIS, the Digital Service and nDelius.

- i. Eligible offenders must be identified early and all stages of the process (see Annex B) completed in line with the timetable in Annex A.

4.3. ELIGIBILITY AND PRESUMED UNSUITABILITY

This section sets out the eligibility criteria, how to deal with representations from offenders presumed unsuitable for HDC and how to calculate the HDCED.

Statutory eligibility criteria

4.3.1. The following are statutorily excluded from HDC.

- Anyone sentenced to 4 years or more for any offence.
- Sex offenders required to register.
- Offenders convicted of violent or sexual offences currently serving an extended sentence.
- Offenders serving a sentence for an offence described in section 247A(2) of the Criminal Justice Act 2003 (specified terrorist or terrorist connected offences).
- Offenders serving a sentence for ROTL failure to return.
- Offenders serving a sentence for breach of the curfew requirement of a Community Order.
- Foreign national prisoners (FNPs) who have been recommended for deportation by the court and those who are liable to deportation and a decision to deport has been served (i.e. not just those with a Deportation Order).
- Offenders who have served less than 14 days since date of sentence.
- Offenders who have ever been recalled to prison for failing to comply with the HDC curfew conditions.
- Offenders who have ever been returned to custody by the court for committing an imprisonable offence during the at-risk period.
- Offenders currently serving a recall from early release on compassionate grounds.

4.3.2. The table at Annex C provides details of the different types of recall or return to custody and the effect that this has on HDC eligibility.

Fine defaulters and contemnors (and breach of top-up supervision – BOTUS)

4.3.3. Fine defaulters and contemnors, whether civil or criminal, are not eligible for HDC, since they are serving a term of imprisonment, not a sentence of imprisonment. However, where an offender is serving a criminal sentence (e.g. for drugs offences or fraud) and consecutive to this criminal sentence the offender is to serve a default term for non-payment, the offender may still be considered for HDC on the criminal sentence providing there is a minimum of ten days to spend on HDC between the end of the custodial period of the default term and the CRD of the original sentence. In such a case, the term would begin on the day after the 'notional HDC release date', which is the date that the Governor (or delegated decision-maker) approves release on HDC except where the approval is given in advance of the HDCED. In such a case, the HDCED becomes the notional HDC release date. The same approach should be taken where a prisoner has a breach of top-up supervision (BOTUS) period ordered to be served consecutively to a sentence on which they are eligible for HDC.

Repatriated Prisoners and those on restricted transfer from other UK jurisdictions

4.3.4. Prisoners on a restricted transfer from another UK jurisdiction are not eligible for release under the HDC scheme operated in England and Wales but see Annex J in relation to prisoners on a restricted transfer from Scotland, who may be eligible for release under the Scottish HDC scheme. Prisoners who have been repatriated to England and Wales from another jurisdiction in accordance with the Repatriation of Prisoners' Act 1984 (usually under a Prisoner Transfer Agreement) may be considered for HDC if otherwise eligible. Repatriated prisoners sentenced to 4 years or more imprisonment by an overseas court are ineligible for HDC if they still have 4 years or more to serve after repatriation to the UK; if they have been sentenced to 4 years or more but have less than 4 years to serve on return to the UK they will be presumed unsuitable for HDC.

Presumed unsuitable offenders

4.3.5. To maintain public confidence in the scheme, certain offenders are presumed unsuitable for release on HDC. These offenders are statutorily eligible to be considered for HDC but are, as a matter of policy, presumed unsuitable for the scheme in the absence of exceptional circumstances.

4.3.6. The following offenders are presumed unsuitable.

- Anyone serving a sentence of imprisonment for any of the following categories of offence:
 - homicide;
 - explosives;
 - possession of an offensive weapon;
 - possession of firearms with intent;
 - cruelty to children;
 - offences aggravated on the grounds of race, religion or sexual orientation;
 -
 - terrorist offences other than those described in section 247A(2) of the Criminal Justice Act 2003;
 - Stalking, harassment, coercive control and non-fatal strangulation and suffocation offences
- Anyone with a history of sexual offending but not required to register.
- Anyone with a history of terrorist or terrorist connected offending but not currently serving a sentence for such an offence.
- Anyone who has been recalled for poor behaviour while on HDC within the last two years of the current sentence.
- Foreign national prisoners liable to deportation but not yet served with a decision to deport.
- Offenders sentenced to 4 years or more imprisonment by an overseas court but who have less than 4 years to serve after repatriation to the UK.
- Category A offenders.
- Offenders presenting a high or very risk of harm subject to MAPPA Level 2 or 3 arrangements.

4.3.7. Offenders who are presumed unsuitable for HDC may submit representations to the Governor if they consider that their case is exceptional. It is for the Governor to determine whether there are exceptional circumstances justifying assessment for HDC; this task cannot be delegated below Deputy Governor (Deputy Director in contracted prisons) level and should only be delegated where the Governor is absent and there is a pressing need for a decision. If the Deputy Governor is also unavailable, the decision should be referred to the Prison Group Director (Director's line manager in a contracted prison) to appoint another Governor to make the decision. How exceptional circumstances are determined will depend on the reason why the offender is presumed unsuitable. Once satisfied that there are exceptional circumstances, then the offender may be considered for HDC as normal.

4.3.8. Where the Governor does not accept that the representations amount to exceptional circumstances, the offender must be given clear, detailed reasons why and be notified that the avenue for appeal is via the prison complaints system. Where the decision is made by the Governor, the appeal must be made to the Prison Group Director/Director's line manager. Where the Governor accepts that the representations amount to exceptional circumstances, clear, detailed reasons for reaching the decision must be recorded in NOMIS/DPS case notes. In each case the written decision should include a summary of the representations considered and an explanation setting out the rationale for the decision, including the factors that weighed in favour of the decision and any that weighed against.

4.3.9. Further guidance on identifying presumed unsuitable offenders and applying the exceptional circumstances test is given in Annex D. A list of examples of presumed unsuitable offences is given at Annex E. This guidance must be consulted in making that decision.

4.3.10. Where prisoners transfer during the HDC process, or there is a change of Governor, the receiving prison/new Governor must accept the exceptional circumstances decision of the sending prison/previous Governor unless there is a change of circumstances, or it is clear that the decision was fundamentally flawed and was not taken in accordance with this Policy Framework. This decision must be supported by clear, detailed written reasons and must address all matters considered in the previous decision

Eligibility when there are multiple convictions

4.3.11. An offender is ineligible in law for HDC where they are serving consecutive or concurrent terms of imprisonment and the length of the overall sentence envelope is four years or more. This includes standard determinate sentences, extended determinate sentences and sentences for offenders of particular concern, but not detention and training orders.,

4.3.12. An offender is presumed unsuitable for HDC if any sentence forming part of the overall sentence envelope currently being served is in respect of a presumed unsuitable offence.

4.3.13. If one of the sentences/offences is ineligible (e.g., a failure to return from ROTL offence or an extended determinate sentence) then the offender cannot be released on HDC while that sentence is being served and will be presumed unsuitable throughout the overall sentence envelope.

4.3.14. Where an offender is released on licence and recalled, and then a new sentence is imposed, that new sentence does not form part of the original sentence envelope. This means that the offender may be eligible to be considered for HDC once the recall has been served. The same principle applies where the offender has remained in custody on remand beyond the CRD of a sentence and a new sentence is imposed, i.e., a new sentence envelope is formed.

4.3.15. In relation to offenders serving sentences imposed before 3 December 2012 for offences committed before 4 April 2005 - Schedule 20B of the CJA 2003 sentences (previously known as CJA 1991 sentences) - the sentences form a single term and if any sentence within that single term is a statutorily excluded sentence, the offenders will be statutorily excluded on the single term.

Public Confidence

4.3.16. Where, following completion of the assessment process, the Governor (this task cannot be delegated) considers that the release on HDC of an otherwise suitable offender may seriously damage public confidence in the scheme, they must consult their Group Director and the case must be referred to the Director General Prisons for a final decision. The referral should be routed via the Director General, Wales for offenders in Welsh prisons and via the Executive Director of the Youth Custody Service for children being considered for HDC. It is expected that such cases will be extremely rare and will likely involve offenders who have been involved in a nationally notorious crime or a crime of particular concern to the public, where release would bring the scheme into disrepute.

4.3.17. Offenders whose cases are to be referred for a final decision must be informed that this rests with the Director General Prisons (etc.) and that they may submit reasons to them why release should be granted.

4.3.18. Cases referred to the Director General Prisons (etc.) must include all HDC assessment papers and a covering note with any relevant information that may indicate that release could undermine public confidence.

No separate penalty

4.3.19. Where an offender has been convicted of a presumed unsuitable offence but the court disposal is recorded as “no separate penalty”, this should not be treated as serving a sentence of imprisonment for the purposes of considering HDC. Where the “no separate penalty” relates to a sexual offence, the effect will still be to make the offender presumed unsuitable because the presumption applies to those with any history of sexual offending and arises from any conviction for a sexual offence. Where an offender has charges that have been ordered to “lie on file” this does not affect eligibility as there is no conviction.

Calculating the HDCED

4.3.20. The eligibility date is determined by length of sentence, as set out below:

Sentence length	Requisite period to be served before the HDCED	Approximate range of minimum and maximum curfew periods	HDCED calculation
12 weeks or more but less than 720 days	28 days <u>OR</u> one quarter of the sentence, whichever is longer	Between 2 weeks and 180 days depending on length of sentence	28 days <u>OR</u> the no. of days in the sentence ÷ 4 (rounded up) whichever is the larger number, minus remand/tagged bail; apply the figure obtained to actual date of sentence
720 days or more but less than 4 years	180 days less than half the sentence	180 days	Effective CRD – 179 days

4.3.21. Please note when using a date calculator, the ‘actual date of sentence’ means you use the date the sentence was imposed and not the day before as you may do for other calculations and the ‘effective CRD’ is the CRD after any relevant adjustments e.g. remand/tagged bail have been applied.

4.3.22. Where applying the remand time to the calculation provides an HDCED which would fall before the date of sentence, the date of sentence plus 14 days should be used as the HDCED.

4.3.23. Further examples can be found at Annex N

Multiple sentences

4.3.24. Annex F sets out in detail the instructions and principles for calculating HDC eligibility and the HDCED in multiple sentence cases.

4.4 ESTABLISHING PROPOSED ADDRESS

This section sets out key actions around encouraging completion of the Address form, as well as information on CAS2 accommodation.

Encouraging completion of the Address form

4.4.1 When encouraging completion of the form, prisons must:

- make sure the offender can read and/or understand it;
- make sure they know that the address they nominate must be assessed as suitable by the COM (i.e. not to submit an address they know will be found unsuitable);
- ask them to nominate an alternative address where possible;
- ensure that they give full contact details, including at least one phone number for the address – even where this is housing association or local authority (it cannot be assumed that the COM will know). The number can be a mobile telephone number or landline and they should also give their own telephone number if known); and
- encourage the offender to consider CAS2 as an alternative, if they have no address to nominate.

4.4.2 Governors may wish to consider the use of peer supporters/prison signpost workers to help HDC eligible offenders to complete the Address form and to promote HDC and CAS2.

The Community Accommodation Service – Tier 2 (CAS2)

4.4.3 CAS2 referrals should only take place once the Probation Service has indicated that the nominated area is acceptable under the address checks/risk management process. Referrals should be made by the POM with the COM solely being responsible for supporting the referral for CAS2 and approving the proposed area.

4.4.4 Under the CAS2 referral criteria, offenders will be ineligible for CAS2 if they:

- have a conviction, caution, a current allegation of or are under police bail for any sexual offences mentioned in Schedule 3 of the Sexual Offences Act 2003;
- have been assessed in OASys to currently pose a High or Very High risk of serious harm;
- are under 18 years of age; or
- are assessed as posing an unacceptable risk to:
 - the EM provider, their property or staff;
 - other residents of the property;
 - the service user themselves;
 - neighbours; or
 - any other person.

The CAS2 provider may refuse any case where they consider that there is insufficient information on which to make an adequate assessment of risk.

- 4.4.5 If an offender does not meet the Nacro CAS2 referral criteria and they have not proposed any other release address, HDC should be refused on the grounds there is no suitable address.
- 4.4.6 If referred to CAS2 and the provider confirms that there is no suitable CAS2 address in the proposed area, the provider may suggest a CAS2 address in another area. The offender should be asked whether they are content to be considered for release to that area, subject to the views of the COM. If so, the HDC process should continue. If not, or there is no address available, HDC should be refused on the grounds there is no suitable address.
- 4.4.7 In cases where a CAS2 referral is successful and HDC is approved, the prison case admin will notify the COM of the release and release address as part of the normal notification procedures once CAS2 makes an offer detailing a specific address. This will usually be no earlier than 7 calendar days before eligible release, as per the CAS2 allocation policy. In cases where offenders are eligible for CAS2 but placed onto a waiting list due to unavailable bedspaces, all efforts will be made by the supplier to offer alternative areas, subject to approval from the COM. In cases where these do not become available until there is less than 10 days left to CRD, HDC should be refused on the grounds that there is no suitable address.
- 4.4.8 Questions about the scheme provider should be directed to the provider, currently Nacro, on 0300 555 0264 or 07423 434032, or email referrals@nacrocas2.org.uk.
- 4.4.9 Questions about CAS2 in general can be directed to the CAS2 Contract Management Team at CAS2@justice.gov.uk.
- 4.4.10 The latest instructions and guidance on CAS2, including further detail on CAS2 exclusions and how to make a CAS2 referral, are included in the CAS2 Policy Framework and associated CAS2 Stakeholder User Guidance.

4.5 ADDRESS CHECKS AND RISK MANAGEMENT PROCESS

This section deals with informed consent and address suitability checks requirements.

- 4.5.1 The first step is for the prison to input to the Digital Service the offender's details, proposed addresses and main occupier contact details, and whether a CAS2 Referral is to be considered. Then, the COM should be commissioned to complete the process via the Digital Service, nine weeks before HDCED where possible.
- 4.5.2 Once they receive the Address Checks commission, the COM must complete the risk management page on the Digital Service, speaking to the main occupier and indicating whether they give informed consent to HDC at the address, and if the address is suitable for release on HDC by confirming the requirements listed at paragraph 4.2.6. above. Except where they are waiting for information to complete their assessment, the COM must ensure that the process is completed within 10 business days. The COM must clearly record on the Digital Service when they are still awaiting information after 10 business days. The decision on HDC must be postponed until all the necessary information has been assessed.

Informed consent

- 4.5.3 The COM must speak to the main occupier at the address to explain the nature of HDC so that they know what to expect and how it will impact on their lives. In multiple occupancy accommodation, where there are shared facilities, it is not expected that the COM would normally contact other residents at the address unless they will live in the same room(s) as the offender. If there is evidence that the person they are speaking to is not who they say they are, the COM must not recommend the address as suitable until this is resolved.

- 4.5.4 The main occupier must be invited to ask questions about HDC and raise any concerns they have. They must also be asked to identify all the other occupants of the address and give their ages. Where there are any children under 18 at the house, the main occupier must be asked to confirm whether any of the children is known to Children's Services. They must be advised that if they have concerns during the HDC period they should raise these with the COM. The main occupier should be advised that staff of the EM provider may call at the property without advanced warning from 07:00 until 23:59:59. In addition calls will be made to the monitoring unit if the EM provider determines that the subject is not present during the curfew period, and this can result in calls throughout the night.
- 4.5.5 All reasonable efforts should be made to establish contact with the main occupier but if this is not possible within 10 business days of the commission, the COM should notify the prison, so that they can try to get better contact details or another address from the offender and the process can continue with the minimum of delay.

Suitability of the address – the risk management plan and consulting the PS victim liaison officer (VLO)

- 4.5.6 Whether the proposed address is suitable for HDC will depend upon whether the risks presented by early release to that address are manageable. It is for the COM to determine whether, based on the available information and using their professional judgement, any non-standard licence conditions and/or any other specified risk management planning actions must be taken before release, in order for the offender to be managed safely on early release. The COM must take into account the risks presented to the public if the offender is released to the proposed address, and not solely the risks to the other occupants, albeit this will be a key factor. A CAS2 referral should be considered immediately if the proposed address is considered unsuitable.
- 4.5.7 In completing their assessment, the COM must consult the POM in order to ensure that information about the offender's behaviour in prison is up to date and to determine whether there are any reasons why it is not possible to safely manage the early release of the offender in the community.
- 4.5.8 This must be seen as part of the overall risk assessment and sentence management of the individual prisoner. Where the COM has retained responsibility for those serving less than 10 months there must still be direct contact with the supporting POM to ensure that any information on behaviour, paralleling risk behaviour or security information where relevant has been shared with the COM. All information needs to be seen in the context of the individual's offending behaviour and potential victims. Regardless of sentence length, the OMIC Handover Meeting, where there is one, is a further forum to ensure all information is shared and passed on.
- 4.5.9 Under the Touch Point Model for Senior Probation Officer Oversight, COMs should be discussing HDC as a factor in the mandatory initial screening meeting pre-release. This ensures that any particular concerns can be raised and discussed. This initial screening meeting will also identify the risk of serious harm. The COM is responsible for setting the MAPPA level for MAPPA eligible offenders and must consult the POM. The COM should confirm the MAPPA level at least 6 months before release. Where the COM has identified a referral to MAPPA level 2 or 3 is required to manage the risk on release, the offender will be presumed unsuitable for HDC and cannot be released on HDC unless there are exceptional circumstances.
- 4.5.10 The fact that an offender has identified mental health needs is generally no obstacle to HDC. Where there is evidence indicating that the offender's compliance with treatment is important to managing the risk of serious harm, however, the COM must seek to establish (via the POM or directly with prison healthcare) whether treatment on release is considered necessary to

the management of risk and if so, whether there are plans in place to deliver it. This information should be considered as part of the overall risk management plan. Where the plan is not yet finalised by the time that the Address Checks page is completed but the COM considers that a robust plan is essential to the overall risk management plan then this must be indicated on the risk management page and this can be reviewed at the decision-making stage.

4.5.11 GPS location monitoring may be used with offenders on HDC, but only where this facility is necessary to manage the offender safely; i.e. where the address would otherwise be rejected as unsuitable. Location monitoring can be used to:

- enforce an exclusion zone – the offender cannot enter a specific location or area;
- keep the offender at a given distance from a point or address, including the victim's address or that of a known criminal associate;
- monitor an offender's attendance at a certain activity – for example work or a rehabilitation programme; or
- monitor an offender's movements to support discussions with probation about an offender's lifestyle and behaviours (known as "trail monitoring").

4.5.12 When completing the risk management page on the Digital Service, the COM must indicate whether a home visit was conducted and why.

4.5.13 We recognise that where someone is curfewed to an address the increased and enforced proximity can raise the risk to others in the household. In all bar CAS2 cases, the COM must obtain current information about domestic abuse and child safeguarding issues from the Police and from Children's Services in relation to both the offender and the address before confirming whether the proposed address is suitable for HDC. In some cases, this information will have been obtained to support sentence management earlier in the current sentence. The decision whether to make further enquires in such instances will need to be made on a case-by-case basis. Depending on the individual, circumstances can change quickly, and professional judgment will need to be exercised when considering the impact of change on risk assessments. Where fresh enquiries are required, COMs should make them immediately once the HDC Address Checks/Risk Management commission is received, to help reduce delays. When completing the Risk Management page in the HDC Digital Service, the COM must indicate in the comments box whether this information has been obtained and taken into account in their assessment. This applies equally to address variations where the offender will remain on HDC.

4.5.14 Such requests are not mandatory where the offender is going to CAS2 (other than Family Units) or other supported accommodation, including Approved Premises, but the COM must still assess risk more broadly, for example the proximity of victims to the address and compatibility with any proposed exclusion zones, and whether residing in a multi-occupancy setting increases risk, and assess whether they are needed for the decision maker to make a decision on release.

4.5.15 Victims and families of victims who have opted into the Victim Contact Scheme (VCS) operated by PS must be afforded a reasonable opportunity to make representations about licence conditions. The COM must indicate on the relevant form if the case is VCS qualifying and victims should be given two weeks to make representations from the date the VLO invites them. Their views must be considered whenever received and, where necessary, changes to licence conditions made. A copy or summary of their representations should be forwarded to the prison so that the HDC decision maker can ensure they have been taken into account.

4.5.16 Further guidance for Probation Services on completing address suitability/risk management checks can be found in Annex G.

Address Checks by one Probation Service Region on behalf of another

4.5.17 Where the proposed address is in a different PS Region to the allocated COM, responsibility for completing the risk management page remains with the allocated COM even where they have asked another PS Region to request the mandatory information from Police and Children's Services and to obtain informed consent. PS Regions should work together to try to ensure that the page is completed within the 10 business-day time limit. To facilitate this, the Region responsible for the completion of the report should alert the Region checking the address as early as possible within the 10 business-day time frame.

4.6 ASSESSMENT AND DECISION

This section sets out where HDC should be postponed or refused.

4.6.1 Once the risk management page has been completed, the Assessment and Decision page must be completed by the case admin and the decision-maker.

4.6.2 The decision-maker must authorise release unless the following exceptional grounds to refuse HDC, or to postpone the decision, apply.

4.6.3 HDC must be refused where:

- it is not possible to manage the offender safely on early release at the proposed address; or
- there are fewer than 10 days remaining to CRD.

4.6.4 In determining whether it is possible to manage the offender safely on early release at the proposed address, the decision-maker must consider primarily the report of the COM but should take into account any relevant information, including issues arising since the COM completed the risk management page that would undermine the effectiveness of the risk management plan. For example, where there has been recent behaviour in prison signalling an increased risk of harm on release. Where the COM has indicated that a robust mental health treatment plan on release is essential to the overall risk management plan there must be a check with prison healthcare to ensure an up-to-date plan is in place.

4.6.5 The HDC decision must be postponed where:

- specific public protection measures have been identified and planned to manage risk in the community, but they are not yet in place; or
- the offender is currently segregated from the general population (other than for their own protection) and the Governor has yet to review the case (see below); or
- the offender has been referred to the police or other law enforcement agency or to the independent adjudicator (IA) in relation to an alleged offence committed during the current sentence and the matter remains unresolved; or
- the offender is currently remanded in custody; or
- there is an outstanding application under the unduly lenient sentence (ULS) scheme; or
- the offender is the subject of a confiscation order and, having consulted the prosecuting/enforcement authority and regional confiscation unit (details in PSI 16/2010 Confiscation Orders), it is determined by the HDC decision-maker that there is an unacceptable risk of the offender frustrating the order of the court by, for example, going to ground, leaving the jurisdiction or hiding assets if released on HDC. Where there is evidence that the offender has frustrated proceeds of crime

proceedings in order to avoid a confiscation order being imposed, HDC should also be postponed until that is resolved.

- 4.6.6 Where the offender is held in segregation from the general population - except those segregated solely for their own protection – they must not be released on HDC unless the Governing Governor has determined that it would be safe to do so. In making the decision, the Governor must ensure that the COM and other key individuals involved in drawing up the risk management plan, such as healthcare professionals, are aware of the segregation and the reasons for it and have commented on whether and how this affects delivery of the risk management plan. Details of the decision - including who made it, who has been consulted and the reasons for the decision - must be recorded on NOMIS case notes as well as on the Digital HDC Service.
- 4.6.7 If the offender is under investigation and/or facing criminal or IA proceedings for an offence committed during the current sentence, the HDC assessment process may be started at the usual time so that if the case is discontinued or dismissed there is no additional delay in processing HDC. Where some time has elapsed since the matter was referred there should be a check to verify the current status before deciding to postpone the HDC decision, with regular checks thereafter. “Current sentence” in this instruction is to be taken to include the whole of the current, unbroken custodial period, including time on remand or serving civil or criminal terms of imprisonment.
- 4.6.8 Once a charge has been referred to an IA it cannot be referred back to the Governor – the IA will deal with it from then on - section 2.33 of PSI 05/2018-05 Prisoner discipline procedures (adjudications).
- 4.6.9 If added days are awarded (ADAs) by the IA, the ADAs will defer the HDCED and the offender may not be released on HDC until they reach the adjusted HDCED.
- 4.6.10 If the matter is referred to the court and a further concurrent or consecutive sentence of imprisonment is imposed, fresh release dates will be calculated which may produce a later overall HDCED. If the offender remains eligible for HDC, they may still be released on HDC but not until they reach the overall effective HDCED.
- 4.6.11 Such considerations of HDC against revised HDC eligibility dates must be made on the same basis as other HDC considerations for eligible offenders; i.e. the disciplinary or criminal offence will have led to additional time in custody being served, but if the offender remains eligible for HDC then the assessment of suitability for HDC, and whether to approve or refuse HDC or postpone the decision, must be made in accordance with the standard provisions of this Policy Framework.
- 4.6.12 Where HDC is refused because the address is unsuitable, a further address may be considered if there is time (i.e. at least four weeks to CRD).
- 4.6.13 Guidance on recording the HDC decision is included in Annex A.
- 4.7 **NOTIFYING THE OFFENDER OF THE DECISION** Guidance is set out in Annex H.
- 4.7.1 A decision to refuse, or to postpone HDC could be upsetting and destabilising for a prisoner and where particular safety concerns are identified by prison staff, they should consider whether any further support or safeguarding measures are required when the decision is relayed. For example, referral to mental health services, opening an Assessment, Care in Custody and Teamwork (ACCT) document, referral into multidisciplinary meetings such as Safety Intervention Meetings (SIM), notifying the key worker and/or arranging for the prisoner to speak to a trusted person within the prison or arranging a phone call to their family.

4.8 **SETTING THE CURFEW CONDITIONS** Guidance is set out in Annex I.

4.9 **POST-RELEASE PROCEDURES**

This section sets out the process for amending HDC licence conditions, as well as circumstances in which one-off absences can be authorised.

General

4.9.1 Licence variations for adults must be authorised by the relevant Head of Probation Delivery Unit (HoPDU). Guidance on setting the curfew hours is given in Annex I and applies equally to variation decisions by the HoPDU. As with standard licences, bespoke conditions must be authorised by the Public Protection Casework Section (PPCS) of HMPPS. For children released from YOIs, the Governor or delegated decision-maker will authorise variations, for children released from secure training centres or secure care homes, variations must be authorised by the HMPPS Youth Custody Service (YCS) Release and Resettlement Team

4.9.2 Statutory probation supervision commences on the day of release, whether this is on HDC or at the CRD/ARD. Where an offender is released on HDC they are subject to the HDC conditions in addition to the supervision conditions attached to the licence.

4.9.3 Variations to the licence conditions may not be made verbally. Offenders must be made aware of the requirements to:

- comply with the curfew and other EM monitoring conditions set out in their licence until the date given in the licence, unless a temporary absence has been formally authorised, or until they have been formally notified that the conditions of their licence have been amended; and
- contact the EM provider immediately when they are aware that they will have difficulties in complying with their curfew conditions. This is regardless of whether they have already contacted their offender manager or the prison. Depending on the circumstances, the EM provider may refer the offender to their COM.

4.9.4 The EM provider is responsible for monitoring compliance with the curfew conditions and will provide breach reports to PPCS, which is responsible for deciding whether to authorise recall of an offender released on HDC, issue a warning letter to them or take no further action. (The EM provider may also issue warning letters for minor infringements of EM conditions). If the offender is recalled to custody for breach of the EM conditions, the prison will need to assist in administering any appeal process (the appeal itself is determined by the MOJ HDC Recall Appeals Team).

4.9.5 The Probation Service is responsible for monitoring compliance with supervision and may recommend recall where the non-curfew conditions are breached. Further requirements and guidance around recall including HDC recall, and the HDC recall appeals process is set out in the Recall, Review and Re-release of Recalled Prisoners Policy Framework.

One-off absences

4.9.6 In certain, clearly prescribed circumstances the EM provider may grant one-off absences during the curfew period. The absence may be authorised only where the offender provides the EM provider with sufficient written proof of the reason for the authorised absence, either 24 hours before the absence or within 48 hours following the absence for emergency absences.

4.9.7 The circumstances are:

- attending a wedding or funeral of a close relative - meaning a spouse (including a partner with whom the subject is living as a spouse), parent or child (including in loco parentis relationships), sibling (including half and step) or fiancée);
- irregular or unexpected personal medical appointments/treatment;
- irregular or unexpected medical appointments/treatment for the subject's child or adult dependents;
- attendance at job interviews, jobcentres, or elsewhere in connection with any claims for financial assistance;
- attendance as a witness in court or as required by the court; or
- other appointments involving the offender's immediate dependents where the offender's presence is required.

4.9.8 Emergency absence reasons (which may be authorised after the event) include:

- where emergency medical treatment for the offender or his/her immediate dependents is required and other emergencies involving the offender's immediate dependents where the offender's presence is required;
- where the offender has been required to work at short notice, the work forms part of a permanent job, is not just a "one-off" piece of work, and the employer has provided written verification that the work was required and took place; or
- where the offender has been held in police custody during the curfew period and the police verify this.

4.9.9 The period authorised must be limited to the length of the event, plus a maximum of 1.5 hours travelling each way. The EM provider must approve the minimum required time, which must not normally exceed 8 hours and may never exceed 24 hours.

4.9.10 Where the circumstances do not fall within these prescriptions HoPDUs may authorise one-off absences. Where the HoPDU authorises a one-off absence from curfew, a copy of the Licence Variation form will be sent to the EM provider and the police. In such cases there is no need for a revised licence to be issued, as this is an authorised absence rather than an amendment to the licence conditions. However, any such one-off variation must still leave at least 9 hours in the day where the offender is subject to curfew.

Permanent changes to curfew/address licence conditions

4.9.11 Where a request for a change of address is received, the COM must assess whether the offender can be managed safely on early release in the community at the new proposed address. Information on the domestic abuse and safeguarding risks must be obtained and the COM may also contact the EM provider if further information is required about the offender's performance on curfew but the EM providers have no say in the decision or assessment.

4.9.12 In some cases, where the offender is unable to continue living at the present curfew address, a swift authorisation may be required. Further details can be found at Annex I. The licence must not be changed until the COM has confirmed that the offender can be managed safely at the new address. This involves making mandatory enquiries with Police and Children's Services.

4.9.13 It is essential in such cases that the EM provider is notified immediately Probation begin to assess the new address so that the Provider is able to note this in curfew breach reports they send to PPCS, who will be able to take this into account in deciding if recall is necessary. It is also essential that the prison and the Probation Service maintain a clear record of advice given to the offender. In considering enforcement action, PPCS will consult the relevant Probation Service for a view on how soon a new, suitable address will be available. If it is clear that this will lead to the offender being unmonitored for more than 24 hours, PPCS

should be contacted immediately. If a suitable address cannot be found swiftly, recall to prison on the grounds of "inability to monitor" will be considered by PPCS. Such a recall will allow for the re-release of the offender if a suitable new address can be confirmed and re-release may take place even where there is less than 10 days to CRD.

4.9.14 Where the offender requests a change to the curfew address or times the COM must advise them to remain at the current address or continue with the current curfew hours until the variation request is approved and they have been notified of approval.

4.9.15 If a licence variation relating to curfew/address is authorised:

- Where there is a permanent change to the curfew conditions, the HoPDU must issue a new licence and a copy must be sent, along with the HDC Licence Variation form, to the EM provider, National Identification Service (NIS) and the home police force. Where there is an address variation the EM provider will visit the address to move the equipment.
- Where visiting the address, the EM provider will outline the licence variation and get the offender to sign electronically to confirm that this has happened. Otherwise they will phone the offender to explain the changes and when they will come into effect, and have the subject repeat the changes back to ensure that they are understood. In each case, the EM provider will post a hard copy of the licence to the offender.

4.9.16 If a licence variation is refused:

- Offenders must be notified of the reasons for any refusal. Where an application to change the curfew conditions is refused, the COM must inform the EM provider.
- The offender may appeal to the HoPDU against the decision not to vary the licence conditions.

Prolonged absence in hospital or for court proceedings

4.9.17 If the offender or the EM provider informs the Probation Service that the offender is due to spend a prolonged period in hospital, the licence must not be amended so that the offender is curfewed to the hospital. In such cases the Probation Service may instruct the EM provider to treat the absence as an allowable absence, provided the offender can provide documentary evidence as required for such absences. When notifying the EM provider, the Probation Service should make clear how long the absence is allowed to last, up to a maximum of four days. If the hospital stay lasts longer than four days, it may be necessary to issue further extensions to cover the remainder of the stay. The extension of the allowable absence does not rescind the curfew and as soon as the offender is discharged from hospital he or she is once again required to comply with their curfew at the specified address, whether or not any days remain of the allowable absence authorised by the Probation Service. If the Probation Service is notified that the offender has been discharged from hospital before the end of the allowable absence, they must notify the EM Provider.

4.9.18 If an offender is required to attend a court to which it is not possible to travel in one day from the offender's curfew address, the HoPDU may agree the extension of the allowable absence to cover a period of up to 72 hours rather than require that a new curfew address be imposed. Again, the EM provider must be informed. Such an allowable absence must not be permitted to exceed 72 hours. If it is anticipated that the offender will be required to attend the court proceedings for more than three days, it will be necessary to amend the licence to provide for a temporary curfew to an address in the vicinity of the court. As soon as the rationale for the offender's absence ceases, he or she must once more be at their specified address during curfew hours.

4.10. CROSS-BORDER HDC

4.10.1. Governors must follow the requirements and guidelines set out at Annex J in relation to cross border HDC.

4.11. HDC FOR CHILDREN

4.11.1. The scheme applies to children who are serving sentences of detention under section 250 of the Sentencing Code (formerly section 91 of the Powers of Criminal Courts (Sentencing) Act 2000 - for certain specified serious offences). All of the statutory provisions on HDC apply equally to eligible children as does the policy set out in this framework, subject to the following variations.

4.11.2. The decisions ascribed to the Governor or delegated decision-maker above must be taken by the Governor or delegated decision-maker in relation to any child held in a Young Offender Institution. Appeals against HDC decisions in YOIs, including where the Governor does not accept that there are grounds to assess a presumed unsuitable offender exceptionally for HDC, should be made via the local appeals process or prison complaints system procedures. Where children are released on HDC from a YOI, decisions on licence variation remain with the Governor or delegated decision-maker.

4.11.3. In relation to a child held in a Secure Training Centre (STC) or in a local authority Secure Children's Home (SCH), these decisions must be taken by someone at band 7 or above in HMPPS Youth Custody Service (YCS) Release and Resettlement Team, who will also be responsible for determining HDC eligibility and the eligibility date. The YCS will also be the avenue of appeal against decisions. Where a YCS decision is appealed, the appeal must be considered by a member of YCS staff at band 7 level or above not involved in the original decision. Where children are released on HDC from an STC or SCH, decisions on licence variation remain with the YCS.

4.11.4. Address Checks/Risk Management forms must be sent directly to and completed by the youth offending team, and returned directly to the YOI or STC/SCH.

4.11.5. Records of all HDC actions should be made on NOMIS or on the Youth Justice Assessment Framework (YJAF) as appropriate.

4.11.6. The forms at Annex K may be used with children, subject to appropriate adaptation reflecting the different places of detention and decision-maker, and to include details of the responsible adult.

Interaction with DTO early release

4.11.7. A very small number of young individuals will be serving HDC eligible sentences consecutively or concurrently with a DTO on which they would also be eligible for early release. HDC and DTO early release each involve the individual being released on an electronically monitored curfew, but the schemes are separate, and different criteria apply. Details on DTO early release are in:
Early and Late Release for Detention and Training Orders - GOV.UK (www.gov.uk)

4.11.8. Where someone is serving an HDC eligible sentence consecutively or concurrently with a DTO, the following principles apply.

- I. Eligibility should be considered for each scheme separately -
- II. Assess HDC eligibility and suitability and calculate the HDC eligibility date in relation to the HDC eligible sentence(s) only, and in accordance with this Policy Framework.

- III. Assess DTO eligibility and suitability and calculate the DTO early release date in relation to the DTO only, and in accordance with the DTO Early and Late Release guidance].
- IV. Where a DTO and HDC eligible sentence are running concurrently, they each have their own release and eligibility dates. The individual may not be released until they have reached the later of the two eligibility dates and they are eligible and suitable for release under whichever scheme applies at that point. Generally, it will be one or the other, but it could be both.
- V. Where a DTO and HDC eligible sentence are running consecutively, eligibility and suitability must be assessed on each in the order that they are running, meaning that address suitability may need to be established earlier than usual.
- VI. Where a DTO and HDC eligible sentence are running consecutively, the following principles will determine when the second term/sentence starts
 - a. Where the HDC eligible sentence runs first, the individual is eligible (and not presumed unsuitable) for HDC, and they are suitable for release on HDC, the DTO will run from the day after the HDC eligibility date or the day after the date on which the decision was made to approve HDC, whichever is later.
 - b. Where the DTO runs first and the individual is eligible and suitable for DTO early release, the HDC eligible sentence will run from the day after the DTO early release eligibility date, or the day after the date on which the decision was made to approve DTO early release, whichever is later.
 - c. Where the HDC eligible sentence runs first and the individual is ineligible or presumed unsuitable for HDC (and there are no exceptional circumstances), or they are unsuitable for release on HDC, the DTO will run from the day after the CRD on the HDC eligible sentence.
 - d. Where the DTO runs first and the individual is ineligible and/or unsuitable for DTO early release, the HDC eligible sentence will run from the day after the mid-point of the DTO, or the day after the late transfer date, where ordered by a court.
- VII. Where the individual is released from the DTO prior to the CRD on the HDC eligible sentence, they must be released subject to HDC licence conditions, which will run to CRD. Where the individual is released from the HDC eligible sentence prior to the mid-point of the DTO, they must be released subject to EM curfew.
- VIII. Where the release takes place at the point where the licence on the HDC eligible sentence AND the DTO supervision period is outstanding, the individual is released on a licence AND a DTO notice of supervision and will be on licence to the latest licence or supervision period expiry date.

4.12. SERIOUS FURTHER OFFENCES DURING HDC

- 4.12.1. Where an offender is under probation supervision and commits a specified serious offence (as listed in Annex A to the Probation Service Serious Further Offence Procedures Policy Framework) the Probation Service will conduct an SFO Review of the offender's probation management and supervision. Where the SFO was committed during a period of HDC, the Prison Group Director (PGD), or Director's line manager in a contracted prison, must commission a review of the HDC decision. The purpose of this review is to establish whether the HDC processes were followed correctly; the decision to release was a reasonable one based on the evidence available; and there are any learning points or

recommendations. Ultimately, both reviews may be disclosed to the victims of the SFO following conviction for the most serious offences.

- 4.12.2. HMPPS SFO Team will notify SFOs committed during HDC to the Operational Implementation Support Group (OISG) who will instruct the PGD to commission a review. The reviewer should be a senior manager and may be based within the region but should have had no direct involvement in the management of the offender in question during the current sentence. Generally, the draft report should be submitted to the PGD within two months of commission.
- 4.12.3. A Probation SFO Review will be underway and the PGD should copy the commissioning letter to the Regional Probation Director so that they are aware an HDC SFO review is also underway and who is conducting it so that the two reviewers can liaise with each other. The reviews are separate, and it is not expected that draft reviews are shared in full but there will be considerable crossover in relation to release planning and the HDC process and decision, so the HDC Review report author must consult the author of the Probation SFO Review. This can help reduce the burden of the report, for the reviewers and staff who are interviewed.
- 4.12.4. The report should be drafted in a way that it can be shared with the victim(s). It needs to be accessible, assuming that the reader is not familiar with prison policy and processes. If the report is to be disclosed, the reviewer will need to consider the need for redaction of any sensitive material. Guidance on redaction is given in the Probation Service Serious Further Offence Procedures Policy Framework. A covering note to the report may be prepared but the report itself should stand alone and give the reader a clear idea of what has happened leading to the HDC decision, and why the reviewer has reached the conclusions that they have in reviewing that decision. A template is attached as a guide (Annex M).
- 4.12.5. The report should include:
- the key events in a chronology;
 - the key findings; ie whether:
 - the HDC processes were followed correctly;
 - the decision to release was a reasonable one based on the evidence available; and
 - there are any learning points;
 - any actions taken or planned as a result; and
 - any recommendations.
- 4.12.6. Once the PGD has reviewed the report and is content they should submit the draft report to the Deputy Director of Prisons at DDPrisons@justice.gov.uk who will arrange for the report to be quality assured and returned to the PGD so that they can share it with the Governor of the releasing prison, the Regional Probation Director and the victim(s) of the SFO, if they wish to see it.
- 4.12.7. The two reviewers should agree how the reports will be disclosed to the victim(s), if they wish to see them. It is recommended that the findings of both reviews (PS and HDC) are shared simultaneously and that the meeting with the victim(s) to share the findings is conducted jointly if possible.
- 4.12.8. The Deputy Director of Prisons will ensure that relevant learning from the reviews is taken forward nationally. The PGD will be responsible for ensuring any local recommendations are acted upon.
- 4.12.9. Where the criminal charges are changed and the offence is no longer one of the SFO listed offences, the HDC SFO reviewer should pause the review, take stock of what they have

learned so far and discuss with the Probation SFO reviewer to discover what they have learned, in case there are lessons for HDC. The HDC SFO reviewer should seek a decision from the PGD on whether to complete the review. Generally, the review should not proceed unless the work to date discloses concerns about poor HDC practice, but any learning to date should be taken forward.

Timeframe for HDC process and recording decisions on NOMIS

The following table is a guideline with recommended timings based on an offender serving a sentence of 40 weeks or more. Shorter sentences and remand time will mean that a shorter timetable will be necessary.

Timing	Action
Within 5 business days of sentence calculation	Identify HDC eligibility and presumed unsuitability. Notify offender using one of the HDC Eligible/HDC Presumed Unsuitable/HDC Not Eligible/HDC Not Enough Time forms. Provide copy to COM, VLO and Pre-Release Team in the prison.
Thirteen weeks before HDCED	In relevant cases, case admin submits HDC-FNP to Home Office Immigration Enforcement (HOIE) - requiring return within 20 business days - to establish current immigration status and HOIE intentions on removal and detention.
Ten weeks before HDCED	Offender given and supported to complete Address Form, providing details of their proposed release address or opt out notification.
Nine weeks before HDCED	Case Admin completes Part 1 of HDC Address Checks pages on Digital Service and invites COM to complete Risk Management page within 10 business days.
Seven weeks prior to HDCED	COM completes Risk Management page, confirming: whether it is possible to manage the offender safely on HDC; informed occupier consent and electricity supply, reporting instructions, details of contact in VCS cases, and any non-standard licence conditions and outstanding risk management plan actions.
Six weeks prior to HDCED	Offenders being released to CAS2 accommodation must be referred to Local Authorities, as there is a likelihood of moving-on from CAS2 accommodation as homeless.
Five weeks prior to HDCED	HDC Assessment and Decision page completed. Decision-maker considers whether there are exceptional reasons to refuse or postpone HDC and, if not, authorise release.
Three weeks prior to HDCED	If necessary, case admin checks with COM about outstanding risk management plan actions.
Two weeks prior to HDCED	Offender, COM, police and the EM provider to be informed of decision on HDC.
Day of Release (on or as soon after HDCED as possible)	Copy of the licence to be sent to COM, police and the EM provider.

For sentence/resettlement planning purposes, it is recommended that those involved in HDC work on the assumption that the HDCED will be the release date, in all cases where the offender is eligible and not presumed unsuitable, until the point where HDC has been refused. The Probation Service should work on the basis that this will be the release date when they are giving reporting instructions on the Address Checks page.

The HDC decision should be recorded on NOMIS as follows:

Approved	where there are no exceptional reasons to refuse/postpone.
Rejected	where it is not possible to manage the offender safely in the community on early release, or there are fewer than ten days to CRD.
Postponed (outstanding risk)	where the address has not yet been ruled out as unsuitable, but it is not possible to approve release because there is a risk management planning action required before release. Once this is resolved, the Assessment and Decision page must be updated accordingly, and a decision must be taken. Once notified that the HDC decision has been postponed for these reasons, the offender may choose to withdraw this address and submit another.
Postponed (investigation)	where the offender is under investigation and/or facing criminal or IA proceedings for an offence committed during the current sentence. Or there is an outstanding confiscation order and it has been determined that release on HDC would frustrate the order of the court. Or there is an outstanding ULS application, or an outstanding review of segregation.

HDC Assessment Process Flow Chart

The full process chart can be found at:

<https://www.gov.uk/government/publications/home-detention-curfew>

Effect of Recall on HDC Eligibility

The following table provides details of the different types of recall or return to custody and the effect that this has on HDC eligibility.

Offenders who are currently serving a standard or fixed term recall who were also sentenced for another offence on which they are eligible for HDC cannot be released on the new sentence until the recall has been served.

Where an offender is released on licence and recalled, and then a new sentence is imposed, that new sentence does not form part of the original sentence envelope. This means that the offender may be eligible to be considered for HDC once the recall has been served.

<p>Previous recall or return to custody making the offender ineligible</p>	<ul style="list-style-type: none"> • Section 38A(1)(a) of the Criminal Justice Act 1991 (CJA 91) – breach of HDC curfew • Section 255(1)(a) of the Criminal Justice Act 2003 (CJA 03) – breach of HDC curfew • Section 40 of the CJA 91 - return to custody by the court for committing an imprisonable offence during the at-risk period. • Section 116 of the Powers of Criminal Courts (Sentencing) Act 2000 - return to custody by the court for committing an imprisonable offence during the at-risk period. <i>(The “at risk” period was that part of a CJA 91 sentence after the licence expired but before the sentence ended when the offender was “at risk” of being returned to custody by the court but not liable to administrative recall.)</i>
<p>Current recall making the offender ineligible</p>	<ul style="list-style-type: none"> • Section 254 of the CJA 03 – standard recall where the offender had been released early on compassionate grounds
<p>Previous recall making the offender presumed unsuitable if recalled within two years of the current sentence.</p>	<ul style="list-style-type: none"> • Section 39 of the CJA 91 – standard recall during the HDC period • Section 254 of the CJA 03 – standard or fixed term recall during the HDC period
<p>Previous recall which does not make the offender ineligible or presumed unsuitable</p>	<ul style="list-style-type: none"> • Section 39 of the CJA 91 – standard recall <u>not</u> during the HDC period • Section 254 of the CJA 03 – standard or fixed term recall <u>not</u> during the HDC period • Section 38A(1)(b) – inability to monitor on HDC • Section 255(1)(b) - inability to monitor on HDC

Evidence of previous recall or return to custody can be found by checking:

- pre-cons,
- the prisoner’s core record,
- the Public Protection Unit Database (PPUD), and
- Historical Prisoner Application (HPA). Recalls and Offences section.
- The offence code 159 should be stated on the offences section of HPA to confirm the return to custody under Section 40/ Section116.

Identifying presumed unsuitable offenders and applying the exceptional circumstances test

Offenders serving a sentence for specified offence categories:

- Examples of current offences that fall under the specified offence categories can be found at Annex E. Please note that this list of examples is not exhaustive and that if there is any doubt staff should consult the HDC Policy Helpline for advice.

Offenders with a history of sexual offending:

- Offenders who are required, on release, to register with the police under Part 2 of the Sexual Offences Act 2003 are statutorily excluded from HDC. All other offenders who have a history of sexual offending, but are not required to register, are presumed unsuitable.
- Offenders with previous convictions for any one of the presumed unsuitable sexual offences, listed at Annex E will be considered to have a 'history' of sexual offending. Cautions will not trigger the presumption unless the caution led to the offender being subject to the sex offender registration requirements at that time.
- The following are not considered to be sexual offences for the purpose of this policy.
 - Prostitution or soliciting.
 - Offences which involved consensual, adult, homosexual activity not in a public place (this may include for example gross indecency or buggery, but it must be clear, from available case papers, that these were clearly consensual homosexual offences).
 - Disclosing private sexual photographs and films with intent to cause distress, commonly referred to as a "revenge porn" offence (but those currently serving a sentence of imprisonment for this offence are presumed unsuitable as it is considered to be within the "stalking, harassment etc category of offences).

Offenders who have been recalled for poor behaviour whilst on HDC:

- Offenders who have been given a standard or fixed term recall during the HDC period within the last two years of the current sentence

Offenders liable to deportation not yet served with a decision to deport:

- Where the Criminal Casework Directorate of Home Office Immigration Enforcement (HOIE) has confirmed that the offender is liable to deportation, but no deportation decision has been made, the offender is presumed unsuitable. Offenders referred to the Home Office and whose immigration status remains unclear should be notified that they are presumed unsuitable for HDC until their immigration status has been confirmed.

Offenders sentenced to 4 years or more imprisonment by an overseas court but who have less than 4 years to serve after repatriation to the UK:

- This policy reflects the statutory exclusion from HDC for offenders whose offending is serious enough to attract a sentence of 4 years or more imposed in this jurisdiction.

Category A offenders:

- Such offenders have already been assessed as "those whose escape would be highly dangerous to the public or national security".

- Prisons must therefore not follow the normal procedure of automatically embarking upon a HDC assessment for such offenders, and instead preparations must be made for their release on the assumption that this will take place at the CRD or ARD.
- If a Category A offender requests consideration for HDC, the Governor must consider whether there are exceptional circumstances to merit initiating the HDC assessment.

Offenders presenting a high or very high Risk of Serious Harm subject to MAPPA Level 2 and 3

- Offenders who are assessed as high or very high risk of serious harm and require management at MAPPA Level 2 or 3 where the risk in community is deemed too great and unmanageable for early release on HDC.

Applying the Exceptional Circumstances test

For those with a history of sexual offending:

- In deciding whether exceptional reasons exist to grant release, the Governor should consider the nature of the offences and the disposal to deal with it (e.g. the length of sentence for the sex offence); how long ago the offence was committed; whether there are other sex offences recorded against this offender; and the age of the offender and victim at the time the offence was committed.

For offenders liable to deportation but not yet served with a decision to deport:

- Such offenders are presumed unsuitable because they are being considered for removal from the UK rather than resettlement here. Governors must therefore take into account the information received from the Home Office about the offender's current immigration status; for example, whether deportation is unlikely to be effected for the foreseeable future, and there is no current intention to detain the offender on release from prison, plus any information to suggest that the offender might be unlikely to remain at the HDC address in order to evade immigration proceedings.

For all other presumed unsuitable categories:

- In considering whether there are exceptional circumstances in these cases, the test is whether the circumstances of the offender are so compelling as to justify their early release, despite the presumption against it. In order to demonstrate this, the offender's circumstances must make them stand out.
- It is likely that only a very few 'presumed unsuitable' offenders, will be released on HDC. It is impossible to give definitive guidance on what will constitute an exceptional reason to release because the circumstances will vary from case to case.
- The focus should be on the offender's current circumstances and not the circumstances surrounding the offence. The Governor should not take into account factors that might have been taken into account in sentencing the offender as that would undermine the purpose of the policy. The starting point is that the offender is serving the sentence determined by the court. So, for example, a medical condition which pre-dated sentence will not generally be a relevant consideration, unless the condition has deteriorated.
- Evidence that the offender presents a low risk of serious harm and of re-offending may be taken into account, but this will never be sufficient by itself to meet the test. There must be some additional factors, for example the offender's health or that of their family, where early release will have a significant positive impact; or exceptional progress by the offender during the sentence in terms of addressing their offending

behaviour or redressing the harm caused by their offence. These are examples of relevant factors but there may be other compelling reasons why assessment for HDC may be justified and each case must be considered on its merits.

Examples of presumed unsuitable offences

Please note these lists of examples are not exhaustive. If in doubt please consult the HDC Helpline.

Examples of current offences for which offenders will be presumed unsuitable for release on HDC:

Offence Category	Examples:
Homicide	<p>Attempted murder Making threats to kill Conspiring or soliciting etc to commit murder Any offence where the offender was responsible for the death of the victim, such as:</p> <ul style="list-style-type: none"> • Manslaughter • Causing death by reckless/dangerous/careless driving • Aggravated vehicle taking resulting in death
Explosives	<p>Causing GBH by explosion Attempting to cause/causing an explosion with intent Placing explosives with intent Making explosives Possession of explosives with intent to endanger life</p>
Terrorist offences not described in section 247A(2) of the Criminal Justice Act 2003 (<p>Terrorism Act 2000 Tipping off an offender that a suspicious activity request has been submitted about them Wearing, carrying or displaying an article of a proscribed organisation</p>
Possession of offensive weapons	<p>Possession of an offensive weapon Possession of a sharp bladed instrument Threatening with an offensive weapon in a public or private place Possession of bladed/pointed article or other offensive weapon, in prison without authorisation</p>
Possession of firearms with intent	<p>Possession of firearms (including imitation firearms) with intent to:</p> <ul style="list-style-type: none"> • endanger life or commit an offence • resist arrest • cause fear of violence <p>Possession of a firearm whilst committing an offence</p>
Cruelty to Children	<p>Ill treatment or neglect Child abduction Abandoning children under 2 years</p> <p><i>Other offences, not elsewhere specified, where a person aged 16 years or more who has the custody, charge or care of any child or young person under 16 years wilfully assaults or causes unnecessary suffering (i.e. this <u>may</u> include those convicted of, for example, ABH or GBH instead of child cruelty)</i></p>

Offence Category	Examples:
Specified offences aggravated on the grounds of race, religion or sexual orientation	<p>Racially or religiously aggravated offences under the Crime and Disorder Act 1998 - sections 29 to 32:</p> <ul style="list-style-type: none"> • Malicious wounding or GBH • ABH • Common assault • Criminal damage • Intentional harassment, alarm or distress • Harassment/stalking • Causing fear of violence <p>Incitement to racial hatred offences under sections 18-23 of The Public Order Act 1986; and Incitement to hatred on the grounds of religion or sexual orientation offences under section 29B to 29G of the Public Order Act 1986:</p> <ul style="list-style-type: none"> • Use of words or behaviour or display of written material • Publishing or distributing written material • Public performance of play • Distributing, showing or playing a recording • Broadcasting material • Possessing material
Stalking, harassment, coercive control and non-fatal strangulation and suffocation offences	<p>Pursue course of conduct in breach of S.1 of Protection from Harassment Act 1997 which amounts to stalking</p> <p>Harassment (Sect 2 of Protection from Harassment Act 1997)</p> <p>Stalking (Sect 2A of Protection from Harassment Act 1997)</p> <p>Breach of Civil Remedy (Sect 3 of Protection from Harassment Act 1997)</p> <p>Breach of conditions of injunction against harassment (Sect 3A of Protection from Harassment Act 1997)</p> <p>Putting people in fear of violence (Sect 4 of Protection from Harassment Act 1997)</p> <p>Stalking involving fear of violence or serious alarm or distress (Sect 4A of Protection from Harassment Act 1997)</p> <p>Breach of Restraining Order issued on conviction (Sect 5 of Protection from Harassment Act 1997) (Sect 363, Sentencing Code 2020)</p> <p>Breach of a Restraining Order issued on acquittal (Sect 5A of Protection from Harassment Act 1997)</p> <p>Breach of Non-Molestation Order (Sect 42A of Family Law Act 1996)</p>

Offence Category	Examples:
	<p>Controlling or coercive behaviour in an intimate or family relationship (Sect 76 of Serious Crime Act 2015)</p> <p>Breach of Domestic Violence Protection Order (DVPO) (Crime and Security Act 2010, s.24 – 33)</p> <p>Non-fatal strangulation and suffocation (section 75A of the Serious Crime Act 2015)</p> <p>Disclosing private sexual photographs and films with intent to cause distress (Revenge Porn) – S.33 Criminal Justice and Courts Act 2015</p>

Examples of Sexual Offences for which offenders will be presumed unsuitable for release on HDC:

Offence Category	Examples:
<p>Sexual Offences</p>	<p>Offences listed in the Sexual Offences Act 2003, Schedule 3</p> <p>Burglary with intent to commit rape</p> <p>Incest</p> <p>Indecent exposure</p> <p>Abuse of Position of Trust (S3 of the Sex Offences Act 2000)</p> <p>Breaches of Sex Offender Orders</p> <p>Offences relating to obscene publications e.g. taking, making, distributing or publishing indecent photographs.</p> <p>Possession of indecent photographs of children. Internet pornography offences.</p> <p>Offences relating to exploitation of prostitutes or causing prostitution (e.g. keeping a brothel and living off immoral earnings). (Prostitution itself is not included in the presumption against suitability.)</p> <p><i>(Please note that buggery and indecency offences involving consenting adults in private will generally fall outside the definition of sexual offences set out in paragraph 4.3.9. of this Policy Framework)</i></p> <p>Abduction under sections 17, 19, 20 and 21 of the Sexual Offences Act 1956 (e.g. ‘abduction of woman by force’ and ‘abduction of unmarried girl under 18 from parent or guardian’)</p> <p><i>(Please note that offences committed under the Child Abduction Act 1984, sections 1 and 2 are not included in the presumption against suitability.)</i></p>

Guidance on calculating the HDCED where there are multiple standard determinate sentences

The majority of standard determinate sentences (SDSs) have automatic release at the halfway point of the sentence with a licence running to the end of the sentence. Concurrent sentences run parallel to one another, each having their own set of release dates and release cannot take place until the latest of the dates. Consecutive sentences are aggregated with automatic release at the halfway point of the aggregate of the sentence and a licence running to the end of the sentence aggregate. The exceptions are:

- sentences of less than 12 months imposed on or after 3 December 2012 for an offence committed before 1 February 2015. Release is at the halfway point, but is unconditional. If they are concurrent, they run parallel and if they are consecutive they are aggregated.
- Schedule 20B sentences are sentences imposed before 03/12/12 for offences committed before 04/04/05. The majority of these types of sentences in the system will be sentences of 4 years or more making them statutorily excluded from HDC. However, if a Schedule 20B sentence of less than 4 years is received into custody (following a period of UAL for example) please seek advice from the HDC policy helpline

Further detailed guidance on calculating release dates for different combinations of sentence can be found in PSI 03/2015 – Sentence Calculation

Basic principles (multiple sentences)

- An offender is ineligible (statutorily excluded) for HDC where they are serving consecutive or concurrent terms of imprisonment that create an overall sentence envelope of 4 years or more. This does not apply where there is a consecutive or concurrent Detention and Training Order that extends the length of the overall envelope to 4 years or more.
- An offender is ineligible for HDC where they are serving a sentence with a parole eligibility date (PED) consecutively with a standard determinate sentence (SDS). They must not be given an HDCED, and release will be automatic at the CRD unless they are released by the Parole Board on or after the PED.
- Wherever there is a “presumed unsuitable” offence in the overall sentence envelope (consecutive or concurrent sentences), the offender must be presumed unsuitable for release on HDC at any point within the envelope.
- Concurrent sentences are calculated separately from one another and run parallel to each other. Each SDS will have its own HDCED, although where the period from the start of the first sentence to the latest end date (the length of the sentence envelope) is 4 years or more, the prisoner will be ineligible for HDC.
- With concurrent sentences, where the offender is ineligible for HDC on any one of the sentences within the overall sentence envelope (including sentences with a PED but not SDSs where the exclusion is solely because the sentence is under 12 weeks), they are presumed unsuitable for HDC on the rest of the sentences in the envelope. If there are exceptional circumstances HDC release cannot take place before the CRD or automatic release date (ARD) of the ineligible sentence(s).

- Consecutive standard determinate sentences (SDSs) are aggregated and HDC eligibility and release dates are calculated by reference to the length of the aggregate period (the length of the sentence envelope).
- For consecutive sentences, the order in which the sentences were imposed by the court generally remains immaterial for the purposes of calculating HDC eligibility.
- Where the offender is ineligible for HDC on any one of the consecutive sentences (e.g., for failure to return from ROTL), the CRD should be calculated on the aggregate in the usual way, but the HDCED must be calculated solely in relation to the sentence(s) on which they are eligible for HDC. A notional CRD/ARD must be calculated solely on the ineligible sentence(s), which should be treated as running from date of sentence of the overall aggregate. The eligible sentence(s) should be treated as running from the day after this notional CRD for the purposes of calculating the HDCED. The offender is presumed unsuitable for HDC as there is a statutorily excluded sentence in the aggregate.
- For HDCED calculation purposes, an Extended Determinate Sentence (EDS) or Sentence for an Offender of Particular Concern (SOPC) which does not have a PED, should be treated as like an ineligible SDS. No release before the CRD (or notional CRD) of the EDS/SOPC and presumed unsuitable for the rest of the sentence envelope
- Where a court has given “no separate penalty” for an offence listed in Annex E to this Policy Framework, this will not affect the sentence envelope to make the offender presumed unsuitable.

For detailed application of the above principles please see the instructions and examples immediately below.

Calculation instructions

Concurrent SDSs:

Where the offender is serving concurrent SDSs (example 1 refers), all sentences will run in parallel. Each sentence will have its own HDC eligibility date (HDCED) and conditional release date (CRD), and eligibility for HDC will be established upon the sentence with the effective (i.e. latest) HDCED.

The offender may be released at the effective HDCED, but release must not take place until after the CRD of any sentence for a statutorily excluded offence. The offender may be released on HDC after this point only if there are exceptional circumstances because the presence of a statutorily excluded offence means that the offender is presumed unsuitable for HDC in relation to the remainder of the sentence envelope.

Where at least one of the sentences is for a presumed unsuitable offence, release must not take place unless there are exceptional circumstances.

Consecutive SDSs

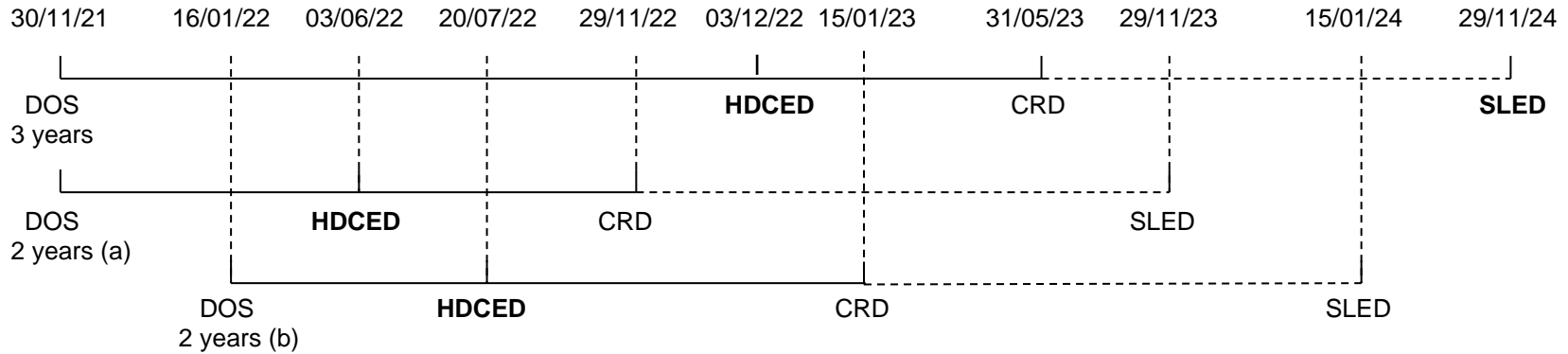
SDSs that are ordered to be served consecutively are aggregated (example 2). The HDCED is calculated on the length of the aggregate (i.e. the total length of all the sentences).

The order that the sentences were handed down by the court is immaterial when determining HDC eligibility.

Where any of the sentences is one that would statutorily preclude HDC on that sentence then the length of that sentence must be deducted from the length of the aggregate and the HDCED calculated on the balance of the aggregate remaining. The presence of a statutorily excluded sentence within the aggregate means that the offender may be released on HDC after this HDCED only if there are exceptional circumstances

Where at least one of the sentences is for a presumed unsuitable offence, the HDCED is calculated on the length of the aggregate (i.e. the total length of all the sentences), but release must not take place unless there are exceptional circumstances.

EXAMPLE 1: Concurrent SDSs (all sentences imposed on or after 3/12/12 and sentences of 12 months or more imposed before that date for offences committed on or after 04/04/05)



EX 1.1 – all offences suitable

Sentences are calculated in parallel and so each sentence has its own HDCED. Eligibility for HDC would be 03/12/22 based on the first sentence (180 days before the halfway point – CRD) as this provides the latest eligibility date.

EX 1.2 – 2-year offence (a) presumed unsuitable

Will not change the effective HDCED of 03/12/22 but the offender will be presumed unsuitable for HDC.

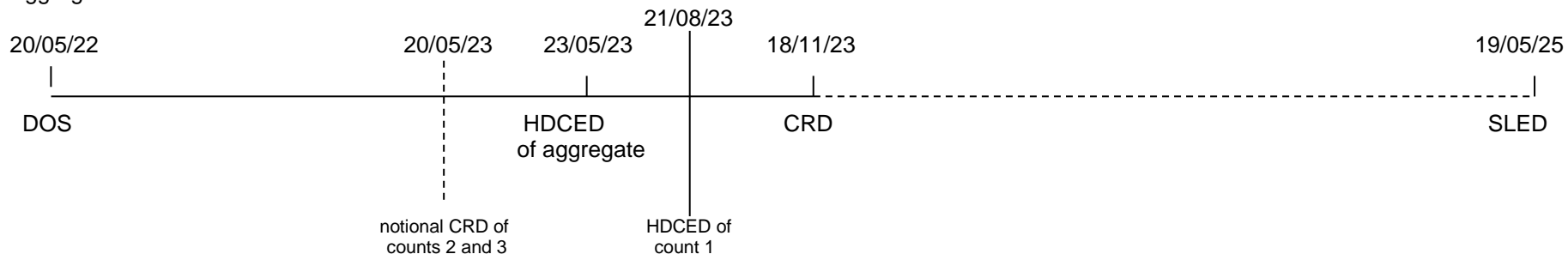
EX 1.3 – 2-year offence (a) statutorily excluded

Will not change the effective HDCED of 03/12/22 but the offender will be presumed unsuitable by virtue of having a statutorily excluded sentence within the overall sentence envelope.

EXAMPLE 2: Consecutive SDSs (all sentences imposed on or after 3/12/12 and sentences of 12 months or more imposed before that date for offences committed on or after 04/04/05)

20/05/22 sentenced to: Count 1 - 12 months)
Count 2 - 12 months consecutive) = aggregate of 3 years
Count 3 - 12 months consecutive)

Aggregate looks like:



EX 2.1 – all offences suitable for HDC

The length of the aggregate determines the HDC eligibility date. The aggregate of the sentences is 3 years which attracts an HDCED of 180 days before the CRD. 18/11/23 less 179 days gives an HDCED of 23/05/23. The offences of all sentences are suitable and so the offender is eligible for HDC at that point.

EX 2.2 – Count 2 offence presumed unsuitable

If Count 2 had been imposed for an offence of child cruelty, this does not affect HDCED of the aggregate – 23/05/23, but the offender would be presumed unsuitable for HDC

EX 2.3 – Count 2 and 3 sentences statutorily excluded

If counts 2 and 3 were statutorily excluded for HDC purposes, those two sentences would be discounted for the purposes of calculating the HDCED. The HDCED could only be calculated on the length of the remaining 12-month sentence of count 1. Counts 2 and 3 would be deemed as being served first and the notional CRD of these sentences would have to be calculated – 20/05/23. On the 12 months of Count 1 the offender would be eligible for HDC after serving one quarter of that sentence. One quarter of 12 months (rounded up) is 92 days. 92 days reckoned from the day after the notional CRD of counts 2 and 3 gives an HDCED of 21/08/23. The offender is presumed unsuitable for HDC by virtue of having a statutorily excluded sentence within the overall sentence envelope.

HDC Guidance for Community Offender Managers on completing Address/Risk Management Checks

Purpose of Guidance

This guidance sets out good practice principles based on research and industry good practice associated with HDC for probation practitioners to consider when making a judgement as to whether HDC can be managed safely at the proposed address and providing advice to Governors and delegated decision-makers in cases where specific risk management actions are required prior to release.

For all eligible cases, Community Offender Managers (COMs) are responsible for completing address suitability checks; returning information to the prison within the required 10 business day timescale and using the forms provided at Annex K of this Policy Framework. The focus of the Report completed by the COM is on whether the offender can be safely managed at the proposed address and the risk of harm to the community, and not just to those at the address, will be relevant. Concerns about the likelihood of the offender complying with the curfew or about current conduct in custody will not generally be relevant, unless they have a direct bearing on the assessment. For example, where the offender has been harassing the victim from custody.

Conducting Address/Risk Management Checks

Informed consent

The main occupier of the proposed address must give their informed consent to the offender being released to the address on HDC. They need to know what to expect of HDC and the COM needs to assure themselves that consent is willing. If they have concerns during the HDC period, the main occupier may raise these with the COM, whose details will be on the licence, or with the EM provider, who is available 24 hours per day, seven days per week via the monitoring unit they will install.

The COM must speak to the main occupier, who must be advised broadly how the scheme operates and the following is suggested as a summary:

HDC is early release from a prison sentence. It is only available to people serving between 12 weeks and four years who meet the eligibility and suitability criteria. If a person is released on HDC they must remain at the release address every night (7 days per week) for at least nine hours every day until they reach the half-way point of the sentence, i.e. the date they would have been released if it were not for HDC. Usually the curfew starts at 7pm and goes on to 7am but might be varied to accommodate approved work patterns, for example. They can't leave the house during this time – even to go into the garden - without permission or a verified emergency, and if they do, they can be recalled to prison.

If released on HDC [NAME] will be required to arrive at the release address before the start of the curfew time on their licence and be there when the EM providers arrive to install the home monitoring unit (a small box plugged into the mains) and attach a tag, usually to their ankle. The EM provider's staff may from time to time be required to visit the address during the curfew times and they must be allowed to enter or [NAME] could be recalled.

Contact with the main occupier is also key to informing the risk assessment, establishing the nature of the relationship, details about children at the address and whether there are any others at the address who also need to give informed consent.

Assessing the suitability of the address

Police and children's services comments

HDC must not be recommended unless the COM has obtained and reviewed information from the police and children's services on the domestic abuse and child wellbeing risks of releasing the offender to the proposed address. Guidance for all HMPPS staff on the expectations for domestic abuse and child safeguarding enquiries is on EQuIP. Such requests are not mandatory where the offender is going to CAS2 (other than Family Units) or other supported accommodation, including Approved Premises, but the COM must still assess risk more broadly, for example the proximity of victims to the address and compatibility with any proposed exclusion zones, and consider whether residing in a multi-occupancy setting increases risk

COMs should weigh this information with all other relevant information and use their professional judgement to determine whether the address is suitable. Consideration should be given in particular to whether there is an unacceptable risk of harm for the person on probation or other occupants given the mandatory curfew element of HDC, which can increase enforced proximity and consequently the level of risk. An address will not be suitable for HDC where the offender presents a risk of serious harm to others at the address.

Where an identified potential victim is known to be at risk from the offender, and the victim and the offender are in different police force areas, the COM completing the HDC Address Checks/risk management page must consult both police forces in order to inform the assessment and ensure that plans to manage risk and protect the victim are in place before release.

Most cases will be managed via standard licence and curfew conditions but there will be some offenders who will require specific public protection measures to be in place before they can safely be released.

MAPPA.

The COM is required to inform the prison about the assigned MAPPA level at least six months before a MAPPA eligible offender is due for release. This release date includes HDCED as that is the earliest possible release date for qualifying offenders. In cases, where HDC is being considered but a MAPPA level has not been received by the prison, the POM should use the MAPPA escalation process to ensure the level is assigned as a priority. The MAPPA risk management plan would need to be considered by the COM as part of the risk management assessment, and any necessary actions taken before any release on HDC. The fact that an offender is subject to MAPPA management at level one on release does not mean they must be refused HDC unless there are substantial concerns that, even with the risk management plan fully in place, the risk of serious harm remains unmanageable.

MAPPA Level 2 or 3

Offenders presenting a high or very high risk of harm subject to MAPPA level 2 or 3 management are Presumed Unsuitable for HDC and release should not take place unless there are exceptional circumstances.

Mental Health

Where the offender has identified mental health needs and there is evidence indicating that the offender's compliance with treatment is important to managing the risk of serious harm, the COM must establish whether there is a plan in place for treatment on release and consider how that affects the risk management plan. Where the plan is not yet in place by the time that the Risk Management page is completed and the COM considers that a robust plan is essential to the overall risk management plan, they must indicate this on the Risk Management page and the decision-maker must review whether the treatment plan is in place, before making the release decision.

Offenders from the Gypsy, Romany and Traveller communities

Such offenders may have issues relating to the Address Checks process as HDC requires the offender to be released to an address which has an electricity supply. Although static caravans would be acceptable, those offenders who frequently move their caravan may be deemed address unsuitable and alternative accommodation would need to be sought. The prison will offer the option of applying for CAS2 accommodation in these instances if an alternative address is not available to the offender.

Questions for the COM to ask themselves when undertaking address checks and considering risk management:

- Is a home visit required? COMS should consult the Home Visits Policy Framework. It is for the COM, using their professional judgement and based on what is known about the address, to determine whether a home visit is required to inform a risk management plan and to secure informed consent from the main occupier. Other relevant factors are whether a home visit has previously been undertaken, and when, and whether there is anything in the information provided by the offender and occupier of the proposed address that raises concerns or questions that would best be dealt with face to face.
- A priority question for the COM is to consider whether any children at the address are likely to be impacted by the offender's behaviour whilst subject to HDC. A new national template/form for HMPPS staff to initiate child safeguarding enquiries with children's services is available on EQuIP (Document number 4477).
- Does the main occupier have any concerns about the release of the offender on HDC to their address? Is there any information available to you relating to these concerns e.g. previous OASys assessment, previous convictions, intelligence from other agencies, children's services or police? When considering this, it is important that the COM considers whether there may be issues of coercive control, or vulnerability; are there any signs that the main occupier or others at the address may be fearful to decline the HDC request? Or possibly feel obliged to support the offender and disregard the risk they may be exposed to. This may be particularly relevant where there has been previous evidence of domestic abuse – for example, between partners, parents or siblings.
- Are there adults at risk or children under the age of 18 residing or visiting the proposed HDC address? Would contact with these people be a concern or a protective factor?
- Have you contacted other parties involved in supporting victims, such as the PS Victim Liaison Service, MARAC, or Independent Domestic Violence Advocate (IDVA), to contribute

to the HDC assessment and inform potential restrictions that may require inclusion in the licence conditions?

- Have you obtained all necessary information to help you assess the suitability of the address, **including mandatory information from police and children's services**?
- How reliable is the information? Is it verified? Can you make an informed and defensible decision?
- Would you support release to this address if it was proposed at the Conditional Release Date (CRD)? And, if not, could measures be put in place to change that?
- Have you clearly stated what factors prevent you from supporting release to the proposed HDC address based on information available? Have you been clear about what would need to happen and what would need to be different for you to be able to support the application, is it achievable and by when?
- Do any factors preventing you from supporting release need to be withheld from the offender to protect victims or the main occupier? The COM should remain mindful that all the information taken into account in deciding HDC may be disclosed to the offender if they request it – unless it is agreed with the HDC decision-maker at the prison that there are legitimate grounds to withhold it. Where any other party has been involved in supporting victims, such as the PS Victim Liaison Service, MARAC, or Independent Domestic Violence Advocate (IDVA), they should be contacted to contribute to the HDC assessment and potential restrictions that may require inclusion in the licence conditions.

Proposing licence conditions

The COM is required to consider:

- Is there a need for any additional non-standard licence conditions? The Licence conditions Policy Framework - GOV.UK (www.gov.uk) provides full guidance on imposing additional licence conditions.
- Is this a case with Victim Contact Service (VCS) involvement? Section 4H on the Risk Management page (Victim Liaison) should be completed in every case and requires a Yes/No response rather than being left blank so that it is clear if it is a Victim Contact qualifying case. All qualifying cases should have liaison with the VCS. If the representations of the victim cannot be made available within the timescale this must be explained clearly within the report and an indication provided of the likely timescale for the information following liaison with the Victim Liaison Officer. There follow two examples of information to be included in the Address Checks page in VCS qualifying cases:

HDC release to CAS2 accommodation

CAS2 accommodation is available via bed spaces located nationally in England and Wales to provide for those without suitable accommodation upon release. The HDC cohort is a priority group, with eligibility described in paragraph 4.4.5. of this Policy Framework, as well as the CAS2 Policy Framework and associated CAS2 Stakeholder User Guidance. This provision provides some options in addressing accommodation barriers.

In cases where the proposed release address is CAS2 accommodation, there is a presumption that the address is suitable for HDC in principle. However, there may be instances whereby the COM has information to indicate that there are concerns about release to the CAS2 accommodation identified that has previously not been available to the prison. These may include, but not be limited to the following:

- Where the CAS2 accommodation is within an exclusion zone required to offer protection to victims or safeguard others identified as at risk of serious harm.
- Where the COM has information that indicates there would be a potential risk of harm to other residents in the property.
- Where the COM has information that indicates there would be a potential risk of harm to CAS2 employees.

The COM may also consider including information in the report that promotes release to CAS2 accommodation within a specific locality; for example, release to an area where there is support available to the offender that will assist in their re-integration. An example may be where a particular CAS2 property is known to be in close proximity to a Women's Centre that a female offender is required to attend on licence. The CAS2 provider will do all it can to meet requests, but it should also be noted that CAS2 is a finite resource and it may be helpful to be as broad as possible to alternative areas for accommodation.

It is important that COMs work collaboratively working with the CAS2 supplier from the outset to support with move-on from CAS2. Individuals released on HDC to CAS2 accommodation must be referred to Local Authorities, in accordance with the duty to refer process under the Homelessness Reduction Act 2017 in England and the Housing (Wales) Act 2014, as there is a likelihood of moving-on from CAS2 accommodation as homeless. Guidance on the duty to refer is given at:
https://intranet.noms.gsi.gov.uk/__data/assets/pdf_file/0004/899041/Duty-to-Refer-GUIDANCE-210918-Final.pdf

Proposed HDC release involving transfer

In cases where the proposed HDC address is out of the current owning area, the COM needs to refer to the Case Transfer Policy Framework, para 9.4:

Pre-release transfer requests should be made at the earliest opportunity. Responsible Officers should use professional judgement when considering the merits and timing of case transfers. However, certain processes such as HDC, ROTL and Parole may trigger a request or decision to transfer, especially where an address in an alternative geographical area is being proposed. In such circumstances, the transferring team should not seek to transfer before these processes are completed but should seek to involve the receiving area in the process decisions. The prison should continue to communicate with the transferring team with responsibility for completing these assessments until a transfer decision is made.

Where the transfer of the case is triggered by the proposed release address being a CAS2 property outside of the owning area, the COM needs to await confirmation of the CAS2 place being offered before commencing the transfer of the case.

Notifying the offender of the decision

The offender must be notified of the decision to release using the HDC Approved form.

Where the decision is to refuse HDC to the address proposed, or to postpone the decision, the offender must be notified using the appropriate form and given clear reasons and an indication of what they can do next, in line with the principles of procedural justice insofar as is possible. There is robust evidence that this helps people to respect authority and decisions more, and willingly comply or cooperate as a result.

A decision to refuse, or to postpone HDC could be upsetting and destabilising for a prisoner and where particular safety concerns are identified by prison staff, they should consider whether any further support or safeguarding measures are required when the decision is relayed. For example, referral to mental health services, opening an Assessment, Care in Custody and Teamwork (ACCT) document, referral into multidisciplinary meetings such as Safety Intervention Meetings (SIM), or arranging for the prisoner to speak to a trusted person within the prison or arranging a phone call to their family.

Disclosure

The general rule is that all information that has been taken into account in reaching the HDC decision must be disclosed to the offender on request, except where the HDC decision maker determines that non-disclosure is necessary either:

- in the interests of national security;
- for the prevention of crime or disorder, including information relevant to prison security; or
- in the interests of the health and welfare of the offender or anyone else.

Withholding information

The need to consider disclosure issues may arise where the main occupier, victim or a third party has offered information or expressed concerns about the release but does not wish the offender to be notified of those concerns. The first decision may be for the COM to determine whether they can incorporate the necessary information unattributably within their comments on the risk management page which may be disclosed to the offender. For example, where the main occupier has been coerced into giving consent despite their concerns but there is sufficient other, existing evidence of risk and the COM can effectively “overrule” the main occupier’s consent to HDC.

If this is not possible, for example where it is implausible that the information came from any other source and/or there is no other sufficiently strong evidence about risk, then the information will have to be included in a separate document clearly marked “not for disclosure to the offender” and submitted alongside completion of the risk management page. The person giving the information must be advised that the Governor or delegated decision-maker will determine whether the information can be withheld from the offender under the grounds above and that if it is withheld, and the decision is to refuse HDC to that address, the offender must be advised that information has been taken into account but is being withheld. The person giving the information must also be advised that they will have the option of withdrawing the information if the decision is that it must be disclosed to the offender.

The decision on disclosure may be made on the Governor's behalf by a member of staff of at least band 7 deemed competent by them to do so. Directors may delegate this decision to functional heads in the contracted estate. The individual who makes the disclosure decision must not be the individual who makes the HDC release decision in any case where the information has been withdrawn.

If the information can be treated as confidential, the Probation Service must provide a disclosable and a non-disclosable report. The non-disclosable report must be clearly marked, and the prison must hold this separately to the disclosable report. The offender must be informed in writing if a decision is taken not to disclose some information.

If the information cannot be treated as confidential and withheld from the offender, the Probation Service must be asked to confirm whether the supplier of the information is content for the information to be disclosed and they should be allowed a week to make this decision. If they decide they would rather withdraw the information, the Probation Service is responsible for providing a report based on information that can be disclosed and that reflects their views on whether the risks can be managed and /or whether informed consent has been given. It will be the responsibility of the Probation Service to ensure that the supplier of the information sees that part of any written report submitted by the Service which represents their views, if they so wish.

Setting curfew/address conditions on the licence

The decision-maker responsible for authorising the release on licence must set the licence conditions, including the times and place(s) of curfew. General guidance on setting licence conditions is set out in the Licence Conditions Policy Framework. The guidance here focuses on setting curfew conditions. The conditions and curfew, and reasons for deciding on these, need to be explained clearly to the prisoner.

The curfew should normally be to one address, but there may be good reasons to make an exception.

Legislation requires that the curfew period(s) must not total less than nine hours during any one calendar day, apart from the initial day of release. The curfew should generally be set for 12 hours a day and should only exceed this exceptionally, where there is clear evidence that this will significantly enhance the prospects of successful rehabilitation. Curfews cannot exceed 16 hours a day,

Decision-makers must take into account any recommendation from the Probation Service about the curfew hours. They must also take into account legitimate reasons why the curfewee will need to be out of their home at certain times. These include (but are not restricted to):

- working hours (including reasonable travelling times, and including night work);
- childcare arrangements;
- religious observance;
- regular hospital appointments;
- appointments with or arranged through the Probation Service.

Different curfew periods may be set for different days, in accordance with the factors above and the curfew period can be broken, e.g., into two or more segments during one 24-hour period. This flexibility enables the HDC to be better tailored to the needs of the person, and hopefully to enable opportunities that will contribute towards their longer-term success

Decision-makers must take account of travelling time when calculating when the curfew period should start on this day. The curfew should normally start no later than 3pm on this day, unless there are reasons why this is not appropriate (for instance travelling time or a late appointment with the COM). The EM provider will visit the offender during this curfew period to fit the tag and install the monitoring equipment.

The curfew on the last day will normally be for the same hours as on the preceding days. This means typically that the last curfew period will end at midnight on the day immediately before CRD. The EM providers will de-install the equipment and remove the tag during the last curfew period.

Requests for change of address

Offenders wishing to change address must apply to their COM.

If the offender indicates that he or she is not in a position to comply with their licence conditions, they must be advised that breaking the curfew condition could result in recall. Staff must not advise offenders to break their curfew. If the offender does break the curfew condition before the licence is

changed the usual enforcement process will be applied. If there is evidence the offender has attempted to comply with his or her licence conditions but was unable to due to circumstances outside their control, the recall may be authorised on the grounds of inability to monitor which would permit the offender to be re-curfewed on HDC following recall if a suitable address can be found.

If an offender makes an urgent request (e.g. due to fear for their safety if they return to their curfew address or because they are no longer allowed to stay at the address) the COM must make clear their assessment of how quickly any change can be approved and must keep a record of the conversation. The suitability of the new address must be assessed, and this includes mandatory checks with the police and children's services. COMs should try to expedite these checks and establish urgently with police and children's services when to expect a response and then notify EMS. Unless this process can be conducted very quickly it may be necessary for the offender to be recalled to prison on "inability to monitor" grounds while the checks are completed.

Curfew address boundary

The expectation is that the curfew address boundary is "front door to back door" and not including garden or adjoining areas. The EM Provider will range the equipment with this in mind and there is no need for any specific action.

Very occasionally there will be a need to extend the range. For example, where the offender needs access to a bathroom but there isn't one within the main building. Extension is wholly exceptional, and the access must be essential. Most essential activities can be timed to take place outside of curfew hours and/or be carried out by others. Where a need for extension is identified and agreed by the decision-maker pre-release this should be noted on the notification that is issued to the EM provider. Where it is only identified following release, it must be agreed by the HoPDU as with a licence variation (albeit the licence itself will not be varied) and the EM Provider must be notified that an extension is approved.

Cross border HDC

General

Eligible offenders serving sentences in England or Wales may be released on HDC to an address in Scotland; similarly, offenders serving sentences in Scottish prisons may be released to an address in England or Wales on the Scottish equivalent HDC scheme. Offenders benefitting from these arrangements are released under restricted transfer terms, known as HDC Restricted Transfer.

Offenders transferred during the custodial period of their sentence on restricted transfer basis

Offenders in custody in Scotland who are on restricted transfer from England/Wales:

- Offenders serving a sentence in a prison in Scotland, who are on a restricted transfer from England or Wales, must be considered for HDC under the English/Welsh HDC eligibility criteria. The parent prison (the English/Welsh prison in which the offender was last held, excluding prisons used only as staging posts to affect the transfer) is responsible for ensuring that the HDC assessment process is completed and that a decision is made, by the Governor or delegated decision-maker, whether to refuse, postpone or authorise release.
- The Scottish holding prison is required to provide much of the information necessary to inform the assessment process. However, the holding prison will not be familiar with the HDC eligibility criteria that apply under the English/Welsh system so the parent prison must ensure that, through close liaison with the holding prison, the offender's eligibility for HDC is correctly established before further risk assessment work is carried out.
- The parent prison must provide the holding prison with an Address form to give to the offender. If the offender wishes to apply for HDC and provides a proposed release address, the completed form should be returned to the Parent Establishment then the HDC assessment process must commence as normal.
- The parent prison will be responsible for ensuring that the Address Checks/Risk Management form is commissioned. If the offender wishes to be released to a Scottish address (which is likely to be the case) the same procedures must be adopted as below.
- The parent prison must liaise closely with the holding prison to commission the necessary risk assessment information. It will be acceptable for the holding prison either to be asked to provide a written report commenting on the offender's suitability for HDC or to complete the Assessment and Decision form, where applicable. The parent prison must clearly explain the information required in a covering note to the Governor of the holding prison and must ensure that the assessment process is fully documented.
- Once released on HDC, the electronic monitoring will be carried out as it would be for any other HDC release, but by the current provider in Scotland (G4S – notifications to: EM.Scotland.Notifications@uk.g4s.com; queries:EM.Scotland.enquiries@uk.g4s.com; Telephone number 0800 8400783)
- In cases of difficulty please contact the HDC Policy Helpline for further advice.

Offenders in custody in England/Wales who are on restricted transfer from Scotland:

- Offenders serving a sentence in a prison in England or Wales on a restricted transfer from Scotland, who wish to be released to an address here, will be eligible to be considered for HDC under the Scottish HDC eligibility criteria.
- It will be the responsibility of the Scottish Prison Service (SPS) to instigate all procedures relating to the assessment of suitability for release on HDC. The English or Welsh holding prison will be asked to comment on the suitability of the offender for HDC and must share risk assessment information to enable the SPS to assess suitability for release.

HDC Restricted Transfers

Offenders in English or Welsh prisons, serving sentences imposed by an English or Welsh court, who wish to be considered for an HDC Restricted Transfer to an address in Scotland will be considered under the eligibility arrangements contained in this Policy Framework. In cases where it is known the offender wishes to be released on HDC to an address in Scotland the HDC assessment should begin, where possible, up to 16 weeks earlier to ensure it is completed before the HDCED (as opposed to the 10 weeks stipulated under normal HDC policy).

Offenders in English or Welsh prisons serving sentences imposed by a Scottish court on restricted transfer terms may be eligible to be considered for release under the Scottish HDC scheme. In such cases, the prison and the Probation Service may be asked to contribute to the process but the release decision will remain with the Scottish Prison Service.

Assessment and decision

The Address Checks/Risk Management form must be completed by Scottish Social Services but all other parts of the assessment, including the decision to refuse, postpone or authorise HDC, will be carried out in the usual way by the parent prison.

Offenders who wish to benefit from a HDC restricted transfer to Scotland must have the transfer of supervision agreed by the relevant Scottish Social Services in advance of transfer. Scottish Social Services will supervise the offender on behalf of the England/Wales Probation Service.

The process for the transfer of post-release supervision must begin as early as possible to allow the Probation Service to liaise with Scottish Social Services to seek agreement. If the transfer of post-release licence is not agreed, release on HDC to an address in Scotland cannot take place.

The Address Checks/Risk Management form must be sent to the relevant (i.e. responsible) Probation Service region in England or Wales. This will normally be the Region that produced the Pre-Sentence Report (PSR) or covered the last known address in England or Wales. If there was no PSR or known address in England or Wales, the responsible Probation Service region will be the one covering the location of the sentencing court. The responsible Probation Service region must then contact the relevant Scottish Social Services office. The Probation Service region will refer the Address Checks/Risk Management form to the relevant Scottish Social Services office for completion of the address suitability checks, and they must be asked to request domestic abuse and safeguarding information from the local Police and Children's Services. 15 days should be allowed for the form to be returned.

The Address Checks/Risk Management form will be returned to the prison via the responsible Probation Service region, which is required to comment on the HDC application if there is any relevant

information held on file that Scottish Social Services will not be aware of. This may include information concerning risk management and/or victim issues. The responsible Probation Service region must also inform Scottish Social Services of the involvement of Victim Liaison workers and/or MAPPA. Any requests for additional licence conditions must be provided as normal by the responsible Probation Service region in consultation with Scottish Social Services. The returned form should clearly state which Scottish Social Services office will oversee the offender.

Pre-release processes – notification arrangements

All pre-release arrangements as stipulated in this Policy Framework must be carried out as usual. Prisons must send the HDC Agency Notification of Offender to be Released and the HDC licence to the Scottish EM provider, the PNC Bureau (SCD26Mailbox-.HDCLicences@met.pnn.police.uk), the Police Service of Scotland (cjoperationsedinburgh@scotland.pnn.police.uk), the English/Welsh COM and the relevant Scottish Social Work Office.

The HDC Agency Notification form and the licence itself must be clearly annotated to state that the offender is being released on a restricted transfer basis from England and Wales.

The restricted transfer of supervision order must be completed and must also be sent to the Scottish Social Work office and English/Welsh COM along with the release licence.

Licence variations

Variations of licence conditions will continue to be at the discretion of the Secretary of State in England and Wales and the Probation Service in England and Wales will be responsible for authorising licence variations. The licence will then be sent to the Scottish EM provider to issue to the offender. The Probation Service will be responsible for making post-release supervision arrangements with Scottish Social Services, where appropriate.

One-off variations of licence conditions and authorised absences will be dealt with as per the normal policy set out in section 4.9 above.

Enforcement

Enforcement arrangements and licence recalls continue to be the responsibility of the Secretary of State in England and Wales and therefore will be determined by PPCS as is the case for all other HDC releases.

Further guidance on the HDC recall process is set out in the Recall, Review and Re-release of Recalled Prisoners Policy Framework.

Persons under 16 years of age

Requests for an HDC transfer to Scotland for a child under the age of 16 will be extremely rare. However, if a case arises advice must be sought from the HDC policy helpline.

HDC forms/pages on HDC Digital Service

Form name:	Action required:
1. HDC Eligible	<p><i>Forms completed by:</i> Case admin</p> <p><i>To be issued to:</i> The offender (for information and/or completion)</p>
2. HDC Presumed Unsuitable	
3. HDC Not Eligible	
4. HDC Opt-out	
5. HDC Address Form	
6. HDC Address Checks/Risk Management	<p><i>Form completed by:</i> Case admin Community offender manager</p>
7. HDC Assessment and Decision	<p><i>Form completed by:</i> Case admin Decision maker (grade 7 or above)</p>
8. HDC Refused	<p><i>Forms completed by:</i> Case admin</p> <p><i>To be issued to:</i> The offender (for information and/or completion)</p>
9. HDC Postponed	
10. HDC Approved	
11. HDC Agency Notification	<p><i>Forms completed by:</i> Case admin</p> <p><i>To be issued to:</i> Community offender manager, EM provider, PNC Bureau (SCD26Mailbox-.HDCLicences@met.pnn.police.uk) Home police service</p>
12. HDC Cancellation or Variation	
13. HDC Licence Variation	
14. HDC FNP (Confirmation of immigration status for HDC)	<p><i>Form completed by:</i> Case admin, HOIE</p>

1. Home Detention Curfew (tagging): Eligible

Name:

Location:

Prison no:

Date:

[Name]

You are eligible for early release from prison on Home Detention Curfew (tagging).

What this means for you

This means you could be released from prison on [HDC eligibility date] if you:

- behave well in prison; and
- have somewhere to live after you leave prison where you can be safely managed.

If you are released early you would have to:

- stay at home during certain hours (your curfew); and
- wear an electronic tag - to make sure you follow your curfew.
- allow EMS provider staff access to your home to check the equipment

You would have a curfew and electronic tag until [conditional release date].

What happens next

Think about where you could live if you were released on [date]. We will give you a form to fill in with the address details closer to the date you can be released on Home Detention Curfew.

If you can, think of a second address in case your first choice is not suitable.

If you don't have a place to stay, the Community Accommodation Service Tier 2 (CAS2) could help you find somewhere. We will pass your details on to CAS2 if you need it.

2. Home Detention Curfew (tagging): Presumed Unsuitable

Name:

Location:

Prison no:

Date:

[Name]

We checked to see if you can be released from prison on Home Detention Curfew (tagging).

Although you are eligible in law, you are presumed unsuitable for the scheme because [insert reason from list below*].

This means you would only be considered for Home Detention Curfew in exceptional circumstances.

Think your case is exceptional?

You may make representations to the Governor as to why you should be released on HDC. You will need to show that your case stands out and that HDC could be justified despite the presumption against it in your case.

Ask prison staff about how to do this.

* Reasons for being 'presumed unsuitable' [**Delete before issuing to offender**]

Reason	Content for letter
History of sexual offending but not registered	'of your sexual offending history.'
History of specified terrorist or terrorist connected offending but not currently serving a sentence for such an offence	'of your terrorist or terrorist connected offending history'.
Foreign national liable to deportation	'you are being considered for deportation.'
Immigration status not clear	'your immigration status is not clear.'
Recalled for poor behaviour during previous home detention curfew	'you were recalled to prison for poor behaviour during your previous HDC release.'
<p>Sentence is for one of the following:</p> <ul style="list-style-type: none"> ○ Homicide. ○ Explosives. ○ Possession of an offensive weapon. ○ Possession of firearms with intent. ○ Cruelty to children. ○ Offences aggravated on the grounds of race, religion & sexual orientation. ○ Terrorism <p>Stalking, harassment, coercion and control, non-fatal strangulation and suffocation</p>	'of the type of offence you were convicted of.'
Sentenced to 4 years or more by an overseas court and repatriated to the UK with less than 4 years to serve	'your original sentence was over 4 years.'
Category A	You are a category A prisoner

Categorised as MAPPA Level 2 or 3

You are subject to MAPPA Level 2/3 arrangements.

3. Home Detention Curfew (tagging): Not Eligible

Name:

Location:

Prison no:

Date:

[Name]

We checked to see if you're eligible for release from prison on home detention curfew (tagging).

By law, you are not eligible because [insert reason from list below*].

You cannot challenge this because it is based on the law, not on a decision by prison staff.

Signed:

Name:

Grade:

Date:

*reasons for not being eligible

Reason	Content for letter
serving a sentence of 4 years or more	
registered sex offender	'you will be subject to sex offender registration on release.'
terrorist offender	'you are serving a sentence for a specified terrorist or terrorist connected offence'
serving extended sentence for violent or sexual offences	'you are serving an extended sentence.'
breached community order curfew	'you are serving a sentence for breach of your community order curfew.'
returned to custody during at risk period	'you were previously returned to custody by the court during the at risk period.'
recalled for breaking home detention curfew conditions	'you previously broke home detention curfew conditions and were recalled to prison.'
recalled from early release on compassionate grounds	'you have been recalled from early release on compassionate grounds.'
decision to deport served	'you are being deported from the UK.'
foreign national recommended for deportation by the court	'the court recommended you should be deported from the UK.'
failed to return from release on temporary licence (ROTL)	'you are serving a sentence failing to return from release on temporary licence (ROTL).'

4. Home Detention Curfew (tagging): Opt-out

Name:

Location:

Prison no:

Date:

I do not want to be considered for Home Detention Curfew (tagging) because:

I have nowhere to stay

Other reason:

If you don't have an address, the Community Accommodation Service Tier 2 (CAS2) will try to help you find somewhere to stay. Ask prison staff for more information.

I understand that I will not be released until [conditional release date].

Signed:

Date:

5. Home Detention Curfew (tagging): Address Form

Name:

Location:

Prison no:

Date:

[Name]

What you need to know

We previously told you that you're eligible for Home Detention Curfew (tagging).

Under home detention curfew you would have to:

- stay at home during certain hours (your curfew); and
- wear an electronic tag - to make sure you follow your curfew.
- allow EMS provider staff access to your home to check the equipment

It would mean you could be released on [HDC release date].

What you need to do now

You now need to fill in the 'Address Form' below and return it by [date]. If you need help filling out the form, please ask prison staff for help.

Try to provide details of at least one address where you could live. If you can, think of a second address in case your first choice is not suitable.

If you don't have a place to stay, the Community Accommodation Service Tier 2 (CAS2) will try to help you find somewhere to stay.

What we will do

We will:

1. Ask probation to check that the address you provided is suitable - this includes talking to anyone else who lives there.
2. Assess any risks of releasing you on Home Detention Curfew to the proposed address.
3. Let you know our final decision (in writing).

Not interested?

Not interested in being released early with Home Detention Curfew (tagging)? Just fill in the 'Opt-out' form.

I do not have an address

Where would you like to live?

Town:

County:

Signed:

Date:

I can provide an address

What address would you prefer to live at?

Address line 1:
Address line 2:
Town or city:
County:
Postcode:
Telephone:

Who is the main person living at this address?

*We will contact them to make sure the address is suitable for you to live there.
You should provide the landlord's details if no one else lives there.*

Name:
Telephone:
What is their relationship to you?

Does anyone else live at this address?

Yes No

If you answered yes, provide details:

Name:

Relationship to you:

Age or date of birth (if under 18):

Name:

Relationship to you:

Age or date of birth (if under 18):

Name:

Relationship to you:

Age or date of birth (if under 18):

Have you ever been in trouble with or offended against the people living here or with the neighbours?

Yes No

If you answered yes, provide details:

Is there another address you could live at?

Provide a second address if you can, in case your first address is not suitable.

Address line 1:

Address line 2:

Town or city:

County:

Postcode:

Telephone:

Who is the main person living at this address?

We will contact them to make sure the address is suitable for you to live there.

You should provide the landlord's details if no one else lives there.

Name:

Telephone:

What is their relationship to you?

Does anyone else live at this address?

Yes No

If you answered yes, provide details:

Name:

Relationship to you:

Age or date of birth (if under 18):

Name:

Relationship to you:

Age or date of birth (if under 18):

Name:

Relationship to you:

Age or date of birth (if under 18):

Have you ever been in trouble with/ offended against the people living here or with the neighbours?

Yes No

If you answered yes, provide details:

As far as I know, the information I provided is correct.

I am happy for the main person living at the address or the landlord to be contacted.

I am happy for details of my offending behaviour to be disclosed to the main person living at the address so that they can give informed consent to me staying there on HDC.

Signed: Date:

6. HOME DETENTION CURFEW (HDC): HDC ADDRESS CHECKS/RISK MANAGEMENT

(The details in this form/page on the Digital Service may be disclosed to the offender on request)

ADDRESS CHECK, REPORTING INSTRUCTIONS, LICENCE CONDITIONS
AND RISK MANAGEMENT

PART 1 - PRISON TO COMPLETE

1. OFFENDER DETAILS

Surname:	Forename(s):
DoB:	NOMIS No:
PNC No:	Prison:
Date of Sentence:	Court:
Sentence Length:	Offences:
HDCED:	CRD/ARD:
TUSED:	SLED/SED:

2. RELEASE ADDRESS INFORMATION PROVIDED BY THE OFFENDER:

Is this a CAS2 Case? Yes/No
If Yes - see s.3 below, which indicates the proposed area for release.

Proposed address:	Tel No:
Postcode:	
Does this address: Have an electricity supply?	Yes/No
A telephone?	Yes/No

Main occupier/landlord details:

Name: _____ Tel. No: _____

Address: _____

Alternative Tel No: _____

Residents at the address and the relationship to the offender.

Name: _____ Relationship: _____ Age (if under 18 years): _____

If the offender has self-reported previous convictions or cautions against any of the above, or any neighbours at the address please give details.

3. CAS2 Case Yes/No

If an offender is considered suitable for release on HDC, but cannot provide an address, accommodation may be found by CAS2. In such cases, your views are sought in relation to the proposed area for release and you are not required to answer questions 4A-D below.

The proposed area for release for the offender is:

Town: _____ County: _____

Completed by: [Name of prison and relevant functional email address]

PART 2 - PROBATION TO COMPLETE

Except where they are waiting for the information to complete their assessment, the COM must complete this form/page on the Digital Service within 10 business days of when the prison commission the Address Checks/Risk Management

4. INFORMATION REQUIRED FROM COMMUNITY OFFENDER MANAGER

4A Does the main occupier give informed consent to HDC at the address?

Yes/No

If No, there is no need to complete 4E-H.

4B Was a home visit conducted in this case?

Yes/No

4C Were you able to speak to the main occupier?

Yes/No

If No, there is no need to complete 4E-H.

4D Does the address have an electricity supply?

Yes/No

If No, there is no need to complete 4E-H.

4E - Reporting Instructions

Offender to report to (Name if known):

PS Region:

Date: **Time:** **am/pm**

Reporting Address:

Post Code:

Breach Notification/Functional Mailbox Address:

Tel No:

4F - Licence conditions:

Please provide details of any **non-standard** licence conditions that are required, including any designed to protect identified victims (See Licence Conditions Policy Framework)

4G - Managing Risk in the Community

Is it possible to manage the offender safely in the community, if released to the proposed address on HDC?

Yes/No

If not, why not (comment):

Are there any risk management planning actions that must take place prior to release before the address can be considered suitable?

Yes/No

If yes, please outline what the actions are and why the address is unsuitable until they have been taken.

Have you have consulted the Prison Offender Manager (POM) for information about the prisoner's current progress in custody?

Yes/No

Have you received and considered information from the police and children's services about domestic abuse and safeguarding?

Yes/No

If no – is the offender going to CAS2 or other supported accommodation (where such information is not mandatory)

Yes/No

Are you still waiting for information? Yes/No

If yes, please outline what information is awaited and when it is expected.

Is it essential to the risk management plan that there is a robust plan in place to treat the offender's mental health on release?

Yes/No/Not applicable

If yes, is the plan in place?

Yes/No

Is there any additional information about the offender or the address (e.g. if it is difficult to access) that will assist the EMS provider on the day of release?

You must make arrangements to obtain any necessary information and notify the prison offender manager immediately by phone/email once the necessary risk management plan actions are in place.

4H - Victim Liaison

Is this a Victim Contact Service qualifying case where the victim has opted in? Yes/No

If yes, when were the victims invited to provide comments?

Please give details of any comments received:

HDC Assessment Form/Page completed by:

Name:

Grade: Tel:

Email:

Signed:

Date:

7. HOME DETENTION CURFEW (HDC): HDC Assessment & Decision Form/Page

(The details in this form/page on the Digital Service may be disclosed to the offender on request)

HDC Assessment & Decision Form/Page

1. Eligibility

Case admin records details of eligibility and suitability for HDC.

OFFENDER'S DETAILS	
Surname:	Forename(s):
DoB:	NOMIS No:
Dates of Sentence:	Court:
Sentence:	Offences:
CRD	SLED/SED
TUSED	HDCEd

ELIGIBILITY/SUITABILITY

1 A Is the prisoner ineligible for HDC? If yes, please give details:	Yes / No
1 B Is the prisoner presumed unsuitable? If yes, please give details, including confirmation that the prisoner has been given the opportunity to make representations as to exceptional circumstances:	Yes / No
1 C Has the offender been referred to the police or to the independent adjudicator in relation to an offence committed during the current sentence and the matter remains unresolved? If yes, please give details:	Yes / No

2. Address confirmation

PROPOSED HDC ADDRESS – MAIN OCCUPIER CONSENT AND ELECTRICITY SUPPLY:	
2 A Has informed consent been provided by the main occupier?	Yes / No

Details:

2 B

Does proposed address have an electricity supply?

Yes / No

Details:

Attach the returned Address Checks form

2 C

Has the POM reviewed the offender's current progress in custody? **Yes/No**

Details:

3. Risk management, reporting instructions and licence conditions

Date sent to the Probation Service:

Date returned from the Probation Service:

Attach the returned Address Checks form or Insert COM's comments from the Risk Management page

4. Prison manager decision

Taken by member of staff at Functional Head level or above.

4 A

Has the offender has been referred to the police or to the independent adjudicator in relation to an offence committed during the current sentence and the matter remains unresolved. Yes/No

If yes, please give details (if different from above):

4B

Is there an unmanageable risk of the offender frustrating Confiscation Order proceedings? Yes/No

4 C

Are there any risk management planning actions to take place prior to release? Yes/No

If yes, please outline the issues and identify the date when this work will be completed.

4 D

Will there be fewer than 10 days to serve on HDC before CRD by the time release on HDC could be arranged? Yes/No

4E

Is there no suitable release address? Yes/No

(NB. "Yes" here means that it is not possible to manage the offender safely in the community, if released to the proposed address on HDC. "No" means the risks are manageable)

4F

Is the offender currently segregated (except solely for their own protection)?

Yes/No

4G

Is there an outstanding application under the unduly lenient sentence (ULS) scheme?

Yes/No

If Yes to any of these questions, you must refuse or postpone the HDC decision.

If No to all 7 questions, you must authorise release.

Have you taken into account representations made by the victims? Yes/No/No representations

If representations have been submitted, release must not be approved until they have been considered.

Are the Licence Conditions approved?

Yes/No

Reasons for refusal/postponement of HDC

HDC Approved

Yes / No

Signed:

Name:

Grade:

Date:

8. Home Detention Curfew (tagging): refused

Name:

Location:

Prison no:

Date:

[Name]

We have assessed your case and decided that you will not be released on Home Detention Curfew (tagging). This is because [insert reason*]

You will be released from prison on [conditional release date].

Signed:

Name:

Grade:

Date:

*Insert one of the following reasons for refusing HDC, expanding where necessary, e.g., to explain why the address has been found unsuitable.

- there is no approved address for you to live at
- there is not enough time before you're due to be released

9. Home Detention Curfew (tagging): Postponed

Name:

Location:

Prison no:

Date:

[Name]

The decision to release you on HDC has been postponed because [insert Reason*].

If this is resolved in time to allow release, we will then make the decision and notify you.

*Insert one of the following reasons for postponing HDC:

- We are awaiting information in order to decide if you are suitable to release;
- you committed an offence while you've been in prison and the criminal/Independent Adjudication proceedings are still outstanding;
- you are remanded in custody on other matters;
- we think you will frustrate your outstanding confiscation order proceedings;
- you are currently segregated from the general population for reasons other than your own protection;
- your sentence is being reviewed under the unduly lenient sentence (ULS) scheme

Signed:

Name:

Grade:

Date:

10. Home Detention Curfew (tagging): Approved

Name:

Location:

Prison no:

Date:

[Name]

We have checked your case and agreed that you can leave prison early with a tag.

Your release date

You will be released on [HDC eligibility date] (or as soon as possible after this date).

Your approved address

You must live at: [insert approved address]

When you leave prison

You must wear an electronic tag and stay at home during certain hours until [conditional release date].

We will explain:

- the times you must stay at home (your curfew);
- the rules you must follow (conditions); and
- who your probation officer is and when you first need to report to them.

Your electronic tag

The person fitting the electronic tag will meet you at your address on the day you're released. They will:

- fit you with the tag; and
- set up the monitoring equipment.

You will have to go back to prison if you:

- damage the tagging and monitoring equipment
- do not to allow EMS provider staff access to check the equipment
- are not at home during your curfew; or
- break any of the conditions on your licence.
- assault the EMS provider's staff
- are abusive or violent towards EMS provider staff

Signed:
Name:

Date:
Grade:

Additional electronic monitoring requirements (full details of any exclusion zone (including map) or other EM monitored licence conditions must be set out here or attached to this form):

Is there an exclusion zone requirement: Yes No

Describe exclusion zone fully (please include zone collection reference if the Portal has been used to draw the zone(s))

Exclusion zone	Time From	Time To	Days of the Week

Is trail monitoring a requirement: Yes No

This involves monitoring an offender's movements to support discussions with their offender manager about lifestyle and behaviours

Describe trail monitoring requirement:

Are there any other electronic monitoring requirements e.g. attendance, inclusion zones: Yes No

Describe requirement to be monitored:

Other Monitoring Requirement	Time From	Time To	Days of the Week

Please ensure you complete the following sections:

Is there any additional information about the offender that the electronic monitoring provider should consider? For example, whether an interpreter is required (if so please state which language), is the offender blind, partially sighted, deaf, hard of hearing, has learning difficulties or any condition that may affect the fitting of the tag such as a prosthetic leg.

Please provide further details or indicate that no additional information is relevant:

Is there any additional information to suggest that the offender presents a risk of harm or verbal abuse to the electronic monitoring provider's staff?

Please provide further details or indicate that no additional information is relevant

Community Offender Manager Name:
 Contact Number:
 Breach Notification Email or Functional Mailbox:
 Probation Service:

**A Copy of Prisoner's licence to be sent as soon as possible on the day of release
 All accompanying documentation should be sent to the Probation Service.
 THIS FORM MUST BE SENT TO THE EMS PROVIDER, PROBATION SERVICE AND THE
 HOME POLICE FORCE.**

Home Detention Curfew: Licence Variation

Name: DoB:

NOMIS: PNCID:

Location:

HDC Release Date: dd/mm/yyyy

Curfew Address:

Second Curfew Address (if required):

The following changes have been made to the above's licence conditions
(copy of revised licence attached where changes are permanent)

Has anything changed with regards to additional information that suggests that the offender presents a risk of harm or verbal abuse to the electronic monitoring provider's staff?

Please provide further details or indicate that no additional information is relevant:

The above changes are: PERMANENT/TEMPORARY

The changes come into effect from dd/mm/yyyy and end dd/mm/yyyy

Signed:

Date:

A copy of this form must be forwarded to the EMS Provider and the Police.

HDC – FNP : CONFIRMATION OF IMMIGRATION STATUS FOR HDC
by Home Office – Immigration Enforcement Criminal Casework

To be completed by the Prison and emailed:

- directly to the Criminal Casework case owner if known; or
- to CCD.CAT-D@HOMEOFFICE.GOV.UK; and
- relevant Local Immigration Team

Prisoner's Name:	Prisoner's Number:
HDCED:	Prison:
Email:	

This prisoner is eligible to be released from prison on Home Detention Curfew (HDC) and, if found suitable, may be released at any point from the HDC Eligibility Date (HDCED) given above. This form will be used to help determine the prisoner's eligibility and suitability for release on HDC.

To be completed by the Immigration Enforcement caseworker, countersigned by an Assistant Director and emailed to Prison contact as above

Foreign national prisoners who are liable to deportation/removal from the UK as defined by section 259 of the Criminal Justice Act 2003 are not eligible to be released on HDC.

1. By indicating yes or no, please confirm whether there has been:

	Yes	No
(i) A decision to deport the prisoner		
(ii) A decision to pursue deportation in cases where there is a court recommendation for deportation		
(iii) A current notification to the prisoner of a decision to refuse leave to enter the UK or that they are an illegal entrant/immigration offender subject to removal under section 10 of the Immigration and Asylum Act 1999.		

If the answer to any part of question 1 is **Yes** then the prisoner will be ineligible for HDC.

If the answer to any part of question 1 is **No**, but deportation or removal action is still being considered, the prisoner will be presumed to be unsuitable for HDC unless there are exceptional circumstances justifying release. For example, where Immigration Enforcement has confirmed that deportation is unlikely to be effected for the foreseeable future, and they do not intend to detain the prisoner on release from prison. Each case will be considered on its merits.

2. By indicating yes or no, please confirm whether:

	Yes	No
a. Immigration Enforcement is still considering deportation/removal action against this prisoner		

b. Immigration Enforcement has issued authority to detain (IS91)		
c. Immigration Enforcement intends to issue authority to detain (IS91) in the event that the prisoner is released from prison		

3. Please provide immediately below any other comments on the prisoner's suitability for release on HDC.

Relevant factors may include whether:

- *Removal from the UK is imminent or is unlikely in the foreseeable future*
- *The prisoner has a history of failing to comply with immigration conditions or has previously absconded*
- *The prisoner has a history of verbal/documentary deception to gain leave to enter/remain or evade removal from the UK*
- *The prisoner has failed to produce evidence of their nationality or identity or is otherwise failing to comply with the directions of Immigration Enforcement*

Immigration Enforcement Comments:

Caseworker Name:		
Signed:		Date:
Assistant Director name:		
Signed:		Date:
Date HDC-FNP to prison:		

HDC Checklist (version 7 issued: 2024)

NAME	NUMBER	DATE
------	--------	------

To be completed by OMU

Do not release on HDC if any one of the following is a YES:	Y/N	Where to check
1.Sentence envelope 4 years or more, OR less than 12 weeks		Warrant file, NOMIS
2.Presumed unsuitable for HDC and no exceptional circumstances		Warrant file, court paperwork, NOMIS
3.Ever recalled for HDC curfew breach (<i>s.38A(1)(a) CJA91 or s.255(1)a CJA03</i>)		Core record, PPUD, HPA, PNC
4.Ever returned to custody by the court for committing an imprisonable offence during the currency of an earlier 1991 Act sentence (<i>s.40 CJA91 or s.116 PCC(S)A return</i>)		Core record, PPUD, HPA, PNC
5.Required to sign the sex offenders' register on release		Sentence breakdown, PNC, NOMIS
6.Still serving a recall or something other than a standard determinate sentence, DYOI or section 91 sentence		Warrant file, Sentence Calc sheet
7.Remanded in custody on other matters		Warrant file, NOMIS
8.Current sentence for a specified terrorist or terrorist connected offence		Sentence breakdown, NOMIS
9.Current sentence for ROTL failure to return		Sentence breakdown, NOMIS
10.Current sentence for breach of the curfew requirement of a Community Order		Sentence breakdown, NOMIS
11.FNP where decision to deport or IS91 has been served (<i>if you are unsure whether removal is still being pursued, use the HDC FNP form</i>)		Warrant file, HDC-FNP form, local foreign nationals spreadsheets
12. Prisoner has yet to serve a minimum of 14 days post sentence		Sentence Calc Sheet

13.Default term, civil term or breach of top-up supervision (BOTUS) term yet to serve (<i>they may be eligible for HDC but release is possible only once the term is served</i>)		Sentence Calc Sheet, Warrant file
14.Is yet to reach HDCED (<i>where the HDCED falls on a weekend or bank holiday may release only <u>after</u> the weekend/bank holiday</i>)		Sentence Calc Sheet, calendar
15. Has served the 14/28 day fixed term recall period but has not yet reached CRD (PRRD) on the recall sentence (<i>the law generally excludes release until the later of CRD or end of FTR</i>)		Sentence Calc Sheets
16.Outstanding police/independent adjudicator proceedings for offence committed during current sentence		Local Adjudication log, NOMIS
17.There is a confiscation order in place and an unacceptable risk of absconding If released on HDC		NOMIS
18. There is an outstanding application against the sentence under the unduly lenient sentence scheme (ULS)		Warrant file, NOMIS
19.Restricted transfer from another UK jurisdiction		Warrant file, NOMIS
20.Information from police and children’s services has NOT been considered by the COM		Comments box, Risk Management Page, HDC Digital Service

Checked by:				
NAME		SIGNED		DATE

The following offenders are presumed unsuitable

- Serving a sentence for any of the following categories of offence:
 - homicide;
 - explosives;
 - possession of an offensive weapon;
 - possession of firearms with intent;
 - cruelty to children;
 - racially etc. aggravated offences;
 - Stalking, harassment, and other specified offences often linked to domestic abuse;
 - terrorist offences other than those described in section 247A(2) of the Criminal Justice Act 2003.
- History of sexual offending but not required to register.

- History of terrorist or terrorist connected offending but not currently serving a sentence for such an offence.
- Standard or fixed term recall while on HDC, within the last two years.
- FNP liable to deportation but not yet served with a decision to deport.
- Repatriated prisoners given 4 years or more imprisonment by an overseas court but who have less than 4 years to serve after repatriation to the UK.
- Category A prisoners.
- Offenders presenting a high or very high risk of harm subject to MAPPA Level 2 or 3 arrangements.
-

If in doubt, consult:

Releasepolicyteam@justice.gov.uk
Home Detention Curfew - GOV.UK (www.gov.uk)

Home Detention Curfew Decision - Serious Further Offence (HDC SFO) Review

[Name of offender]

[Name of releasing prison]

Introduction

HDC SFO Reviews are undertaken when an individual commits a specified serious offence during the HDC period. HDC allows for the early release of certain prisoners subject to an electronically monitored curfew up to a maximum of 180 days before their automatic release date. The HDC period starts on release and ends on the automatic release date.

The purpose of this review is to establish whether:

- the HDC processes were followed correctly;
- the decision to release was a reasonable one based on the evidence available; and
- there are any learning points or recommendations.

HDC SFO reviews:

- are conducted in such a way that the process is seen as a learning exercise and not as a way of apportioning blame;
- identify and report on systemic, organisational or individual failures, particularly where they may be relevant to the outcome;
- highlight notable good practice, recognising that those involved may have taken all reasonable action to manage the offender;
- contribute to the continuous improvement of the HDC process and its operation; and
- are undertaken by reviewing managers who are independent of the line management of the case.

The focus of the HDC SFO Review is the HDC decision. A separate review will also be conducted by the probation provider who was supervising the offender in the community on release to review their work and identify any learning points or recommendations and provide an understanding of what happened.

Home Detention Curfew

Most offenders will receive a standard determinate sentence. This means that, in accordance with the legislation laid down by Parliament, they must be released automatically either at the halfway or two-thirds point of their sentence, depending on the offence and sentence length, and then serve the remainder on licence in the community under probation supervision. Prisoners serving standard determinate sentences of at least 12 weeks, but less than four years, may be considered for release before their automatic release date under the Home Detention Curfew (HDC) scheme. HDC allows reintegration back into the community in a controlled and supervised way.

Those released on HDC are required to wear a 'tag' and comply with an electronically monitored curfew for, normally, 12 hours per day. Failure to comply with the curfew or any other requirements on the licence can result in the offender being recalled to prison.

Prisoners must serve at least a quarter of their sentence before being released and the maximum period of release is 180 days before the automatic release point. There is a presumption to release for eligible and suitable prisoners, but they must have a suitable address approved by probation and release may not take place until plans to manage risk in the community are in place.

Some prisoners, for example, terrorists and registered sex offenders, are statutorily excluded from the scheme. Others are presumed unsuitable because of the nature of their offence. The latter will not be released on HDC unless there are exceptional circumstances to justify release despite the presumption.

Further details of the scheme, including the eligibility criteria and assessment process are set out in a Policy Framework, which can be accessed here:

Home Detention Curfew - GOV.UK (www.gov.uk)

1.The circumstances of the serious further offence

[Set out here briefly the circumstances of the SFO making clear it was during the HDC period]

2.Methodology

In conducting my review, I consulted the following documents and individuals:

- *[List of documents. For example, pre-cons, OASys, Eligibility, Address Checks and assessment and decision paperwork, anything that was relevant given the particular circumstances of the case. NB these may be disclosed with this report.]*
- *[List of individuals consulted or interviewed. (This must include the Probation SFO reviewer and may also include, for example the Governor, the decision maker, the POM/COM or whoever completed the address checks.)]*

3.Chronology of key events leading to release on HDC

[This should cover the key, relevant events from sentence to date of release on HDC. The reader should be able to gather from this what happened, when and why, so some brief commentary and explanation of process may also be required for some of the events]

4 Key findings and recommendations

Give a summary of your finding as to whether:

- the HDC processes were followed correctly;
- the decision to release was a reasonable one based on the evidence available;
- there are any learning points or recommendations locally or nationally; and,
- any actions have already been taken in response to the SFO.

Signed

Date

PART 1				
Sentence Length	Requisite period to be served prior to the HDCED	Approximate range of minimum and maximum curfew periods	HDCED Calculation	Example Calculation
84 days (12 weeks) or more to 719 days	28 days OR ¼ of the sentence whichever is the longer	Between 2 weeks and 6 months depending on length of sentence	<ol style="list-style-type: none"> The number of days in the sentence ÷ 4 (rounded up) = days to serve. If the above calculation provides a number less than 28 days, use 28 days as the days to serve. Days to serve minus remand/tagged bail days. Actual date of sentence + figure obtained in step 3 = HDCED 	Sentence of 15 weeks imposed 25/08/2023 with 10 tagged bail days. Days in sentence = 105 105 days ÷ 4 = 27 days The number is less than 28 days, so 28 days are used. 28 days – 10 tagged bail days = 18 days 25/08/2023 + 18 = 12/09/2023 HDCED 12/09/2023
720 days or more to under 4 years	180 days less than half the sentence	180 days	<ol style="list-style-type: none"> Effective CRD – 179 days = HDCED 	Sentence of 2 years imposed 22/08/2023 with 50 days remand and 7 ADAs. Days in sentence = 731 Effective CRD = 09/07/2024 (remand and ADAs applied) 09/07/2024 – 179 days = 12/01/2024 HDCED 12/01/2024

PART 2			
Does the above calculation give a HDCED before the date of sentence or within 14 days of the date of sentence?		HDCED calculation <u>if</u> 14 day min applies	Example Calculation
No	Yes		
HDCED as calculated above is the effective HDCED.	The prisoner must serve 14 days minimum after date of sentence (this period does not include remand or tagged bail days). Go to next box to calculate the HDCED.	<ol style="list-style-type: none"> Actual Date of Sentence + 14 days = HDCED 	Sentence of 6 months imposed 04/09/2023 with 41 remand days. Days in sentence = 182 182 days ÷ 4 = 46 days 46 days – 41 remand days = 5 days 04/09/2023 + 5 days = 09/09/2023 Prisoner will not have served the minimum of 14 days after sentencing if released on 09/09/2023 so 14 day min calc applies. 04/09/2023 + 14 days = 18/09/2023 HDCED 18/09/2023

