



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

Reference: N/A

Re-Issue Date: 24 May 2024

Implementation Date: 24 June 2021

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

Introduces amendments to the following documents: N/A

Action required by:

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

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

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

Associated Documents:

- Generic Parole Process Policy Framework (issued February 2020)
- Recall, Review and Re-Release of Recalled Prisoners Policy Framework re-(issued September 2023)
- Licence Conditions Policy Framework (re-issued September 2022 July 2022)
- The Victim Contact Scheme Policy Framework (issued December 2023)
- Information Request Policy Framework (issued August 2021)

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

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

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

Resource Impact: The Probation Service are responsible for requesting and managing polygraph conditions and undertaking polygraph examinations.

Polygraph examiners are Probation Service employees and regions are already managing cases with polygraph licence conditions. Terrorist and terrorist connected cases are managed within the Probation Service National Security Division (NSD), which operates across Probation Service region boundaries. The extra tasks associated with managing cases with a polygraph licence condition previously estimated as requiring 5% of probation practitioner time per caseload. This includes liaison with the examiner, liaising with and updating MAPPA and reviewing sentence plans where needed. Probation practitioners should incorporate discussions about polygraph examinations into supervision, both pre-release and post-release. This should include motivating the individual to take and comply with testing and being available to contribute to the post test phase of the examination. Probation Service Regions are primarily responsible for line management of polygraph examiners who undertake examinations on those convicted of sexual offences, although a small number are managed with the NSD. Public Protection Group have strategic oversight of the work and management of the national polygraph secure mailbox. Each examiner is accountable to and managed by their individual Region.

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

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

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

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

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

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

Revisions

Date	Changes
Sep 22	Policy Framework updated to reflect the changes resulting from the PCSC Act
May 24	Policy Framework updated to reflect the changes to the OASys Sexual reoffending Predictor (OSP)

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1. Purpose

- 1.1 Polygraph examinations are used to support effective management of people on licence from prison convicted of sexual offences (PCoSOs) who are assessed as posing a high or very high risk of re-offending and harm and those convicted of terrorist and terrorist connected offences who are assessed as presenting a very high or high risk of harm. Polygraph examinations are used principally for individuals released on licence to monitor their compliance with other licence conditions. Polygraph examinations record an individual's physiological responses to a small number of targeted questions which are interpreted to determine whether an individual has responded to questions in a truthful or deceptive manner. These physiological responses include changes in blood pressure, blood flow, respiration rate and sweat responses.
- 1.2 This policy framework sets out the arrangements for imposing a licence condition requiring certain PCoSOs and terrorist and terrorist connected offenders sentenced to a term of imprisonment of 12 months or more to undergo polygraph examinations. It details how probation practitioners should identify which PCoSOs and terrorist and terrorist connected offences must be made subject to the polygraph examination condition. This must be in accordance with the criteria specified by HMPPS within this policy framework which requires that examinations be arranged for all relevant people on probation. It includes instructions for identifying those meeting the mandatory criteria and sets out the process for probation practitioners to enable testing on a small number of discretionary cases.

2. Evidence

Background

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

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

examination to the geographical region of East and West Midlands Probation Regions for the purpose of a pilot (January 2009 to March 2012). The pilot was accompanied by independent research, which showed that mandatory polygraph examination was a useful, additional risk management tool for probation practitioners. A national roll-out of mandatory polygraph examination followed².

- 2.3 From 6 January 2014 it became possible to add a polygraph examination condition to the licence of certain individuals with sexual convictions across England and Wales, targeting those individuals convicted of sexual offences assessed as posing the highest risk of further offending and harm. Although there has not been a pilot of testing terrorist and terrorist connected offenders within the Probation Service, the Government made a decision, based on the success of testing of individuals convicted of sexual offences and following the terrorist attacks at Fishmongers Hall and in Streatham, that testing should also be imposed in certain terrorist cases. The Government committed to undertake a review of the use and operation of polygraph examination on those convicted of a relevant terrorist offence and report on findings after two years. The Ministry of Justice conducted an internal review over a two-year period from June 2021 to June 2023, and published the findings in October 2023. The review found that the additional information obtained from polygraph testing helped to further manage risk.
- 2.4 In relation to terrorist cases, the legislation that permits the Secretary of State for Justice to impose polygraph examinations on certain terrorist and terrorist connected offenders was added to section 28 of the Act by the Counter Terrorism and Sentencing Act 2021. The arrangements and basis for testing mirror those convicted of sexual offences already contained in the Act. These changes came into force on midnight of the 29 June 2021.
- 2.5 For ease of reference within this policy framework, the phrase ‘terrorist and terrorist connected’ cases will be referred to by the acronym ‘TACT’.

3. Outcomes

3.1 This policy framework aims to ensure that:

- Probation practitioners understand the legal and policy criteria that must be met for a polygraph licence condition to be requested;
- Individuals who have a polygraph licence condition undergo polygraph examinations as per required timescales. Probation practitioners submit referrals to the polygraph Central Referrals Unit in a timely manner so that the polygraph examination is arranged in accordance with the expected timescales;
- Probation practitioners are equipped to provide advice to Governors and to the Parole Board in PAROMs about use of the polygraph condition to manage an individual’s risk, demonstrating necessity and proportionality;
- Probation practitioners and polygraph examiners liaise effectively to secure best outcomes from polygraph examinations;
- The polygraph condition is properly managed and enforced and;
- Those subject to a polygraph examination are well informed about the process.

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

- Probation practitioners use the information from examinations to improve management of such cases.
- Polygraph examinations and data recorded, marked, and stored as per guidance.

4. **Requirements**

4.1 The Offender Management Act 2007 stipulates that mandatory polygraph examinations can only be imposed as a licence condition for those convicted of qualifying sexual and terrorist offences, who are on licence for a polygraph-eligible offence for which they were sentenced to a custodial sentence of 12 months or more. As a polygraph licence condition can only be imposed on those released on licence, polygraph examinations cannot be imposed on a person released on a notice of supervision. Polygraph conditions can *only* be imposed where someone meets the legislative criteria and polygraphing an individual outside the legislative and policy framework may breach their Article 8 right to privacy. Furthermore, polygraph examinations must only be used for PCoSOs and terrorist and terrorist connected offenders who have a polygraph licence condition. They must *not* be used for any other individual, including those on release on temporary licence or subject to community orders. Individuals with a polygraph licence condition who are also subject to Terrorism Prevention and Investigation Measures (TPIM), can be required to undertake a polygraph examination. Polygraph examination as a licence condition will take precedence in this situation to avoid any duplication in testing of the same individual.

Arrangements for the provision of polygraph examinations

4.2 Polygraph examiners are Probation Service probation practitioners who are experienced in working with high-risk cases. They are trained by, and their subsequent practice is quality assured through, an independent polygraph training provider accredited by the American Polygraph Association (APA). Their training includes Post Conviction Sex Offender Training (PCSOT). Examiners must be qualified probation practitioners, must receive polygraph training and pass examinations in both polygraph examination and PCSOT. The requirements for accreditation and training for polygraph examiners are set out in secondary legislation (the Polygraph (Amendment) Rules 2022) and these standards must therefore be complied with in order that the examinations remain lawful and beyond reproach in terms of standards.

4.3 Polygraph examiners are responsible for testing in the Region they are assigned to, however they are also part of a national team and are required to cover other regions as necessary, for example to cover annual leave or sickness, or when there are spikes in demand.

4.4 Examiners who test terrorist and terrorist connected cases are generally assigned to a specific NSD unit but are required to cover other regions as required.

4.5 Probation Service Heads of Probation Delivery Units must ensure that probation practitioners responsible for managing individuals who are eligible for the polygraph condition:

- Identify relevant individuals at least six months before release and request the polygraph licence condition in the report for either the Parole Board or Governor of the releasing prison.
- Follow referral procedures to ensure that individuals with the polygraph licence condition are tested in line with required timescales;
- Incorporate any information related to risk arising from any part of the polygraph session into the management of the individual. This must include updating the risk

management plan, taking enforcement action where necessary and notifying other agencies such as the police;

- Share information from the polygraph examination with partners under MAPPA or other appropriate information sharing arrangements e.g. section 14 of the Offender Management Act 2007
- Record all information properly on the case record according to agency and inter-agency requirements;
- Ensure polygraph reports are uploaded to ViSOR.
- Governors of public and privately managed prisons from which relevant PCoSOs and terrorist and terrorist connected cases will be released with a polygraph condition must ensure that the individual meets the legal criteria for the condition and the appropriately worded condition is inserted into the licence.

4.6 Probation practitioners should contact the central referrals unit for general queries about polygraph examination but contact their local polygraph examiner for questions relating to specific cases. For terrorist and terrorist connected cases the polygraph examiners in the NSD should be contacted.

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

Polygraph eligibility

4.8 In order to be eligible for the polygraph licence condition individuals must meet **both** the legal criteria set out below and the HMPPS policy criteria set out in para 4.9 and 4.10. Where a probation practitioner identifies that someone meets both the legal and policy criteria, they **must** request the polygraph condition be added to their licence. These cases are described as **mandatory**. Where the probation practitioner identifies that the individual meets the legal criteria but not all of the policy criteria, in certain circumstances (please see paragraph 4.15) they may be eligible to be referred as a **discretionary** case.

Legal criteria

4.9 **All** cases subject to the polygraph licence condition must fit the legal criteria contained in section 28 of the Offender Management Act 2007 (recorded in full in Annex 1) without exception. The criteria are:

- Individuals aged 18 or over (of any gender);
- Released on licence from a sentence of imprisonment of 12 months or more for a relevant offence to an address in England or Wales;
- A relevant sexual offence includes all offences listed in Schedule 3 to the Sexual Offences Act 2003, or Part 2 of Schedule 15 to the Criminal Justice Act 2003 and its Scottish and Northern Irish equivalents (see Annex 3, for the full list) (**relevant sexual offences**);
- A relevant terrorist offence as defined in section 28(4A) and (4B) of the Counter Terrorism and Sentencing Act, which means (see annex 4 for the full list):

- a) An offence that is specified in Part 1 or 2 of Schedule 19ZA to the Criminal Justice Act 2003 (terrorism offences carrying restricted eligibility for release on licence)
 - b) An offence that was determined to have a terrorist connection by the sentencing judge, as specified in section 247A(7A) of the Criminal Justice Act 2003 (meaning of offences determined to have a terrorist connection).³ For example, someone who was convicted of murder, but where the motivation was terrorism;
- Legislation does not allow for polygraph examinations to be used with any individual who was released whilst under the age of 18 years of age, regardless of the offence they have committed. If they are recalled, however, and are 18 when re-released on the same sentence, a polygraph condition can be added at the point of re-release.
 - Individuals who have been transferred on a restricted basis from another region within the UK, or repatriated to the UK from outside the UK and meet the other legal and policy criteria are eligible for the polygraph licence condition. This will only apply to individuals who are repatriated to the UK whilst still serving a custodial sentence, and then released on an England and Wales prison licence. This also applies to those individuals who have been sentenced to a corresponding service offence where the offender is sentenced in a military court – but only where the offender is serving their sentence in a civilian prison.

HMPPS policy criteria

4.10 Probation practitioners **must** request a polygraph examination licence condition for individuals who are legally eligible and also meet the following policy criteria;

- 12 months or more for at least one polygraph eligible offence
- Assessed as very high or high risk of harm on OASys
- Assessed as high or very high risk of sexual reoffending using **OSP/DC** (PCoSOs)
- A completed **ERG 22+** (Terrorist and Terrorist connected)

The polygraph licence condition must be **necessary and proportionate** to manage the individual's risk. Any case, meeting the legal and policy criteria outlined above, would meet this criterion and so **must** be tested.

Changes to OSP

4.11 The OASys Sexual reoffending Predictor (OSP) was implemented in 2021 and, from March 2021 to March 2024, polygraph eligibility was targeted using the OSP/C scale. In 2024, Ministry of Justice analysts published findings from a revalidation study of OSP and, consequently, updated the tool, creating two new scales called OSP/DC and OSP/IIC.

4.12 From 28 March 2024, any decisions about eligibility for mandatory polygraph testing will be determined by the OSP/DC risk level. The changes to OSP are not intended to automatically overturn any sentence planning decisions that have already been implemented or acted upon

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

based on OSP/C scores prior to the implementation date.

Individuals already in the community on 28th March 2024 with a polygraph licence condition:

- 4.13 For individuals who have already commenced polygraph examinations, the condition will remain in place. As the changes are not intended to disrupt sentence plan activity that is already underway this will not change even if when a recalculated OSP/DC score is not high or very high. As per the existing arrangements for someone with a polygraph condition on their licence, the individual will remain subject to polygraph testing until such time their overall risk of serious harm assessment (ROSH) is reviewed in OASys and is no longer high or very high.
- 4.14 For Individuals who have the condition on their licence but are awaiting a first polygraph examination, the licence condition will remain in place, and they should continue to have their first polygraph test scheduled. If prior **to undergoing the first polygraph examination** the practitioner reviews the OASys (either for an initial sentence plan or a review plan) and new OSP/DC score is not high or very high, they no longer fit the criteria for mandatory testing. The probation practitioner must consider whether the person is suitable for polygraph testing under discretionary criteria. If not they must inform the polygraph Central Referrals Unit by emailing polygraph@justice.gov.uk and take the appropriate steps to have the condition removed from the licence. If they consider there are grounds for a discretionary referral the practitioner must make a new referral demonstrating how the individual meets the criteria set out in 4.17

Individuals in custody

Standard determinate sentences

- 4.15 Where someone has had a mandatory polygraph licence condition proposed via the **PD1** based on an OSP/C score but then have new OSP scores calculated either as part of a pre-release OASys or an Initial Supervision plan on release, the probation practitioner must refer to the new OSP/DC score to determine if the individual meets the polygraph eligibility. If the new OSP/DC score means they no longer fit the criteria for mandatory testing, the probation practitioner should update the PD1 to remove the proposal for the polygraph condition be added on the licence. Where the individual has been released with the condition and the recalculated OSP/DC score is not high or very high the probation practitioner must take the appropriate steps to have the condition removed from the licence. The probation practitioner must inform the polygraph Central Referrals Unit by emailing polygraph@justice.gov.uk.

As above, If they consider there are grounds for a discretionary referral the practitioner must make a new referral demonstrating how the individual meets the criteria set out in 4.17.

Parole eligible cases

- 4.16 By agreement with the Parole Board, the OSP changes for parole cases will go live on 1st July 2024. This means that probation practitioners will not need to calculate revised OSP/DC and OSP/IIC scores for people with a parole hearing scheduled between 28th March and 30th June 2024.
- 4.17 For all parole hearings scheduled from 1st July onwards, probation practitioners must undertake an OASys review to calculate the revised OSP/DC and OSP/IIC scores. Where there is a change to the OSP scores, the practitioner must complete an addendum report

which includes the new OSP scores and submit this to the Board ahead of the hearing. If the new OSP/DC score means they no longer fit the criteria for mandatory polygraph examination, the probation practitioner should remove the proposal for the polygraph condition to be added on the licence.

- 4.18 Should the probation practitioner consider that the person may be suitable for polygraph testing under discretionary criteria, this will require a new referral and the individual will need to meet the criteria as set out in paragraph 4.17.

Sexual Offending: Discretionary cases

- 4.19 Where the legal criteria are met, but the HMPPS policy criteria are not met, there is scope for certain cases to be referred on a discretionary basis. To be eligible for testing on a discretionary basis, the individual must meet the legal criteria and be assessed as high or very high risk of harm on OASys but may not meet the criteria of being high or very high risk using OSP/DC. In these instances, there must be additional evidence available to demonstrate that polygraph testing is necessary and proportionate to manage the risk the individual poses in the community. Examples of what would constitute additional evidence are set out in paragraph 4.17 below. If the discretionary criteria is met then it is appropriate for the probation practitioner to submit a referral for a polygraph condition.

- 4.20 Probation practitioners must discuss the case with a polygraph examiner and submit a referral to the central referrals unit providing their evidence and rationale for testing on a discretionary basis. The final decision regarding discretionary testing will be the responsibility of the polygraph examiner. The probation practitioner must receive a confirmation email from the central referral unit confirming the referral is accepted *before* requesting the condition is added.

- 4.21 The decision must be made on a case-by-case basis, but discretionary referrals will include individuals assessed as low or medium on OSP/DC and those for whom OSP/DC does not apply, such as women where one or more of the following is present:

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

Prior to requesting a licence condition for testing on a discretionary basis, the probation practitioner must complete the referral form, setting out the evidence and their rationale for why polygraph testing is necessary and proportionate.

- 4.22 There may be very exceptional circumstances where a polygraph licence condition is considered to be necessary and proportionate to manage the risk posed, but the case does not meet the mandatory or discretionary criteria for testing. Such cases should be *very rare* and discussion about the appropriateness of referring such cases for testing must be discussed firstly with polygraph examiner and then escalated to the polygraph operational

lead, Head of Public Protection/Head of National Security Unit for discussion with the Polygraph policy team, by emailing polygraph@justice.gov.uk. It is important to remember that in all cases the individual must meet the legal criteria to be tested.

Consecutive sentences

- 4.23 When individuals convicted of sexual offences someone has not been sentenced to 12 months or more for a polygraph eligible offence, but they have been given consecutive custodial sentences that total over 12 months, they must be considered for testing on a discretionary basis. Where the probation practitioner assesses that individual as posing a high risk of **sexual** harm and that polygraph is necessary and proportionate, they should refer them for polygraph examination- setting out how they meet the criteria (see 4.17). For example, if someone is given 8 months for a sexual assault to run consecutively to a sentence of 8 months for an indecent exposure, the totality of the sentence is a 16-month custodial sentence. This will also apply when someone has been given consecutive custodial sentences for both eligible and non-eligible offences. For example, if someone is given a 10-month custodial sentence for sexual assault to run consecutively to a 6 month custodial sentence for Common Assault.
- 4.24 For individuals convicted of **terrorist offences** who have not been sentenced to 12 months or more but who are given consecutive sentences that total over 12 months, the probation practitioner must discuss the case with a polygraph examiner and evidence that polygraph is necessary and proportionate.
- 4.25 The final decision for accepting referrals in all cases who come under these circumstances will be the responsibility of the polygraph examiner.
- 4.26 This principle does not apply to people who are sentenced concurrently, where none of the individual sentences are 12 months or more. To return to the first example given above, if someone is given 8 months for a sexual assault to run concurrently with a sentence of 8 months for an indecent exposure, neither sentence meets the 12 month custodial sentence threshold and the offender will not be eligible for polygraph.

The referral process:

- 4.27 Once the probation practitioner has confirmed that an individual meets the legal and policy criteria, they must follow the referral process by:
- Creating the Polygraph NSI in NDelius.
 - Opening and completing the national polygraph referral form located in the NSI
 - Transferring ownership of the NSI to the polygraph team. This will grant the polygraph team direct access to the record so they can process the referral.
 - Checking the referral status in the NSI shows as 'accepted'.

The probation practitioner will receive an email from the central referral's unit confirming the referral has been accepted or rejected.

- 4.28 At the earliest opportunity after the probation practitioner has confirmed that the referral has been accepted, they must make contact with the individual to advise them that they are requesting a polygraph licence condition. This is to ensure that they are aware of the condition before they are released. The COM (community offender manager) must also notify the POM (prison offender manager) that a polygraph licence condition will be requested. This

will ensure that the individual can ask them any questions that they have about polygraph examinations. It will also help to ensure that they understand the requirement.

Requesting the licence condition: pre-release

- 4.29 Once the probation practitioner receives confirmation from the central referrals unit that the referral has been accepted, they must request the additional licence condition either via the PAROM 1 or PD1, as appropriate to the case. It must be requested in all PAROMs for mandatory cases to be included as a proposed condition and, if appropriate, for all discretionary cases. This is to ensure a robust risk management plan is in place in all cases where the Parole Board may direct release.

The exact wording of the condition must be:

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

- 4.31 A polygraph condition should not come as a surprise to an individual when they are handed their licence on the day of their release.

Requesting the licence condition: post-release

- 4.32 There are cases where a PCoSOs or individual convicted of TACT offences is released on licence without a polygraph examination condition and, following release, the risk assessment increases. If the risk assessment changes and, as a result, the individual subsequently meets the mandatory criteria for testing, the probation practitioner must request the polygraph licence condition. Where changes to the risk assessment indicates the polygraph licence condition may be necessary, but the mandatory criteria are not met; the probation practitioner must follow the process set out in para 4.17 if they wish to request adding the condition on a discretionary basis. In both cases, the probation practitioner should submit a referral using the polygraph NSI.
- 4.33 Once authorised by a polygraph examiner, the probation practitioner must apply to have the licence varied as per the appropriate process set out in Licence Conditions Policy Framework. For those released via the Parole Board, the request for variation should be submitted via the Parole Eligible Casework (PEC) team (contact details are contained within the Licence Conditions Policy Framework) and probation practitioners must provide a copy of the confirmation of the polygraph referral acceptance from national polygraph secure mailbox in order for the condition to be requested.
- 4.34 For individuals released by the Parole Board, the probation practitioner must confirm to the national polygraph secure mailbox that the individual has been released within 5 working days.
- 4.35 The final decision on accepting polygraph referrals will be the responsibility of the polygraph examiner who will ensure the legal and policy criteria are met. Authorisation from the examiner must be sought *before* requesting a condition be added to a licence.

Arranging the polygraph examination

- 4.36 The polygraph examiner must liaise with the probation practitioner to arrange the first examination, normally within 8-16 weeks of date of release. The polygraph examination should take place early in the licence period but after sufficient time has elapsed for aspects of an individual's behaviour to be tested. However, in exceptional circumstances where it may be important for risk management to undertake a polygraph test before 8 weeks (e.g. prior to someone moving on from an Approved Premises), the probation practitioner can request an earlier examination through discussion with the polygraph examiner.
- 4.37 A core group of professionals is involved in the management of TACT cases. This core group will be involved in making the decision regarding when the first test takes place based, on all the relevant information that is available. Information related to the polygraph test will be shared within this context as necessary and in accordance with the Data Protection Act 2018.

Statement of Understanding and polygraph leaflet

- 4.38 Prior to the first test taking place the probation practitioner must provide the individual with details of the test, including the polygraph leaflet, and a copy of the Statement of Understanding which they must be asked to sign. These are available on EQUIP. The probation practitioner must upload the signed copy of the Statement of Understanding to the NDelius case record. If the individual refuses to sign the Statement of Understanding, the probation practitioner should make a note of this on the Statement of Understanding to confirm that it has been discussed with the individual, and a copy of the form should be uploaded to the NDelius record. It is important that the probation practitioner discusses the polygraph information leaflet with the individual in detail. This is particularly important where the individual has a disability which may require additional explanation of the detail of the leaflet e.g. a learning difficulty, or a physical disability such as a visual impairment.

Informing and preparing an individual for a polygraph examination

- 4.39 The probation practitioner must discuss the polygraph condition with the individual, using the polygraph leaflet, as part of normal sentence management practice from the time when release is being discussed and planned. Every opportunity should be taken to secure compliance and "buy in" from them.
- 4.40 As well as explaining to the individual how the polygraph test supports risk management, probation practitioners must explain how the polygraph test can help the individual successfully complete their licence, to manage their own behaviour and provide additional information about their compliance with their licence conditions. The probation practitioner will use information from polygraph tests to inform any review of the individual's risk of serious harm, alongside the range of other evidence available. Over time, this may also include a review of their licence conditions with the potential to have conditions removed as a result.
- 4.41 Even if the date of the first polygraph examination is not available to be given during the first few supervision sessions, the probation practitioner must inform the individual that it will normally be scheduled for between 8 and 16 weeks after release.
- 4.42 The probation practitioner must provide the individual with the leaflet: "Information about Polygraph Licence Condition" and make sure the individual understands it. The condition

should be explained at the beginning of the individual's licence period, and they should be reminded of it when the date of the polygraph examination draws near.

First examination

- 4.43 The details (time, date and location) of the examination will be confirmed by the examiner, and the probation practitioner will then inform the examinee, preparing them for examination (see section 4.16) and providing travel costs (if appropriate). The probation practitioner and polygraph examiner must agree how immediate post-test feedback will be provided if the probation practitioner is unable to attend the post-test phase of the examination. If attendance is not possible the post- test feedback must be handed over to the practitioner via an alternative method.
- 4.44 Having completed the examination, the examiner must prepare the polygraph report within five working days of the examination and upload it on NDelius, informing the probation practitioner via email when the report is uploaded.
- 4.45 The examiner must inform the probation practitioner of the time frame of the next examination, which will depend on the examination outcome. This must be:
- Within four weeks if the current result is “inconclusive” or “no opinion”,
 - In approximately three months if the current result is “significant response” and
 - In approximately six months if the current result is “no significant response”.

Subsequent examinations

- 4.46 The examiner will make contact with the probation practitioner about the date of the next examination at least two weeks before the test date. The probation practitioner must inform the individual of the examination, prepare them for it, and agree what their contribution to the post-test phase will be. The examiner will provide information to the practitioner about the time-frame for the next examination.

Setting questions for the polygraph examination

- 4.47 Polygraph examiners must contact the probation practitioner, and the probation practitioner must make themselves available, in advance of the polygraph examination taking place. This is to discuss and agree the areas that questions should focus on during the examination. The actual construction of the questions will be the responsibility of the polygraph examiner, who will have received specialist training in this area. The role of the probation practitioner is to flag the areas that concern them with regard to risk management, the individual's current attitude, health, compliance etc. The examiner will devise suitable questions to give the probation practitioner the information they need to assist in the management of the case. The questions are contained in the polygraph examiner's report that is uploaded onto NDelius.
- 4.48 For TACT cases, the core group must discuss what questions should be asked of the individual but ultimately it is for the probation practitioner and the examiner to determine what should be asked.

Information shared by partner agencies may also help to identify areas of concern to be examined.

The polygraph examination process

- 4.49 As well as being fit for the examination (see paragraph 4.56), the polygraph examination requires that the individual:
- Is able to sit still for the duration of the actual testing phase of each examination (usually up to five periods of at least three to five minutes per test).
 - Attends the entire session that can last for up to four hours or more. More typically it will last for two to three hours.
 - Is able to understand the difference between telling the truth and lying.
 - Complies with all reasonable instructions given to him or her by the polygraph examiner.
- 4.50 The polygraph examination is experienced by most people as a significant and serious event; it feels important. Though the style of an individual examiner will vary, many aspects of the polygraph session (comprising pre-examination, examination, and post-examination phases) will be standard.
- 4.51 The examination does not hurt the individual but they may experience some pressure on one arm from a cardio-vascular cuff. It may also be difficult for some examinees to sit very still during the actual testing phase of the examination. This is required to enable the equipment to collect physiological data of sufficiently good quality. These potential difficulties may be managed more easily if the examinee is briefed about them by the probation practitioner in advance so they know what to expect.
- 4.52 Each examination will include:
- Recording of the entire session using audio-visual equipment (see xxx).
 - A full explanation of how the examination will work.
 - A pre-examination interview which will include settling the individual into the session, an assessment of suitability, discussion about the background details of the individual's history, discussion of dynamic risk factors, e.g. sexual preoccupation, current situation, review of compliance with licence conditions. The examiner will advise the individual of the actual questions that will be asked during the data collection phase. An individual may make disclosures relevant to their risk at this point.
 - Data collection phase where the components that measure the individual's physiological responses are placed on the individual. This is a short phase (approximately 20 minutes) involving the collection of physiological data while the examinee is asked and answers the polygraph questions.
 - A post-test interview in which the examiner tells the individual the outcome of the test based on their responses to the polygraph questions. The individual may make disclosures during this phase which explain their polygraph examination result.
 - The examiner will send a polygraph report to the probation practitioner with their conclusions and details of any disclosures made within five working days of the examination. They will also add an alert to NDelius to make the probation practitioner aware the polygraph report is available, and action is required.
- 4.53 The examiner records data about the individual's physiological responses to the test questions using the polygraph equipment and then interprets the data to conclude one of the following outcomes:

- **Significant Response (SR)** - Deception indicated. Interpretation of the data indicates that the person has not been telling the truth when answering one or more of the questions.
- **No Significant Response (NSR)**- Deception not indicated. Interpretation of the data indicates that the person has been truthful in responding to the questions asked..
- **Inconclusive** - a decision regarding truthfulness or deception cannot be reached based on the responses of the individual.
- **No Opinion** - For a number of potential reasons, it is not possible to score the data reliably.

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

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

Suitability for polygraph examination

4.56 Most people are suitable for a polygraph examination providing they understand the difference between a truth and a lie. Examiners receive specialist training regarding physical and mental health conditions that may affect an examinee's suitability for testing.

4.57 Examiners must complete an assessment of suitability. This is a is a three-part process Involving:

- Consultation with the probation practitioner regarding known information about the individual's physical and mental health or any other factors that may impact on their suitability for testing based on available professional assessments (e.g., psychological reports, IQ assessments, etc.) and the practitioner's professional knowledge of the individual.
- A pre-test interview with the individual, complete and review a suitability screening form.
- Undertake a 'practice' examination with the individual, known as an acquaintance test, which enables the examiner to assess the examinee's ability to understand and follow instructions and also whether any health or other factors adversely affects the examinee's physiological responses, health and fitness for examination.

Physical and mental health conditions

4.58 In the overwhelming majority of cases a physical or mental health condition, neurodivergence, or prescribed medications will not make an examinee unsuitable for testing. Reasonable adjustments will be made to the testing arrangements if appropriate, and examiners are expected to review the examinee themselves on the day of the test.

4.59 Some conditions which could impede a polygraph examination may only manifest themselves on the day of the appointment. For example, running a fever may interfere with the test itself. Under these circumstances, the examiner must inform the probation practitioner and postpone the examination to a later date.

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

- 4.60 If an examiner finds that an examinee is not suitable for polygraph testing due to a long-term physical, mental health issue or other factor that will not change in the future, they must inform the probation practitioner. (see 4.84). The probation practitioner must ensure that there is sufficient evidence to support the fact that the health condition will impact on the ability to conduct the test effectively, before making the decision to remove the polygraph licence condition. They must also review the risk management plan to include considering additional licence conditions in order to manage the risk. If the person on probation becomes suitable again in the future, then the licence condition can be requested again.

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

- 4.61 An examination will not be carried out if the individual is under, or is suspected of being under, the influence of drink or drugs and the examiner concludes that this will impede their ability to undertake the test. In these circumstances, the polygraph examiner will inform the probation practitioner who will decide whether enforcement action is required and arrange a new examination to take place as soon as possible.

Polygraph examination and gender

- 4.62 A polygraph condition can be applied to the licence of individuals of any gender including anyone who is transitioning from one gender to another.

Involvement in the post-test phase of the examination

- 4.63 Probation practitioners must make arrangements to attend a post-polygraph examination three-way meeting at the end of the polygraph session. Where this is not possible, they must make themselves or another named individual available to receive information by telephone from the polygraph examiner at the end of the polygraph session. This may include immediate issues relating to the management of an individual's risk that have emerged directly from the polygraph session. It is important to note that significant disclosures and information may have been gathered, irrespective of the outcome of the examination (i.e., regardless of whether the outcome of the examination is 'significant response' or 'no significant response'). Probation practitioners must always consider what follow up action is needed where someone has made disclosures during the test regardless of whether the outcome of the test was SR or NSR, and also where there are no disclosures but there is a SR outcome.
- 4.64 Where any information arising from the polygraph examination indicates that identifiable victim(s), individuals, or members of the public are at risk, the probation practitioner must consult with a manager and initiate appropriate action commensurate with the risk identified. This could include for example, informing the police and the Victim Liaison Officer (VLO) if a previous victim is at risk, instigating emergency recall or taking action to verify the information.
- 4.65 The polygraph examiner must provide the probation practitioner with details of the next examination. Following receipt of these details, the probation practitioner must inform the individual of the date, time and venue of the examination at their next appointment or immediately, by letter, if the polygraph test falls between supervision appointments. The probation practitioner should confirm that the individual knows how to get to the examination venue and provide them with whatever fares/travel warrant assistance is appropriate.

Information sharing with other agencies

- 4.66 The probation practitioner must alert the relevant police risk management officer to the fact that a PCoSO has a polygraph condition on their licence. The polygraph examiner will upload the polygraph report to ViSOR within 5 working days of the examination taking place.
- 4.67 Where relevant, probation practitioners must share any information gained from the polygraph examination with others involved in the management of the individual, including the outcomes of any examinations which take place, and any significant disclosures made by the individual during the examination.
- 4.68 Where there is an indication that the risk of harm has increased, information must be shared with the police immediately and recall must be urgently considered. For TACT cases, anything which suggests raised risk must be shared immediately with the police and recall should be considered. This will include where the individual has made disclosures at any point in the polygraph examination. A polygraph examination report will be uploaded to ViSOR by the examiner within five working days of the examination. Actions arising from the examination must be recorded by the probation practitioner and the risk of serious harm reviewed in accordance with relevant Probation Service policies. The sharing of polygraph examination reports by the probation practitioner with subjects and other MAPPA agencies must also follow current information and data sharing policies and be compliant with relevant legislation.

Enforcement action

- 4.69 Sections 28-30 of the Act 2007 provide the Secretary of State with the authority to include polygraph examination as a condition of a prisoner's release from prison on licence. The polygraph condition requires the released person to participate in the polygraph sessions as instructed and comply with the instructions given to them by the person conducting the session.
- 4.70 Failure to attend (unacceptable absence), deliberately sabotaging the examination (using countermeasures) or failure to co-operate with the examiner as instructed would constitute a breach of the licence condition. Under these circumstances, the probation practitioner must consider taking enforcement action, particularly if the sabotage or failure to comply happens on more than one occasion.
- 4.71 An examination result alone cannot be used to justify recall to custody. Regardless of the outcome of the test – Significant Response, No Significant Response, No Opinion or Inconclusive – this alone cannot be used to recall an individual to custody.
- 4.72 However, if during the examination, the individual admits to or discloses behaviour that would constitute a breach of this or another licence condition and/or which indicates that they can no longer be safely managed in the community, enforcement action, including recall, must be considered.
- 4.73 In either of the above scenarios, enforcement action in response to a failure to comply with the polygraph condition, or to admitting breaching other conditions, could include:
- Immediate recall
 - Decision not to recall letter
 - The addition of further licence conditions in order to manage the risk

- 4.74 When deciding the most appropriate and proportionate response to a breach of the polygraph licence condition, issues such as past compliance, current behaviour and risk of serious harm should be considered. The probation practitioner should also discuss the enforcement decision with their line manager. Where information from the polygraph examination raises concerns about the released person's current behaviour and potential level of risk of serious harm, the probation practitioner should liaise with the local police public protection team. If risk-related information is disclosed within the polygraph examination process, the risk of serious harm assessment must be reviewed in the light of this information, and the risk management plan updated accordingly.
- 4.75 Where recall action is not taken, the probation practitioner could also consider referral to MAPPA level 2/3 or bringing forward a planned MAPPA meeting for those already managed at level 2 or 3. This should also be discussed with their line manager.
- 4.76 It is possible that investigations undertaken as a result of polygraph examinations and disclosures will uncover evidence which would indicate that recall is required to protect the public. In this instance recall would be based on the risk-related evidence rather than the significant responses in the polygraph examination.
- 4.77 Probation practitioners must follow the instructions and guidance in the Recall, Review and Re-Release of Recalled Prisoners Policy Framework. Where the polygraph condition has been breached (e.g., through deliberate non-compliance) or where a polygraph examination has resulted in intelligence that one or more other licence conditions have been breached, the relevant details must be recorded in the Part A Recall report. This includes breaches of the standard conditions of good behaviour.
- 4.78 The date of any relevant polygraph examination should be detailed in the Part A Recall Report and information from the polygraph report and/or discussion with the polygraph examiner should be included. These will form part of the information used by PPCS when deciding whether to authorise the recall request.
- 4.79 The VLO, if involved, must be informed of the recall by the probation practitioner and again when the individual has been arrested as set out in the Victim Contact Scheme Policy Framework.
- 4.80 Where the examination result is No Significant Response (NSR – i.e., assessed as not deceptive), this will enable the probation practitioner to give encouragement and positive feedback to the individual. It is unlikely that the risk assessment will be altered after a first polygraph examination. However, several successive NSR outcomes may, alongside the evidence about an individual's general response to supervision and progress against supervision objectives, inform a review of the assessment of risk of serious harm. It could also prompt consideration of suspension of the polygraph licence condition.

Re-release after recall

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

- 4.82 Where a PCoSO or a TACT case who did not have a polygraph condition has been recalled and is being considered for re-release, probation practitioners can consider whether a polygraph condition is appropriate and request its addition on the Part B (please see Annex 4 for wording suggestions which may assist). However, before doing so they must first check that the individual meets the eligibility criteria, submit a referral and have confirmation that it has been accepted, as per the process outlined above.
- 4.83 For those individuals who were initially released under the age of 18 without a polygraph condition, it is appropriate for a condition to be added to their licence upon re-release following recall, provided they are age 18 or over on the date of re-release and they meet the criteria as outlined in 4.8 -4.9 polygraph examination eligibility criteria.

Oral Hearings

- 4.84 Where the individual requests it or the case demands it, an oral hearing may be scheduled to consider the recall decision and possible re-release. When the individual has been subject to polygraph examinations, the Parole Board may request a copy of the polygraph report, which will support the Parole Board with their decision making. The Parole Board may also require the attendance of the polygraph examiner as well as the probation practitioner at the oral hearing. The probation practitioner must also inform the examiner immediately if their attendance at the hearing is required. Should the Parole Board request any further polygraph information the Probation Practitioner must in the first instance contact the polygraph team to discuss by emailing: polygraph@justice.gov.uk. This must include consideration of whether the request is for sensitive information and should be processed as per the 'Handling of Sensitive Information, Including Information Provided by Victims, For the Purpose of Parole Board Reviews Policy Framework'.
- 4.85 The probation practitioner is responsible for obtaining the polygraph information. It must be sent to PPCS for the oral hearing dossier, not directly to the Parole Board.
- 4.86 Whilst there will be Parole Board members who specialise in dealing with TACT cases, not all in attendance at a hearing will have the required vetting levels for the disclosure of sensitive material. Therefore, for all TACT cases, a discussion with the ACO and counter-terrorist police colleagues must take place to decide if information that impacts on national security should be redacted prior to the hearing.

Discontinuing testing

- 4.87 As with other licence conditions, the probation practitioner (following discussion in the core group in the case of people convicted of TACT offences) may decide to suspend the polygraph condition if they consider it is no longer necessary. This may be, for example, because a review of the risk of harm assessment indicates that the risk of serious harm is no longer high or very high risk. If the decision has been made to discontinue examinations, the licence condition should remain in place for a period of time for monitoring of compliance and behaviour in case of further risk escalation.
- 4.88 However, if risk remains lowered and it is felt the condition is no longer necessary and proportionate to manage the individual, the probation practitioner must consider applying to vary the licence by removal of the condition as per paragraph 3.62 in the Licence Conditions Policy Framework. Application to remove the condition should be made to the ACO of the local Probation Delivery Unit in the case of determinate sentenced prisoners or to the Parole

Board, via PPCS. If any licence variation is agreed, the probation practitioner must inform the VLO, however the victim will not be informed of changes to conditions that are not linked to them.

Concurrent sentences

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

Cancelling examinations and/or informing about recall to custody

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

Recording of information

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

Storage/Recording

- 4.95 There is clearly defined guidance for recording and storage of individual Polygraph files. Polygraph examiners are required to follow a clear process to ensure the storage of polygraph files is sufficiently secure (see Annex 7 for further details of the recording/storage process).
- 4.96 The processing of personal data under this Policy Framework must be done in accordance with the Data Protection Act 2018/UK General Data Protection Regulation, as set out in the Information Request Policy Framework. Access to the information relating to this Policy Framework and other related information thereto will also be considered under The Freedom of Information Act 2000, and Environmental Information Regulations 2004).

Marking

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

5. **Constraints**

5.1 The use and scope of polygraph examination is controlled by legislation. As such, despite the seriousness of cases such as sexually motivated murder, if the individual has not been convicted of a relevant sexual offence, they are not eligible for polygraph examination.

5.2 Polygraph examinations are not permitted in the Probation Service in any circumstances not already described in this policy framework. In particular (but not exhaustively), it is not permitted in the following circumstances:

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

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

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Annex 1

Sections of Offender Management Act 2007 relating to polygraph examinations.

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

28 Application of polygraph condition

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

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

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

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

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

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

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

]¹

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

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

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

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

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

]²

[

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

]³

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

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

[...]⁴

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

(4B) In subsection (4A)—[...] ⁵

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

[

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

(4D) In subsection (4C)—

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

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

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

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

(b) "*corresponding offence*" means—

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

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

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

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

] ⁶

29 Effect of polygraph condition

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

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

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

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

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

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

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

- (a) conducts one or more polygraph examinations of the released person; and
 - (b) interviews the released person in preparation for, or otherwise in connection with, any such examination.
- (3) For the purposes of subsection (2), a polygraph examination is a procedure in which—
- (a) the polygraph operator questions the released person;
 - (b) the questions and the released person’s answers are recorded; and
 - (c) physiological reactions of the released person while being questioned are measured and recorded by means of equipment of a type approved by the Secretary of State.
- (4) In subsection (1)(b) “appropriate officer” means an officer of a provider of probation services or an officer of a local probation board.
- (5) An appropriate officer giving instructions as mentioned in subsection (1)(b) must have regard to any guidance issued by the Secretary of State.
- (6) The Secretary of State may make rules relating to the conduct of polygraph sessions.
- (7) The rules may, in particular—
- (a) require polygraph operators to be persons who satisfy such requirements as to qualifications, experience and other matters as are specified in the rules;
 - (b) make provision about the keeping of records of polygraph sessions; and
 - (c) make provision about the preparation of reports on the results of polygraph sessions.
- (8) The power to make rules under subsection (6) is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

30 Use in criminal proceedings of evidence from polygraph sessions

- (1) Evidence of any matter mentioned in subsection (2) may not be used in any proceedings against a released person for an offence.
- (2) The matters so excluded are—
 - (a) any statement made by the released person while participating in a polygraph session; and
 - (b) any physiological reactions of the released person while being questioned in the course of a polygraph examination.
- (3) In this section “polygraph examination” and “polygraph session” have the same meaning as in section 29.

Annex 2

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

Polygraph licence conditions for terrorist offenders: England and Wales

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

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

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

(b) after subsection (4) insert—

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

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

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

(4B) In subsection (4A)—

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

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

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

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

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

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

Annex 3

Specified Sexual Offences

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

SCHEDULE 15 PART 2 2003 ACT - SPECIFIED SEXUAL OFFENCES

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

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

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

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

- 70 An offence under section 5 of that Act (intercourse with girl under thirteen).
- 71 An offence under section 6 of that Act (intercourse with girl under 16).
- 72 An offence under section 7 of that Act (intercourse with a defective).
- 73 An offence under section 9 of that Act (procurement of a defective).
- 74 An offence under section 10 of that Act (incest by a man).
- 75 An offence under section 11 of that Act (incest by a woman).
- 76 An offence under section 14 of that Act (indecent assault on a woman).
- 77 An offence under section 15 of that Act (indecent assault on a man).
- 78 An offence under section 16 of that Act (assault with intent to commit buggery).
- 79 An offence under section 17 of that Act (abduction of woman by force or for the sake of her property).
- 80 An offence under section 19 of that Act (abduction of unmarried girl under eighteen from parent or guardian).
- 81 An offence under section 20 of that Act (abduction of unmarried girl under sixteen from parent or guardian).
- 82 An offence under section 21 of that Act (abduction of defective from parent or guardian).
- 83 An offence under section 22 of that Act (causing prostitution of women).
- 84 An offence under section 23 of that Act (procuration of girl under twenty-one).
- 85 An offence under section 24 of that Act (detention of woman in brothel).
- 86 An offence under section 25 of that Act (permitting girl under thirteen to use premises for intercourse).
- 87 An offence under section 26 of that Act (permitting girl under sixteen to use premises for intercourse).
- 88 An offence under section 27 of that Act (permitting defective to use premises for intercourse).
- 89 An offence under section 28 of that Act (causing or encouraging the prostitution of, intercourse with or indecent assault on girl under sixteen).
- 90 An offence under section 29 of that Act (causing or encouraging prostitution of defective).
- 91 An offence under section 32 of that Act (soliciting by men).
- 92 An offence under section 33 of that Act (keeping a brothel).
- 93 An offence under section 128 of the Mental Health Act 1959 (c. 72) (sexual intercourse with patients).

- 94 An offence under section 1 of the Indecency with Children Act 1960 (c. 33) (indecent conduct towards young child).
- 95 An offence under section 4 of the Sexual Offences Act 1967 (c. 60) (procuring others to commit homosexual acts).^{*5}
- 96 An offence under section 5 of that Act (living on earnings of male prostitution).
- 97 An offence under section 9 of the Theft Act 1968 (c. 60) of burglary with intent to commit rape.
- 98 An offence under section 54 of the Criminal Law Act 1977 (c. 45) (inciting girl under sixteen to have incestuous sexual intercourse).
- 99 An offence under section 1 of the Protection of Children Act 1978 (c. 37) (indecent photographs of children).
- 100 An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (penalty for fraudulent evasion of duty etc.) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (c. 36) (indecent or obscene articles).
- 101 An offence under section 160 of the Criminal Justice Act 1988 (c. 33) (Possession of indecent photograph of a child).
- 102 An offence under section 1 of the Sexual Offences Act 2003 (c. 42) (rape).
- 103 An offence under section 2 of that Act (assault by penetration).
- 104 An offence under section 3 of that Act (sexual assault).
- 105 An offence under section 4 of that Act (causing a person to engage in sexual activity without consent).
- 106 An offence under section 5 of that Act (rape of a child under 13).
- 107 An offence under section 6 of that Act (assault of a child under 13 by penetration).
- 108 An offence under section 7 of that Act (sexual assault of a child under 13).
- 109 An offence under section 8 of that Act (causing or inciting a child under 13 to engage in sexual activity).
- 110 An offence under section 9 of that Act (sexual activity with a child).

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

- 111 An offence under section 10 of that Act (causing or inciting a child to engage in sexual activity).
- 112 An offence under section 11 of that Act (engaging in sexual activity in the presence of a child).
- 113 An offence under section 12 of that Act (causing a child to watch a sexual act).
- 114 An offence under section 13 of that Act (child sex offences committed by children or young persons).
- 115 An offence under section 14 of that Act (arranging or facilitating commission of a child sex offence).
- 116 An offence under section 15 of that Act (meeting a child following sexual grooming etc.).
- 117 An offence under section 16 of that Act (abuse of position of trust: sexual activity with a child).
- 118 An offence under section 17 of that Act (abuse of position of trust: causing or inciting a child to engage in sexual activity).
- 119 An offence under section 18 of that Act (abuse of position of trust: sexual activity in the presence of a child).
- 120 An offence under section 19 of that Act (abuse of position of trust: causing a child to watch a sexual act).
- 121 An offence under section 25 of that Act (sexual activity with a child family member).
- 122 An offence under section 26 of that Act (inciting a child family member to engage in sexual activity).
- 123 An offence under section 30 of that Act (sexual activity with a person with a mental disorder impeding choice).
- 124 An offence under section 31 of that Act (causing or inciting a person with a mental disorder impeding choice to engage in sexual activity).
- 125 An offence under section 32 of that Act (engaging in sexual activity in the presence of a person with a mental disorder impeding choice).
- 126 An offence under section 33 of that Act (causing a person with a mental disorder impeding choice to watch a sexual act).
- 127 An offence under section 34 of that Act (inducement, threat or deception to procure sexual activity with a person with a mental disorder).
- 128 An offence under section 35 of that Act (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception).
- 129 An offence under section 36 of that Act (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder).

130 An offence under section 37 of that Act (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception).

131 An offence under section 38 of that Act (care workers: sexual activity with a person with a mental disorder).

132 An offence under section 39 of that Act (care workers: causing or inciting sexual activity).

133 An offence under section 40 of that Act (care workers: sexual activity in the presence of a person with a mental disorder).

134 An offence under section 41 of that Act (care workers: causing a person with a mental disorder to watch a sexual act).

135 An offence under section 47 of that Act (paying for sexual services of a child).

136 An offence under section 48 of that Act (causing or inciting sexual exploitation of a child]).

137 An offence under section 49 of that Act ((controlling a child in relation to sexual exploitation])).

138 An offence under section 50 of that Act (arranging or facilitating sexual exploitation of a child])).

139 An offence under section 52 of that Act (causing or inciting prostitution for gain).

140 An offence under section 53 of that Act (controlling prostitution for gain).

141 An offence under section 57 of that Act (trafficking into the UK for sexual exploitation).

142 An offence under section 58 of that Act (trafficking within the UK for sexual exploitation).

143 An offence under section 59 of that Act (trafficking out of the UK for sexual exploitation).

144 An offence under section 61 of that Act (administering a substance with intent).

145 An offence under section 62 of that Act (committing an offence with intent to commit a sexual offence).

146 An offence under section 63 of that Act (trespass with intent to commit a sexual offence).

147 An offence under section 64 of that Act (sex with an adult relative: penetration).

148 An offence under section 65 of that Act (sex with an adult relative: consenting to penetration).

149 An offence under section 66 of that Act (exposure).

150 An offence under section 67 of that Act (voyeurism).

151 An offence under section 69 of that Act (intercourse with an animal).

152 An offence under section 70 of that Act (sexual penetration of a corpse).

153 An offence of—

(1) aiding, abetting, counselling or procuring the commission of an offence specified in this Part of this Schedule,

(2) An attempt to commit such an offence.

(3) Conspiracy to commit such an offence.

(4) Incitement to commit such an offence.

(5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed.

Annex 4

Specified Terrorist or Terrorist Related Offences

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

List of specified Terrorist Offences

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

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

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

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

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

(2) Conspiracy to commit a listed offence.

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

(4) Incitement to commit a listed offence.

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

4 An offence that—

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

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

- (a) section 11 (membership of a proscribed organisation);
- (b) section 12 (inviting or expressing support for a proscribed organisation);
- (c) section 15 (fund-raising);

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

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

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

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

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

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

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

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

(2) Conspiracy to commit a listed offence.

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

(4) Incitement to commit a listed offence.

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

12 An offence that—

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

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

Annex 5

Example wording for proposing a polygraph licence condition

Parole cases

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

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

Suggested wording for proposing a licence condition in a discretionary case

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

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

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

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

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

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

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

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

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

Cases with automatic release/non-Parole Board cases

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

Suggested wording for proposing a licence condition on a PD1

- 5.5 Example 1: Sexual offending case, high OSP/DC and high RoSH so mandatory referral
X is assessed as presenting both a high risk of sexual reoffending using OSP/DC and a high risk of serious harm using OASys. Management of his risk would be improved by the addition of a polygraph condition as the polygraph examination will be used to monitor his compliance with the "no contact condition" also requested, as well as with other objectives of supervision such as his use of alcohol. X meets the criteria for the polygraph condition and it is both necessary and proportionate to manage the risks he is assessed to present on release.

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

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

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

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

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

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

Annex 6



**Ministry of
JUSTICE**
National Offender
Management Service

National Delius

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

Document

Document Reference No	Author	Position
MOJCRI009	Karen Baker	MOJ NDST Operational Policy Lead

Distribution

Name	Role	Organisation
HMPPS		Probation Service

Reference Materials

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

Document history

Version	Date	Changed By	Summary of Changes
v0.01	15/08/14	Greg Tillett	Case Recording Instruction Draft
v0.02	25/09/14	Karen Armer	Formatting and updated
V0.03	16/12/14	Karen Armer	Included IWP processes
V0.04	04/09/15	Greg Tillett	Updated screen shots IWP process reviewed New 'Senior Manager Warning' Contact Type added
V1.0	17/09/2015	Karen Armer/	Updated IWP process and screenshots.

Probation Case Management System (PCMS) CRI009 – Polygraph Testing

		Kevin Price	
V1.1	March 2020	Karen Baker	Updated Annexe A with new NAT Template and New Annexe B - COVID-19 recording.
V2.0	18/01/2021	Karen Baker	Updated post review by Sex Offender Unit
V2.0	12/04/2021	Karen Baker/Rachael Loveridge	Baselined post final review
V2.1	Feb 2023	Karen Baker	Updated post merger of Referral and NSI – authority of Assessment and Management of Sex Offending Team plus new Alert PP Contact Type
V2.2	July 2023	Karen Baker	VISOR section added

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Update Polygraph Testing NSI 23

Annexe C25

Purpose

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

Background

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

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

Creating a Polygraph NSI Referral

Probation Practitioners must create the Polygraph NSI to make the referral to the Assessment and Management of Sex Offending Team.

By creating the Polygraph Testing NSI this will be allocated to a Polygraph Examiner to record attendances and other contacts during the period of time Polygraph Examination is taking place.

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

1. Find PoP
2. Navigate to the appropriate event
3. View the event
4. Select the '**Non-Statutory Intervention**' option from the Navigation pane
5. Click '**Add Non-Statutory Intervention**' button
6. Select the appropriate '**Polygraph Testing**' option from the drop down for both Intervention Type i.e. Polygraph Testing – Sexual offending or Counter Terrorism.
7. Select the Polygraph Testing sub type

Add Non Statutory Intervention

NSI Provider: ^ ZZ BAST Public Provider 1

Establishment Provider: ^ [Please Select]

Non Statutory Intervention: * Polygraph - Sexual Offending

Non Statutory Intervention Sub type: * Polygraph Testing

Referral Date: * 08/02/2023

Figure 1 - Add Non Statutory Intervention screen

8. Enter '**Referral Date**' = date creating the NSI
9. Enter '**Actual Start Date**' = as referral date
10. Complete **Provider, Team** and **Officer** as the person completing the NSI.
11. Enter **Status** as '**Referred – Mandatory**' or '**Referred – discretionary**' as appropriate.
12. Enter **Status Date/time**
13. **Enter notes**
14. Click **Update** button – this will save the NSI but leave the user on screen to complete the Referral Form
15. Click '**Document**' button at the bottom of the screen – this will take the user to 'Document List' screen
16. Select 'NAT Polygraph Referral Form' option within the Template List drop down menu
17. Click '**Create from Template**' button – this will create the blank version of the form for the Probation Practitioner to complete

Document List

Linked To: Non Statutory Intervention

Preferred Language:

No Documents Exist for the current record

Template List: NAT Polygraph Referral Form

Create from Template Upload Document Close

Figure 2 - Document List screen

18. Click the '**Update**' hyperlink

Document List

Linked To: Non Statutory Intervention

Preferred Language:

Document	Author	Date Created	Last Action By	Date Modified	WIP	Sensitive	
NAT Polygraph Referral Form_08022023_154132_ops_d_E228205.doc	Karen Baker	08/02/2023	Karen Baker	08/02/2023	N	N change	view update delete lock

Template List: NAT Polygraph Referral Form

Create from Template Upload Document Close

This will open the referral form via MS Word

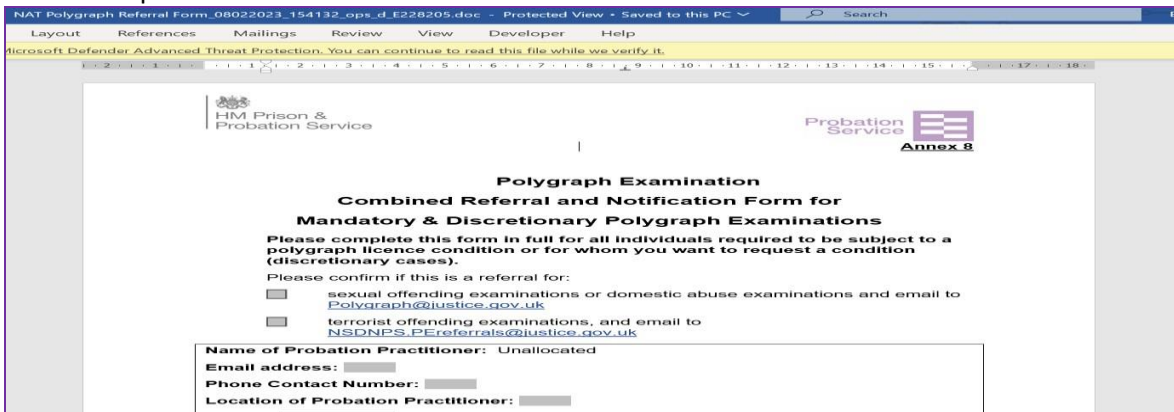


Figure 3 - Polygraph referral form in edit mode

Complete the form as per normal BAU processes and ensure that the completed form is uploaded back to NDelius.

19. Once completed save and close the referral form
20. Click 'My Documents' option on the NDelius screen
21. Click 'upload' next to the polygraph referral form entry

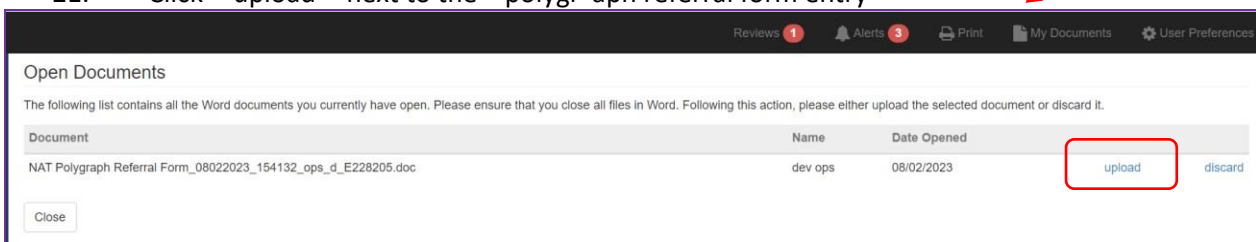


Figure 4 - Open Documents screen

22. Find the file saves locally on your PC upload back to NDelius
23. Once completed, click 'close/return' button – this will navigate you back to the 'Document List screen'
24. Click 'close/return' button – this will navigate back to the Update NSI screen

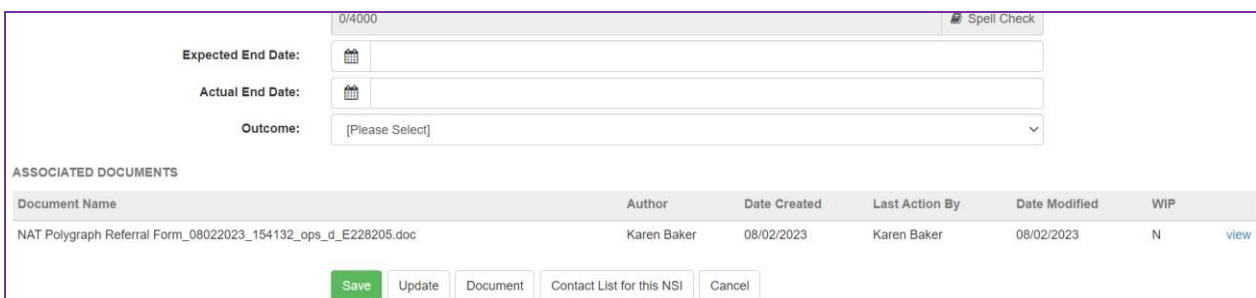


Figure 5 - Update NSI Screen

The Referral form will be available to view from the update NSI screen. Once satisfied that all information has been recorded in the NSI and form

25. Save

Non Statutory Intervention List

Show Terminated NSIs: No

Start Date	Description	Status	Status Date	Manager	Docs?	
	Polygraph - Sexual Offending - Polygraph Testing	Referred - Mandatory	08/02/2023	Unallocated	Y	view update delete request transfer

Figure 6 - NSI List screen

26. Click on the **'Request Transfer'** hyperlink next to the Polygraph entry – this will navigate the user to the 'Consolidated Transfer Request' screen
27. Select **'National Responsibility Division'**
28. Select **'Polygraph Examiner'** Team 29. Select **'Unallocated'** officer

Consolidated Transfer Request

TRANSFER TO DETAILS

Provider: * National Responsibility Division

PDU: [Please Select]

Local Admin Unit: [Please Select]

Team: * Polygraph Examiners

Team Contacts: No email address recorded - please advise service desk if known
No phone number recorded - please advise service desk if known

Officer: * Unallocated

Officer Email: No linked user record

SELECT ITEMS FOR TRANSFER

Type	Description	Start Date	Current Provider	Status	Reason For Transfer
Event NSI	5 - Polygraph - Sexual Offending/Polygraph Testing	08/02/2023	ZZ BAST Public Provider 1, Unallocated, Unallocated Staff		Polygraph Test Request

Figure 7 - Consolidated Transfer Request screen

30. Locate the NSI and select **'Polygraph test Request'** transfer reason
31. Click **'Transfer'** button

This will now go to the Polygraphy Team where they will accept the referral for assessment.

Polygraph Unit Only – Pending Transfer Diary

Once the Probation Practitioner has transferred the NSI to the Polygraph unit the request referral can be located within the NSI Caseload – Diary view in the Officer Diary.

1. Select **'Officer Diary'**
2. Select **'Pending Transfers'**
3. Select Provider = **'National Responsibility Division'**
4. Select **'Polygraph Examiners'** Team
5. Select **'Unallocated'** Officer
6. Transfer Direction – **Transfer in**
7. Click **'Search'** button

Results will appear of all the Pending transfers to the polygraph section.

From here you can view the NSI, this will allow you to read the referral and notes within the NSI but you will need to 'Update Transfer' and accept the NSI referral to make any changes and for them to appear in your NSI caseload diary.

Pending Transfers

SEARCH CRITERIA

Provider: * National Responsibility Division

PDU: [Please Select]

Local Admin Unit: [Please Select]

Team: Polygraph Examiners

Officer: Unallocated

Transfer Direction: Transfer In

Transfer Level: All

Search

SEARCH RESULTS

Risk	CRN	Name	Request Date	Provider	Transfer Type
	E228205	ops, dev	08/02/2023	Effective Practice Team - Polygraph Examiners	Polygraph - Sexual Offending

Figure 8 - Pending Transfer screen

NSI Caseload – Diary View

Once the NSI transfer has been accepted the referral will move into the team NSI Caseload Diary.

To view all NSIs and their statuses:

1. Click on the NSI Caseload option
2. Provider = **National Responsibility Division**
3. Team = **Polygraph Examiners**
4. Officer – **Unallocated**
5. Level = **Event**
6. Type = Select which **Polygraph** Cohort you wish to look at in turn i.e. CT, DA or SO.

Non Statutory Interventions

SEARCH CRITERIA

Provider: * National Responsibility Division

PDU: [Please Select]

Local Admin Unit: [Please Select]

Team: * Polygraph Examiners

Officer: * Unallocated

Level: Event

Type: Polygraph - Counter Terrorism
Polygraph - Domestic Abuse (First participant)
Polygraph - Sexual Offending

Figure 9 - NSI Caseload screen

7. Select which **'Status'** i.e. Mandatory or Discretionary – you will need to pick one at a time

Level: Event

Type: Polygraph - Sexual Offending

Sub Type: Polygraph Testing

Status: [Please Select]

Show Terminated NSIs?: [Please Select]

Referred – Mandatory

Referred – Discretionary

Rejected – does not meet criteria

Rejected – unsuitable for testing

Polygraph testing active

Polygraph testing suspended

Polygraph testing/monitoring ended

SEARCH RESULTS

Risk	CRN	Name
------	-----	------

8. Click **'Search'** button

This will display all those referrals as per the chosen status type.

Non Statutory Interventions

SEARCH CRITERIA

Provider: National Responsibility Division

PDU: [Please Select]

Local Admin Unit: [Please Select]

Team: Polygraph Examiners

Officer: Unallocated

Level: Event

Type: Polygraph - Sexual Offending

Sub Type: [Please Select]

Status: Referred - Mandatory

Show Terminated NSIs?: No

Search

SEARCH RESULTS

Risk	CRN	Name	Non Statutory Intervention	Status	Status Date	Docs?		
●	E228205	dev ops	Polygraph - Sexual Offending	Referred - Mandatory	08/02/2023	Y	view	update

Bulk Transfer Print

Figure 10 - NSI Caseload screen

To view and allocate or reject the referral, click on the **'Update'** hyperlink to each entry in turn.

From the **'Update NSI screen'** user can do the following:

- Accept or reject the referral
- Assign to a Polygraph Examiner – Do not action if you wish to hold the NSI at Administrative Level – Skip steps 1-3 below, go to step 4.

Accepting and Assigning the Referral

Where the referral has been accepted the following actions should be taken within the NSI:

1. Allocate the **'officer'** field to the **examiners name** from the drop down
2. The **Transfer Date** will default to 'today's date' but can amended if needed to the date in the past.

3. Select the 'Transfer Reason' = **Allocated to Responsible Officer**

The screenshot shows a form with the following fields and values:

- Provider: National Responsibility Division
- Team: Polygraph Examiners
- Officer: [Please Select]
- Transfer Date: * 10/02/2023
- Transfer Reason: * [Please Select]

Figure 11 - Update NSI screen

- 4. Update the **Status** to 'Polygraph Testing Active'
- 5. Enter any **notes** where required
- 6. **Save**

The screenshot shows the 'Update Non Statutory Intervention' form with the following fields and values:

- NSI Provider: ZZ BAST Public Provider 1
- Non Statutory Intervention: Polygraph - Sexual Offending
- Non Statutory Intervention Sub type: Polygraph Testing
- Referral Date: 08/02/2023
- Expected Start Date: [Calendar icon]
- Actual Start Date: [Calendar icon]
- Provider: National Responsibility Division
- Team: Polygraph Examiners
- Officer: Roberts, Beccy (NPS - PO)
- Transfer Date: * 10/02/2023
- Transfer Reason: * Allocated to Responsible Officer
- Status: * Polygraph testing active
- Status History: [Button]
- Status Date: * 10/02/2023
- Status Time: * 15:47
- Next Status Date: [Calendar icon]
- Notes: [Text area]

At the bottom of the form, there is a character count '0/4000' and a 'Spell Check' button.

Figure 12 - Update NSI screen (Accepting and Allocating)

This will now appear on the Polygraph Examiners NSI Caseload – if allocating.

Update Non Statutory Intervention

NSI Provider: ZZ BAST Public Provider 1

Non Statutory Intervention: Polygraph - Sexual Offending

Non Statutory Intervention Sub type: Polygraph Testing

Referral Date: 08/02/2023

Expected Start Date:

Actual Start Date:

Provider: National Responsibility Division

Team: Polygraph Examiners

Officer: Roberts, Beccy (NPS - PO)

Transfer Date: * 10/02/2023

Transfer Reason: * Allocated to Responsible Officer

Status: * Polygraph testing active

Status History

Status Date: * 10/02/2023

Status Time: * 15:47

Next Status Date:

Notes:

0/4000 Spell Check

Rejecting the Polygraph Referral

Where the referral cannot go ahead the NSI Status should be updated to notify the Probation Practitioner

1. Update the status to the appropriate **Rejection Reason** i.e. Unable to proceed 2. Enter any **notes** for the PP

3. Save

Update Non Statutory Intervention

NSI Provider: ZZ BAST Public Provider 1

Non Statutory Intervention: Polygraph - Sexual Offending

Non Statutory Intervention Sub type: Polygraph Testing

Referral Date: 08/02/2023

Expected Start Date:

Actual Start Date:

Provider: National Responsibility Division

Team: Polygraph Examiners

Officer: Unallocated

Transfer Date: 10/02/2023

Status: * Rejected - does not meet criteria

Status History

Status Date: * 10/02/2023

Status Time: * 15:52

Figure 13 - Update NSI screen (Rejection status)

In this case the NSI should have an outcome recorded – refer to the

Polygraph completion section.

Polygraph Administrator to notify the Polygraph examiner that they have a new case.

Only to be used where the NSI has been allocated to the Examiner. Skip to *Recording Attendance contacts* section.

NSI Caseload – Diary View for Polygraph Examiners

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

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

Non Statutory Interventions

SEARCH CRITERIA

Provider: * ZZ BAST Public Provider 1

Cluster: [Please Select]

LDU: [Please Select]

Team: * Dummy Team One

Officer: * Officer Three, Dummy (PO)

Level: Event

Type: Polygraph Testing

Show Terminated NSIs?: No

Search

SEARCH RESULTS

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

Print

Figure 14 - Officer Diary Non Statutory Intervention caseload screen filtered to event level

Listed below will be all the active polygraph NSIs.

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

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

Recording Attendance contacts

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

Record as follows:

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

The screenshot shows the 'Add Contact Details' form with the following fields and values:

- Relates To:** NSI - 25 - Polygraph Testing (Polygraph Testing)
- Contact Category:** Offender Management
- Contact Type:** Polygraph Attendance (NS)
- Alert?:** No
- Date:** 04/09/2015
- Start Time:** 12:00
- Provider:** ZZ BAST Public Provider 1
- Team:** Dummy Team One
- Location:** Location 1
- Officer:** Officer Three, Dummy (PO)
- Contact Outcome:** Attended - Complied
- Sensitive Contact?:** No
- Notes:** Notes added...
- Next Appointment:** Next Contact Date: [empty field]

Buttons at the bottom: Save, Update, Document, Print, Cancel.

Figure 15 - Add Contact Details screen relating to Polygraph NSI

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

Repeat for each attendance you have undertaken.

Recording Exam Results

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

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

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

6. Select Contact Type as '**Polygraph Exam**'
7. Enter **Date and Start time** of the exam
8. Enter **Provider, Team, Location** and **Officer** details
9. Enter appropriate **Outcome** of the exam – information will be provided on the results form supplied by the examiner.

The screenshot shows the 'Add Contact Details' form with the following fields and values:

- Relates To: Polygraph Testing (Polygraph Testing)
- Contact Category: Offender Management
- Contact Type: Polygraph Exam
- Description: (empty)
- Alert the OM?: No
- Date: 12/04/2021
- Start Time: 10:35
- Provider: ZZ BAST Public Provider 1
- Team: Error Handling Team
- Location: Location 1
- Officer: Baker, Karen (NPS - Other)
- Contact Outcome: [Please Select] (dropdown menu open)
- Include in VISOR Extract?: [Please Select]
- Sensitive Contact?: PG - Deception Not Indicated
- Notes: PG - Failed to co-operate, PG - Invalid polygraph result, PG - Not Suitable for Polygraph, PG - Refused Polygraph, PG - Test Terminated: NPS Responsible

Figure 16 - Add Contact details screen

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

The screenshot shows the following fields and values:

- Contact Outcome: PG - Failed to co-operate
- Enforcement Action: Refer to Offender Manager

Figure 17 - Contact Outcome field within Contact details screen displaying Failure Outcome and **enforcement action example**

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

The Examiner will upload the Polygraph Report.

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

The screenshot shows the 'Upload External Document' form with the following fields and buttons:

- Filename: (empty text input)
- Upload: Browse (button)
- Upload New Document (button)
- Cancel (button)

Figure 18 - upload external documents screen

14. Click '**Upload New Document**' button
15. Enter 'Filename' i.e. ExamresultsTestbastD123456 – best practice to ensure offender details to be identified.
16. Click '**Browse**' button and navigate to location of results sheet

Upload External Document

Filename * examresultstestbastD123456

Upload Browse NAT Polygraph Examination Report v1.0 Sept 14.dot

Upload New Document Cancel

Figure 19 - Upload external Documents screen completed

17. Click **'Upload New Document'** button

Document List

Linked To: Contact

Document	Author	Date Created	
examresultstestbastD123456.dot	Karen Armer	17/09/2015	view

New Document

Add Upload New Document Close

Figure 20 - document list screen with added results visible

18. Click **'Close'** button.

19. **Save** contact

Repeat for each exam completed.

SEARCH RESULTS

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

Figure 21 - Contact Log search result screen

Recording a 'Disclosure' contact

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

Record as follows:

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

Figure 22 - Add contacts screen with Polygraph disclosure contact type

7. Enter contact **time** and **date**.
8. Enter **Provider, Team, Location** and Officer
9. Enter **Outcome** as appropriate from drop down menu
10. Where PG – Enforceable Disclosure is selected – enforcement action field will become active

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

Figure 23 - Add Contact screen

ROs to complete step 11 only

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

Figure 24 - Enforcement Actions menu

12. Enter Notes
13. **Save**

Recording a ‘Polygraph PP Alert’ contact

A Polygraph report is produced by the Polygraph Examiner within 5 days of the test taking place. This sets out any specific areas of concern and suggested risk management actions for the Probation Practitioner.

The examiner should add the **'Polygraph report complete – action required'** contact Type to notify the PP that the polygraph report is available and requires action to be taken.

1. Find PoP
2. Navigate to the Contact List
3. Click **'Add Contact'** button
4. Select **'Polygraph testing'** NSI option from Relates To
5. Select Contact Category as **'Community Management'**
6. Select Contact Type as **'Polygraph report complete – action required'**

Add Contact Details

Relates To: * Polygraph - Sex Offenders (Polygraph Testing)

Contact Category: * All/Always

Contact Type: * Polygraph report complete – action required

Description:

Alert?: * Yes

Date: * 03/05/2023

Start Time: * 14:59

Provider: * ZZ BAST Public Provider 1

Team: * National Admin

Location: * Location 1

Officer: * Baker, Karen (NPS - Other)

Contact Outcome: * [Please Select]

Sensitive Contact?: * No

Notes:

0/4000 Spell Check

Figure 25 - Add Contact Details screen

7. Alert = **Yes**
8. Enter contact **time** and **date**.
9. Enter **Provider, Team, Location** and Officer
10. Enter any note for the PP, where required
11. **Save**

VISOR

Where a case is flagged as VISOR it is important to ensure that the contact which the report has been attached to is flag for the extract is set to Yes. This will ensure that the report can be copied and pasted into the VISOR system as necessary.

Contact Outcome: *	[Please Select]
Include in VISOR Extract?	Yes
Sensitive Contact?:	No
Notes:	

Figure 26 - VISOR Extract field

Polygraph completion

Closing the Polygraph NSI

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

Update Non Statutory Intervention

Non Statutory Intervention: Polygraph Testing

Non Statutory Intervention Sub type: Polygraph Testing

Referral Date: 04/09/2015

Expected Start Date:

Actual Start Date:

Provider: ZZ BAST Public Provider 1

Team: Dummy Team One

Officer: Officer Three, Dummy (PO)

Transfer Date: 04/09/2015

Status: * Polygraph testing ended

Status Date: * 04/09/2015

Status Time: * 12:00

Next Status Date:

Notes:

Figure 27 - Update Non Statutory Intervention screen

Expected End Date:

Actual End Date: 04/09/2015

Outcome: Polygraph testing ended

Save Update Document Cancel

Figure 28 - NSI Outcome field section

6. Enter **Status Date** – date will be the date that the Governor agreed to the removal.
7. Enter **Notes** where applicable
8. Enter '**Actual End Date**' as Status date

9. Enter NSI Outcome of '**Polygraph Testing Ended**'⁶
10. **Save**

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

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

Figure 29 - Non Statutory Intervention List with completed Polygraph NSI

Further Information

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

Annexe B – COVID-19 Suspension Guidance

Annexe C – Supplementary Case Recording Guidance for Polygraph Examinations

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

⁶ Where the Referral has been Rejected then the Outcome option of '**Polygraph testing withdrawn – unsuitable/Does not meet criteria**' should be selected

Annexe A

Polygraph Examination Combined Referral and Notification Form for Mandatory & Discretionary Polygraph Examinations

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

Please confirm if this is a referral for:

- sexual offending examinations or domestic abuse examinations
- terrorist offending examinations,

Name of Probation Practitioner:

Email address:

Phone Contact Number:

Location of Probation Practitioner:

Region:

National Security Division case (yes/no)

Date of Referral:

Referral Type: Mandatory Discretionary (SO only)

Name of Offender:

PNC Number:

Date of Birth:

Gender:

Prison Number (HMPPS):

Index Offence:

Please highlight the risk levels below:

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

Risk of Reconviction (SARA) DA cases

Risk of Harm (OASys)

Has the ERG 22+ assessment been completed (Yes/No)

Is this a CPPC case?

Is this a MAPPA level 3 case?

Expected date of release:

Length of Licence and expiry date:

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

Licence Conditions (please list all)

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

Please provide details of any relevant information, such as physical health, mental health, learning, behavioural or cultural factors that may be important for the polygraph examiner to know, in advance of the examination.

Annexe B

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

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

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

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

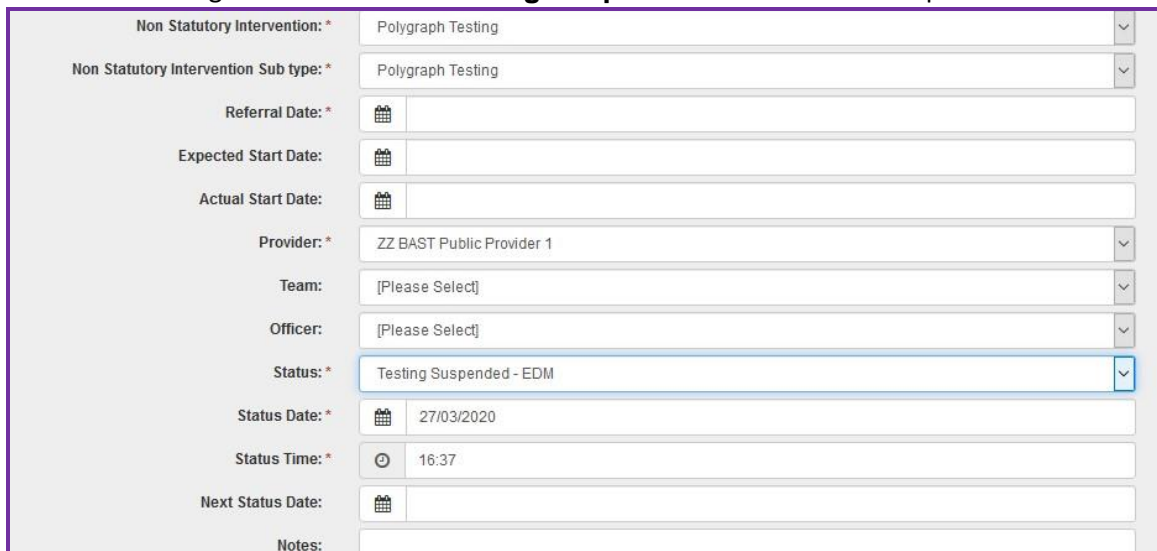
- **POLY03 - Testing Suspended – EDM**

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

- **POLY04 - Testing Resumed - EDM**

Update Polygraph Testing NSI

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



The screenshot displays a form for updating a Non-Statutory Intervention (NSI). The form fields are as follows:

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

6. Enter Status date and time
7. Enter Notes – where applicable
8. Save

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

Annexe C

Supplementary Case Recording Guidance for Polygraph Examinations

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

Context

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

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

Creating the Polygraph NSI

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

Recording attendance contacts

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

Recording Polygraph examination results

The **Polygraph Examiner** should enter the results of the examination using contact type

'Polygraph Exam'. This contact type enables the Examiner to record whether there was a significant response or no significant response or whether there were any other problems completing the test successfully.

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

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

Recording a 'Disclosure' Contact

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

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

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

Recording the Enforcement Action

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

Polygraph Completion

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

'Polygraph testing ended'.

Annex 7

Storage of polygraph records/data access requests

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

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

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

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

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

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

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

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

Annex 8

Complaints

From individuals subject to polygraph examinations

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

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

Annex 9

List of abbreviations

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

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