Ministry of Justice

HM Prison & Probation Service

Policy name: Power to Detain Dangerous Prisoners Serving a Standard Determinate Sentence Policy Framework

Issue Date: 20 March 2025 **Implementation Date**: 14 July 2022

Replaces the following documents (e.g. PSIs, PSOs, Custodial Service Specs) which are hereby cancelled: None

Introduces amendments to the following documents: N/A

Action required by:

☒	HMPPS HQ	☒	Governors
☒	Public Sector Prisons	☒	Heads of Group
☒	Contracted Prisons	☐	Contract Managers in Probation Trusts
☒	Probation Service	☒	Under 18 Young Offender Institutions
☐	HMPPS Rehabilitation Contract Services Team	☐	HMPPS-run Immigration Removal Centres (IRCs)
☐	Other providers of Probation and Community Services		

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

For Information: By the implementation date Governors[1] of Public Sector Prisons and Contracted Prisons must ensure that their local procedures do not contain the following:

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

Section 6 of the Policy Framework contains guidance to implement the mandatory requirements set out in section 4 of this Policy Framework. Whilst it will not be mandatory to follow what is set out in this guidance, clear reasons to depart from the guidance should be documented locally. Any questions concerning departure from the guidance can be sent to the contact details below.

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

How will this Policy Framework be audited or monitored: N/A

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

Resource Impact: The completed Resource Impact Assessment indicated a negligible impact on HMPPS resource, based on a range of assumptions considered in terms of the number of cases potentially impacted by this policy.

Contact: For individual case queries: powertodetain@justice.gov.uk
For policy related queries: parolerecallpolicy.ppops@justice.gov.uk

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

Approved by OPS for publication: Sarah Coccia and Ian Barrow, joint chairs, Operational Policy Sub-board, June 2022.

Revisions

Date	Changes
20 March 2025	• Amended wording added at paragraph 1.3 and footnote 2 to clarify which prisoners serving terrorism or terrorism-connected offences could be eligible under this Policy Framework. • Removal of paragraph 2.3 as this provided context relevant at the time of the first publication. • Amended wording added at paragraphs at 4.20, 4.24 and 4.32 to highlight that PPCS will be responsible for procuring of security reports (SPR-H) for applications under this Policy Framework. • Additional wording added at paragraph 4.58 to confirm that the reconsideration mechanism can be applied for cases referred to the Parole Board under this Policy Framework. • Grammatical changes throughout this Policy Framework.

CONTENTS

1. Purpose

1.1 The Secretary of State for Justice has a duty under the Criminal Justice Act 2003 automatically to release certain fixed term prisoners from custody when they have completed the requisite custodial period. For a prisoner serving one sentence, the requisite custodial period will be one-half or two-thirds of the sentence, and for a prisoner serving two or more concurrent or consecutive sentences the requisite custodial period will be determined under sections 263(2) and 264(2B) or (2E) of the Criminal Justice Act 2003.

1.2 A new provision set out in section 244ZB of the Criminal Justice Act 2003, as inserted by section 132 of the Police, Crime, Sentencing and Courts (PCSC) Act 2022, enables the SSJ to refer certain Standard Determinate Sentence (SDS) prisoners to the Parole Board instead of automatically releasing them at their Conditional Release Date (CRD). Prisoners must meet both the legal and the policy thresholds to be eligible for consideration under this policy, which includes a dangerousness test and a public interest test. Following referral, the prisoner would then not be released until the Parole Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined, or the prisoner reaches the end of their sentence, or the SSJ rescinds the Notice to the prisoner or the referral to the Parole Board.

1.3 This framework outlines the policy and process for the power to detain SDS prisoners. The use of this power is reserved for SDS prisoners who were not judged to be dangerous at the point of sentence (or who may have been considered dangerous but owing to the offence committed or another reason were not eligible for an extended determinate sentence at the time of sentencing) but who are subsequently assessed to pose a significant risk of serious harm to members of the public occasioned by the commission of specified offences on release. This would include:

- Prisoners who should be considered under this policy are those who are serving a SDS custodial sentence, not including prisoners with a release provision under Section 247A of the Criminal Justice Act 2003[2]and where there are reasonable grounds, based on new or additional information, to believe that the prisoner poses an imminent and very high risk of committing a serious specified offence on release, as set out by the PCSC Act. Qualifying offences: a. murder, b. specified offences, within the meaning of section 306 of the Sentencing Code. See Annex B.

2. Evidence

2.1 The Police Crime, Sentencing and Courts Act 2022 inserted a power into the Criminal Justice Act 2003 to refer certain SDS prisoners to the Parole Board and so detain them in custody after their scheduled automatic conditional release date where the SSJ believes on reasonable grounds that the prisoner would, if released, pose a significant risk to members of the public of serious harm occasioned by the commission of specified offences (see 1.3).

2.2 This framework, therefore, sets out the requirements and guidance necessary for the operational line to follow in identifying and considering potentially suitable cases.

[2] For terrorism offences specified in Part 1 and 2 of Schedule 19ZA of the CJA 2003 or offences where a terrorism connection has been declared by the court.

3. Outcomes

3.1 Prison and Probation staff are aware of this policy, the purpose of it, and the process for identification, assessment, and submission of cases to an HMPPS Panel for consideration of referral of cases to the Parole Board;

3.2 Prison and Probation staff are aware of the role of the HMPPS Panel and the HMPPS Panel Secretariat (part of the Public Protection Casework Section) in considering cases submitted to it;

3.3 Prison and Probation staff are aware of the timeframes associated with the processes set out in this framework which enable timely assessment of cases by the HMPPS panel for referral to the Parole Board, where appropriate;

3.4 HMPPS Panel members are aware of the legal threshold, process and timings associated with this framework in order for the HMPPS Panel to make an effective decision about whether to refer cases to the Parole Board; and

3.5 Staff in the relevant sections of PPCS are aware of the processes and timeframes associated with this framework to ensure that the HMPPS panel meeting and any subsequent referral of cases to the Parole Board takes place in line with required timeframes.

4. Requirements

Legal eligibility

4.1 The statutory test set out below must be met in order for the Secretary of State to use the power. In determining whether a prisoner is eligible, it must be applied to all cases considered under this policy. This test is ultimately the test that the HMPPS Panel will use when deciding if a case should be referred to the Parole Board for a decision on release:

The Secretary of State is of the requisite opinion if the Secretary of State believes on reasonable grounds that the prisoner would, if released, pose a significant risk to members of the public of serious harm occasioned by the commission of any of the following offences—

(a) murder;
(b) specified offences, within the meaning of section 306 of the Sentencing Code.

4.2 The process is restricted by the age of the prisoner. To be eligible under the legislation, prisoners must be (or will be) aged 18 or over on the first day they would be entitled to conditional release. Prisoners who are sentenced prior to turning 18 are in scope, so long as their sentence has a conditional release point and are 18 years of age on the day that they would be automatically released.

4.3 The process is also restricted by the release provisions which apply to the prisoner. Prisoners must be due for release under section 243A, 244 or 244ZA of the Criminal Justice Act 2003 (‘qualifying sentences’). Prisoners subject exclusively to Parole Board release (‘non-qualifying sentences’) therefore cannot be made subject to the process. Prisoners with consecutive or concurrent non-qualifying and qualifying sentences are legally eligible - see below for guidance on how the power applies in different cases.

Policy eligibility

4.4 It falls to the discretion of the SSJ as to whether to apply this policy to a prisoner, and the discretion is exercised on SSJ's behalf and with SSJ's authority by the HMPPS Panel. Further to the statutory requirements, it has been determined that a referral to the Parole Board should be made in particular cases only (shaped, in part, by the risk assessment processes to which prisoners are subject whilst in the Prison Estate). Consequently, as part of the process of identifying eligible prisoners, HMPPS's existing risk management tools will be used.

4.5 Prisoners will currently be considered for referral only where the reasonable grounds are based on new or additional information not available at the time of sentencing. Existing information, in particular information, which was before the sentencing Court, will not be deemed sufficient.

4.6 Prisoners serving both a qualifying sentence and a non-qualifying sentence are legally eligible to be considered under this policy – but they will not be referred under this power in any case where a referral would be rendered unnecessary by the prisoner's existing release arrangements involving the Parole Board. This is because the Parole Board will consider release for these prisoners under the processes in place for their existing sentence(s) and so it is not necessary in every case additionally to refer the prisoner to the Board under this policy. Therefore, any prisoners serving indeterminate sentences will not be considered under this policy.

4.7 For details of how the policy will apply to prisoners serving concurrent and consecutive sentences, see Annex A. For any issues relating to application of the policy in individual cases, please contact the Sentence Calculation Team.

4.8 Prisoners identified as potentially suitable for referral to the HMPPS Panel, to enable the Panel to determine whether to refer prisoners to the Parole Board, must also meet a test for dangerousness. For the purposes of this policy, to meet the dangerousness test – the risk presented by the prisoner would:

a. cause serious harm to the public (through terrorism, death or serious injury/sexual assault) or present a national security threat if the risk were to materialise;
b. be likely to materialise at or soon after the conditional release point (i.e., a degree of probability about the risk arising following release and that it may be imminent);
c. be credible (the prisoner has the capability and means to commit a serious offence); and
d. not be safely manageable using the normal means of applying even very stringent licence conditions, supervision and restrictions.

4.9 As part of this dangerousness test, prisoners must be assessed as being very high risk of serious harm on OASys (Asset+) meaning that there is an imminent risk of serious harm i.e., the potential event is more likely than not to happen imminently, and the impact would be serious.

4.10 Prisoners must <u>also</u> be identified for management at MAPPA level 3, or the equivalent of MAPPA level 3 in circumstances where, due to restrictions around the index offence(s) not allowing for MAPPA level 3 management, a bespoke MAPPA information sharing meeting has taken, or will take, place. This applies to the most complex cases where formal multi-agency meetings would add value to the Probation Service's management of the offender's

risk of serious harm posed and where management issues require senior representation from the Responsible Authority and Duty-to-Co-operate agencies. This may be when there is a perceived need to commit significant resources at short notice or where, although not assessed as high or very high risk of serious harm, there is a high likelihood of media scrutiny or public interest in the management of the case and there is a need to ensure that public confidence in the criminal justice system is maintained. See 6.5 and 6.6.

4.11 Where the prisoner is considered to pose a terrorist risk, as a minimum they must also be currently being managed at the highest levels of the case management process for prisoners who pose a terrorism risk.

4.12 Public interest test – if the dangerousness test is met, the public interest test must determine whether, on balance, it is in the public interest to detain the prisoner (as a consequence of referring the prisoner to the Parole Board), potentially to the end of their sentence, rather than automatically release them at their conditional release date. This must be accompanied by a deliverable plan which sets out how any extra time served in prison will be used to reduce risk of harm. This should include deliverable objectives/activities.

4.13 Those bodies involved with planning for the release of high-risk prisoners and identifying potential prisoners within scope of this policy, **must therefore demonstrate that where they submit a prisoner to the HMPPS Panel (via their secretariat), consideration has been given to whether the shorter-term reduction in risk to the public is not outweighed by a longer-term increase in risk.**

4.14 HMPPS uses different risk assessment tools for different types of prisoners. Although, ultimately, the SSJ can only refer those who meet the statutory threshold and will only refer those who meet the policy threshold, the below identification processes outline how different types of eligible prisoners can be identified. There may be cases that require exceptional consideration outside of the policy thresholds, and these will be considered on a case-by-case basis.

Identification of violent and sexual risk cases

OMiC Early Allocation (EA) *Prisoners eligible for consideration under this policy can be referred via OMiC EA after the 18-month referral point. This route is applicable where the sentence length and intelligence collection timeframe allows referral into the process 12 months pre-release. Prisoners may be referred to OMiC EA after the usual 18-month referral point.*		**Action by**
4.15	The prisoner's behaviour and collected intelligence triggers general concern about their risk. The POM must complete the OASys assessment and refer the prisoner to the OMiC EA process. This may happen at or after the 18-month referral point.	POM / YOT
4.16	The Early Allocation referral is accepted, the COM assesses the prisoner's Risk of Serious Harm to be very high and the OASys assessment is completed.	COM / YOT

COM management *This route covers prisoners whose concerning behaviour/intelligence materialises when they are managed by a COM (either because their short sentence required the prisoner to go straight to COM management or their concerning behaviour materialised after the usual COM handover). It will also cover adult prisoners in the youth estate if they do not follow the above route.*		Action By
4.17	The prisoner's behaviour and intelligence collected triggers general concern that their risk has escalated; however, they are ineligible for OMiC EA due to the prisoner already being managed by a COM.	COM / YOT
4.18	The COM assesses the prisoner's Risk of Serious Harm to be very high and the OASys assessment is completed.	COM / YOT

Identification of terrorist risk cases

OMiC Early Allocation *Prisoners eligible for consideration under this policy can be referred to OMiC EA after the 18-month referral point. This route is applicable where the sentence length and intelligence collection timeframe allows referral into the process 12 months pre-release. Prisoners may be referred to OMiC EA after the usual 18-month referral point.* **COM management** *Prisoners whose concerning behaviour/intelligence materialises when they are managed by a COM (either because their short sentence required the prisoner to go straight to COM management or their concerning behaviour materialised after the usual COM handover). It will also cover adult prisoners in the youth estate if they do not follow the above route.*		Action By
4.19	The Regional Counter-Terrorism Lead (RCTL) identifies that the prisoner is eligible for referral to the HMPPS Panel.	RCTL
4.20	Where the RCTL agrees the case meets the legal threshold and policy criteria under this policy, see requirement paragraph 4.32.	RCTL/ Probation Counter-Terrorism Lead (PCTL) / COM
4.21	The COM updates the OASys assessment and assesses the prisoner's risk of serious harm as very high.	COM

Probation consideration of violent and sexual prisoners – National Security Division (NSD) or Regional Management. NSD is a Probation Service division dedicated to managing the highest risk

prisoners. All OMiC EA, Critical Public Protection Casework (CPPC) and terrorist risk cases can be considered for management by the NSD.

Case collation – violent and sexual risk cases		Action by
4.22	The case is triaged for management by the NSD: the process is led in Probation regions by Heads of Public Protection and follows the existing triage process.	Head of Public Protection / COM / YOT
4.23	NSD, the probation regions or Youth Offending Teams (YOT) must consider whether the prisoner meets the legal thresholds set out in paragraph 4.1 to 4.3. This decision must be made by the COM in the first instance having considered all relevant information and approved by the Head of Service.	COM / Head of Service / YOT
4.24	The COM/YOT must notify the HMPPS Panel Secretariat of the intention to submit a case for consideration as early as possible. This will allow time for the HMPPS Panel Secretariat to request and obtain disclosable security report, from the prisoner's current establishment, to inform the Power to Detain Report. The HMPPS Panel Secretariat will share the disclosable security information with the COM/YOT.	COM/YOT
4.25	Unless already referred into MAPPA, the prisoner will be referred for management at MAPPA level 3 (or a bespoke MAPPA information sharing meeting). Early consideration of MAPPA should be considered in line with the **MAPPA guidance**. See 6.5 to 6.6.	COM / YOT
4.26	Heads of Service must consider whether the prisoner's case meets the criteria for review by the HMPPS Panel for consideration of referral to the Parole Board (see 4.1 to 4.3). This decision must be made by the Head of Service, having considered all relevant information provided by the COM.	Head of Service
4.27	As part of their consideration, Heads of Service must decide if the prisoner meets both the Dangerousness Test and the Public Interest Test (see 4.8 to 4.13).	Head of Service
4.28	The Head of Service must satisfy themselves that the reports (including the Power to Detain Report) prepared for submission to the HMPPS Panel Secretariat are of sufficient quality. See 6.30.	Head of Service
4.29	If the Head of Service considers that the prisoner meets both the legal threshold and policy criteria for submission overall, they will submit the case to the HMPPS Panel Secretariat via the functional mailbox. See 4.37.	Head of Service
4.30	The decision to submit a case to the HMPPS Panel Secretariat should be made no earlier than 12 months prior to the prisoner's conditional release date. After that 12-month point has passed, the submission process should begin as soon as there is sufficient reason to believe the threshold may be met to justify doing so. See 6.15, 6.27 and 6.28.	Head of Service / COM / YOT

Case consideration for terrorist risk prisoners

Case collation – terrorist risk cases		Action by
4.31	Risk assessment meetings consider whether the prisoner meets the legal thresholds set out in paragraph 4.1 to 4.3.	RCTL
4.32	The COM/YOT must notify the HMPPS Panel Secretariat of the intention to submit a case for consideration as early as possible. This will allow time for the HMPPS Panel Secretariat to request and obtain a disclosable security report, from the prisoner's current establishment to inform the Power to Detain Report. The HMPPS Panel Secretariat will share the disclosable security information with the COM.	COM/YOT
4.33	Unless already referred into MAPPA, the prisoner will be referred for management at MAPPA level 3 (or a bespoke MAPPA information sharing meeting). Early consideration of MAPPA should be considered in line with the **MAPPA guidance**. See 6.5 to 6.6.	PCTL / COM
4.34	Risk assessment meetings must consider all relevant information and whether the prisoner's case meets the criteria for submission to the HMPPS Panel for consideration of referral to the Parole Board (see 4.1 to 4.3).	PCTL / RCTL / Head of National Security Unit (HoNSU)
4.35	As part of their consideration, RCTL/PCTL/HoNSU must decide if the prisoner meets both the Dangerousness Test and the Public Interest Test (see 4.8 to 4.13).	PCTL / RCTL / HoNSU
4.36	The HoNSU must satisfy themselves that the reports (including the Power to Detain Report) prepared for submission to the HMPPS Panel Secretariat are of sufficient quality. See 6.30.	HoNSU
4.37	If the HoNSU consider that the prisoner meets both the legal threshold and policy criteria for submission overall, they will submit the case to the HMPPS Panel Secretariat via the functional mailbox. See 4.37.	HoNSU
4.38	The decision to submit a case to the HMPPS Panel Secretariat should be made no earlier than 12 months prior to the prisoner's conditional release date. After that 12-month point has passed, the submission process should begin as soon as there is sufficient reason to believe the threshold may be met to justify doing so. See 6.15, 6.27 and 6.28.	PCTL / RCTL / HoNSU

Submission of cases

Submissions to the HMPPS Panel Secretariat		Action by
4.39	The Head of Service/HoNSU will submit cases to the HMPPS Panel Secretariat via the functional mailbox: powertodetain@justice.gov.uk ensuring that the HMPPS Panel dossier contains all relevant information, including the following mandatory reports: • Power to Detain Report, which sets out the justification for submission; • List of previous convictions; • OASYS assessment (Asset+ for those under 18 at submission point); • Security report (obtained by the HMPPS Panel Secretariat, gist of relevant intelligence); and • ERG assessment (for terrorist risk cases – where time allows). If available, a psychologist report will be provided. For terrorist risk cases, an ERG assessment must be provided where time allows taking into consideration the prisoner's conditional release date. For prisoners who will be under 18 years old when considered by the HMPPS Panel, any relevant Youth Justice Application Framework (YJAF) documentation should also be provided. See 6.8 to 6.9 and 6.19 to 6.24.	Head of Service / HoNSU / YOT / HMPPS Panel Secretariat
4.40	The Power to Detain Report must be authorised by the Head of Service/HoNSU and must contain a rationale for submission of the case to the HMPPS Panel, and a clear and deliverable for the prisoner in terms of risk reduction work while in custody.	COM / YOT / Head of Service / HoNSU / RCTL / PCTL
4.41	If the Head of Service/HoNSU wishes to rescind a submission, they must provide justification for this to the HMPPS Panel Secretariat, who will provide this information to the HMPPS Panel for a decision.	Head of Service / HoNSU / YOT / HMPPS Panel Secretariat
4.42	The HMPPS Panel Secretariat will collate the reports (including the Power to Detain Report) and will ensure all necessary information is present before providing it to the Panel.	HMPPS Panel Secretariat

HMPPS Panel consideration		Action by
4.43	The HMPPS Panel will consider the dossier presented and will decide whether they assess that the prisoner meets the legal and policy threshold and should be referred to the Parole Board. The HMPPS Panel will inform the HMPPS Panel Secretariat of their decision within 1 working day of making it.	HMPPS Panel / HMPPS Panel Secretariat

4.44	If the HMPPS Panel decide **not** to refer a case to the Parole Board on the basis that criteria a and b (see 6.34) are satisfied, but do not intend to refer to the Parole Board because of their view of c and d, they must provide advice to the SSJ (or their delegate) who will personally take the decision whether to refer the offender to the Parole Board.	HMPPS Panel Secretariat
4.45	If the HMPPS Panel and, where appropriate, the SSJ (or their delegate) decide **not** to refer the prisoner's case to the Parole Board, the relevant COM will be notified by the HMPPS Panel Secretariat within 2 working days of receipt of the HMPPS Panel's decision, and case management will continue as before. The notification will set out the HMPPS Panel's rationale for not referring the case to the Parole Board.	HMPPS Panel / HMPPS Panel Secretariat / COM / YOT / RCTL / PCTL
4.46	If the HMPPS Panel decide to refer the prisoner's case to the Parole Board, the prisoner must be notified as soon as possible, and within 2 working days of the HMPPS Panel Secretariat receiving the HMPPS Panel's decision. The HMPPS Panel secretariat will issue the Notice to prisons via their Offender Management Unit's functional mailbox. The Notice is a statutory document that overrides the prisoner's conditional release date and must: • be in writing; • explain the effect of the Notice (i.e., the prisoner's conditional release date is overridden, and they will be referred to the Parole Board); • provide reasons why the SSJ has decided to refer the case to the Parole Board (See 6.39); • explain that the prisoner has a right to make representations; and • be explained to the prisoner by the POM, Key Worker or a member of the Offender Management Unit with sufficient knowledge to explain the decision to the prisoner, within 1 working day of receipt of the decision. See 6.40	HMPPS Panel Secretariat / POM / YOT / PCTL
4.47	Once the Notice at 4.44 has been issued and received by the prisoner, the HMPPS Panel Secretariat will notify the Parole Board and will commence commissioning the documents and reports which make up the Parole Board dossier, in line with the Generic Parole Process, which may be under an expedited timeline. Referral to the Parole Board will take place once the parole dossier is complete. See 6.42 and 6.45.	HMPPS Panel Secretariat / Parole Board
4.48	The prisoner may make representations to the HMPPS Panel at any time following receipt of the Notice given at 4.44, including once the Generic Parole Process has commenced, and up to the point the Parole Board makes a decision. The HMPPS Panel must consider any representations made by the prisoner.	HMPPS Panel / HMPPS Panel Secretariat / POM / COM
4.49	If at any time the HMPPS Panel assess that the prisoner no longer meets the legal threshold (either because of representations or other reasons) they must formally revoke the Notice to the prisoner. The HMPPS Panel Secretariat will issue notification to the prisoner within 2 working days (if the prisoner's CRD has not yet been reached) of the HMPPS Panel's decision to rescind, and the prisoner's CRD will be restored. If the prisoner's CRD has passed, the notification must be	HMPPS Panel / HMPPS Panel Secretariat / Prison / COM

	issued by the HMPPS Panel Secretariat immediately following receipt of the HMPPS Panel's decision in order for the prisoner to be immediately released. See 6.43.	
4.50	Once the referral to the Parole Board has taken place, if at any time the HMPPS Panel assess that the prisoner no longer meets the legal threshold (either because of representations or other reasons), they must rescind the referral to the Parole Board and must revoke the Notice provided to the prisoner. The Panel Secretariat will issue notification to the Prisoner and the Parole Board within 2 working days (if the prisoner's CRD has not yet been reached) of the HMPPS Panel's decision to rescind, and the prisoner's CRD will be restored. If the prisoner's CRD has passed, the notification must be issued by the HMPPS Panel Secretariat immediately following receipt of the HMPPS Panel's decision in order for the prisoner to be immediately released. See 6.43.	HMPPS Panel / HMPPS Panel Secretariat / Parole Board / Prison / COM
	Parole Process	
4.51	Victims engaged in the Victim Contact Scheme must be notified only once the prisoner has received their notice stating the CRD is overridden, in order to mitigate any worry or concern at not having been contacted about licence conditions for the CRD. The victim will then have the opportunity to exercise all the rights to which victims are entitled under the Victims Code when it comes to a prisoner's parole review.	HMPPS Panel Secretariat / COM / YOT / Victim Liaison Officer
4.52	The HMPPS Panel Secretariat will commence the Generic Parole Process following receipt of the HMPPS Panel's decision to refer a case to the Parole Board. Once the Parole Board dossier is complete, the formal referral to the Parole Board must be made under an expedited timeline, where appropriate. See 6.42 and 6.45.	HMPPS Panel Secretariat / Parole Board
4.53	The Generic Parole Process will then take place with the Parole Board responsible for requesting representations from the prisoner and reviewing the evidence provided as part of that process, which may be under an expedited timeline. See 6.42 and 6.45.	HMPPS Panel Secretariat / Parole Board
4.54	The Parole Board will then make their decision. If they determine it is necessary for the protection of the public that the prisoner continue to be confined, the prisoner will remain in custody and their release will be reviewed annually by the Board.	Parole Board / HMPPS Panel Secretariat / COM / YOT
4.55	PPCS will refer the prisoner's case to the Parole Board annually following a no release decision, until either the prisoner is deemed safe to be released and managed on licence (the Parole Board will set the licence conditions), or their custodial sentence ends, and they are released with no licence or supervision in place.	PPCS / Parole Board
4.56	The COM/YOT will retain responsibility for the case ensuring that a realistic and deliverable sentence plan is in place for the duration of the prisoner's time in custody, and while on licence. See 6.26.	COM / YOT

4.57	Where the Parole Board decide that the prisoner is safe to release, they will be released either at their conditional release date (or as soon as is reasonably practicable in all the circumstances following the holding prison receiving formal notification from the HMPPS Panel Secretariat, if the Parole Board hearing takes place after the conditional release date). The Parole Board will set the licence conditions and the prisoner will be managed in line with their SDS licence unless no licence period remains. **Where a parole review is underway, the prisoner must not be released without formal notification from the HMPPS Panel Secretariat.**	HMPPS Panel Secretariat / Prison
4.58	The SSJ or the prisoner may apply for reconsideration (in application of the relevant parts of the Parole Board Rules) of any decisions made by the Parole Board in cases referred under this policy. All parties must follow the requirements and guidance set out in the Generic Parole Process Policy Framework, chapter 3.7 Reconsideration of Parole Board decisions.	HMPPS Panel Secretariat / Prison / COM / YOT

5. Constraints

5.1 If a Notice to detain a prisoner beyond their conditional release date has been issued by the HMPPS Panel, the holding prison must not release the prisoner without instructions from the HMPPS Panel Secretariat.

5.2 Prisoners must not be held in custody beyond their SLED.

Policy constraints

Inappropriate reasons for submitting a case to the HMPPS Panel:

5.3 The following is a list of circumstances which, if a particular case is solely reliant upon, will not be considered to meet the threshold for submission to the HMPPS Panel Secretariat:

a) **Cases in which the prisoner is suspected to be orchestrating criminal activity from within prison, albeit to a lesser extent than may be possible if they were released**. While they may be responsible for directing others to carry out actions which could result in serious harm, intelligence which shows this is already happening despite their incarceration will not justify submission to the HMPPS Panel Secretariat under this policy. The emphasis in such cases should instead be on gathering evidence to enable further prosecution of that prisoner.

b) **Cases in which external partners view this as a substitute for failing to secure a conviction in the first instance due to a lack of evidence.** This policy may not be seen as an alternative to building a substantial case and seeking a conviction based on evidence. The legal threshold and policy criteria are retained at a deliberately high level to avoid such an occurrence and will compel the case to include some form of new and additional evidence that there is an imminent and very high risk of serious harm to members of the public occasioned by the commission of specified offences (see 4.1) on release, which has become apparent since the prisoner was sentenced.

c) **Cases being submitted solely based on poor behaviour in prison for example, someone who has been highly disruptive or violent in custody and has been in the segregation unit for extended periods.** This type of behaviour is not rare and is not necessarily an inherent manifestation of 'dangerousness' or wider risk to the public on release. The legal threshold and policy criteria mandate that there must be new or additional evidence that there is an imminent and very high risk of serious harm to members of the public occasioned by the commission of specified offences (see 4.1) on release, which has become apparent since the prisoner was sentenced. Prisoners must meet the legal threshold and both the dangerousness and public interest tests in this policy. Even though the eligibility criteria for this policy framework stipulate that prisoners must be very high risk of serious harm on OASys, staff must be careful not to conflate overall risk of harm with the risk of specified offences intended to be covered by this policy.

d) **Cases being submitted solely due to concerns over mental health (mental illness or disorder).** There are many prisoners with serious mental health challenges, and for some cases this will have been known at the point of sentence, and for many prisoners, mental health problems will have been managed during sentence. For prisoners with serious mental illness or disorder, appropriate and established methods of identification, assessment, support and treatment must be followed. This may include assessment for transfer and treatment under the Mental Health Act (MHA) 1983 where it is established that the nature and degree of mental illness or disorder is such that treatment in hospital is required, and available. Even where this is not the case, this policy cannot be used to further detain those who have mental health needs as there are established routes for management of prisoners with mental health needs that must be taken. For this policy to apply, the legal threshold and policy criteria mandate that there must be new and additional evidence or intelligence that there is an imminent and very high risk of serious harm to members of the public occasioned by the commission of specified offences (see 4.1) on release, which has become apparent since the prisoner was sentenced. Therefore, there must be a distinct risk that has arisen and does not satisfy the criteria for detention under the MHA, and where this cannot be safely managed in the community if relevant provision was in place. However, if there is an element of a prisoner's mental health which directly and significantly contributes to the risk they pose to the public or a named individual and this is not currently managed and cannot be managed in the community, in line with the legal and policy threshold, then this can be considered for submission to the HMPPS Panel Secretariat.

e) **Cases being submitted due to concerns over availability of services in the community.** There will be many cases where it may be challenging to ensure suitable provision, whether in relation to accommodation or treatment services, is available in time for the conditional release date. Applying this policy in such cases would potentially overwhelm the HMPPS Panel and undermine the purpose of the policy. In addition, it would effectively penalise a prisoner for factors beyond their control. Cases should not be submitted to the HMPPS Panel Secretariat under these circumstances.

f) **Undue pressure to submit cases due to their notoriety or dissatisfaction with the original sentence handed down.** Such cases may fall within the criteria for

CPPC or NSD, if appropriate, and would therefore be managed under these arrangements. Where they do not meet the CPPC or NSD criteria but remain subject to pressure, the expectation remains that they must meet all the eligibility criteria and the legal threshold set out in this policy in order to be submitted to the HMPPS Panel Secretariat.

6. Guidance

Deliverable plan

6.1 The deliverable plan at 4.12 and 4.38 sets out how any extra time served in prison will be used to reduce risk of harm. It is important that this plan identifies specific, achievable objectives and activities, such as a place on a particular course or offending behaviour programme which will commence within a reasonable amount of time, rather than simply setting high level aims i.e., complete violence reduction work. These objectives and activities must, therefore, be deliverable. This does not mean that risk reduction work is appropriate in all cases – it may be that the prisoner is not willing to engage, for example, or that they have already undertaken appropriate work. However, if there are appropriate and deliverable options reasonably available, they should be explored.

Identification

6.2 The first stage for considering and referring a case to the HMPPS Panel Secretariat is identifying a prisoner who is of sufficient concern and who meets the legal threshold and policy criteria. This will be identified through existing processes, by those responsible for the case at the time the new or emerging risk arises, or existing risk has escalated to a level thought to be unmanageable if the prisoner was to be released at their CRD.

6.3 Prisoners may be identified through two potential routes, depending on the point at which the relevant concerning behaviour materialises:

- prisoners who are referred to the existing OMiC EA. This route is applicable where their sentence length and intelligence collection timeframe allows referral into the process 12 months prior to release. Prisoners being considered under this policy may be referred to OMiC EA after the usual 18-month referral point for handover to the COM. Prisoners who are a terrorist risk and managed by risk assessment meetings may be identified via this route; or
- prisoners whose concerning behaviour materialises when they are managed by a COM (either because their short sentence required the prisoner to go straight to COM management or because their concerning behaviour materialised after the usual COM handover). It will also include young people still in the youth estate and prisoners who are a terrorist risk and managed by risk assessment meetings (who were not identified under the route above).

6.4 Eligible cases presenting a terrorist risk should be considered by the risk assessment meeting. If they decide a case is suitable for submission to the HMPPS Panel Secretariat, they will contact the COM to discuss and to offer a form of words (gist).

6.5 Under either route, the prisoner must be being managed at MAPPA Level 3 in order to be eligible for submission to the HMPPS Panel Secretariat. Note that MAPPA coordination must be in relation to the prisoner's original convictions or offending. Where a prisoner's

risk of serious harm upon release is not in relation to their original conviction or offending, the COM must arrange a bespoke information sharing meeting which includes all the services which attend a MAPPA Level 3 meeting. For the purposes of this policy, the prisoner will be considered to be managed at MAPPA Level 3 in this situation. Early consideration of MAPPA should be considered in line with the **MAPPA guidance**.

6.6 All OMiC EA, Critical Public Protection Cases and terrorist risk cases are considered for management by the NSD. Where the prisoner's case is referred to the NSD for triage, NSD will consider, alongside the Probation Delivery Unit (PDU), whether the case is sufficiently complex and high risk for them to take on management of it. The prisoner is then triggered for referral for management at MAPPA level 3 (or a bespoke MAPPA information sharing meeting). Following this deliberation, if the NSD take on case management they will, consider whether the case is one which requires reviewing by the HMPPS Panel to decide whether the prisoner meets the threshold for referral to the Parole Board. This decision must be made by the COM and/or RCTL in the first instance having considered all relevant information and countersigned by the HoNSU.

6.7 Where cases are not referred to NSD, or NSD choose not to manage them, Probation regions or YOTs must consider whether the prisoner meets the threshold for referral to the HMPPS Panel Secretariat, utilising feedback from Heads of Public Protection where appropriate. This decision must be made by the COM in the first instance having considered all relevant information and countersigned by the Head of Service.

Young People

6.8 Some young people are transferred to the adult estate when they turn 18 and spend the rest of their custody being managed as adult prisoners. However, some young people remain in the youth estate after turning 18 due to there being little time left to be served in custody. The key difference, with regard to the operation of this policy, is that these prisoners are likely to be managed by the YOTs as opposed to COMs who manage typical adult prisoners.

6.9 YJAF and Asset+ will be used in place of the OASys risk assessment for prisoners who will be under 18 years old when their case is considered and submitted to the HMPPS Panel for their consideration.

Suitability

6.10 Central to the decision on whether a case is eligible for referral to the HMPPS Panel Secretariat under this policy is the need to ensure there is new or additional information, over and above that available to the court at the time of sentencing. This information must give reasonable grounds for believing that the prisoner poses an imminent and very high (unmanageable) risk of serious harm to the public (or a known individual) on release occasioned by the commission of specified offences, as set out in the legal threshold (see 4.1), alongside the additional policy criteria and tests outlined in the requirements and from 4.4 to 4.13.

6.11 In passing an SDS following a prisoner's conviction for a particular offence, the Court has made a decision at that time that the prisoner was not dangerous, either because the offence did not attract a relevant sentence, or because the Court carried out an assessment of dangerousness and, having done so, decided that an SDS was appropriate. This dangerousness assessment requires the Court to consider all the information available to it about the nature and circumstances of the offence. The court may also consider information relating to past offending and whether there is a pattern of behaviour.

6.12 The first stage for considering and referring a case under this policy will be identifying a prisoner who is of sufficient concern and who meets the legal threshold. They will be identified through existing processes, by those responsible for the case at the time the new risk arises, or their risk has escalated. The prisoner must be being managed at MAPPA Level 3, to be eligible for submission to the HMPPS Panel Secretariat.

6.13 The new or additional information referenced at 6.10 may demonstrate a continuing pattern of behaviour which poses an imminent and very high risk of serious harm, but in a manner which is escalating, or may be evidence of new behaviour which is of significant concern. This behaviour may have escalated or arisen as a direct result of being imprisoned, e.g., through criminal or extremist influences in custody e.g., the risk of causing serious harm through committing further specified serious offences (the statutory test), must be something which can only be acted upon or fully materialise if the prisoner were released from prison. For example, a prisoner who is actively plotting to seriously harm or even kill an individual and has the means to do this on release (and not thought to be a risk that could be mitigated by licence conditions) but would not be able to carry this out while in prison.

6.14 There must be confidence that, where a prisoner is submitted to the HMPPS Panel Secretariat under this policy, the shorter-term reduction in risk to the public is not outweighed by a longer-term increase in risk. It may be that further detention under this policy may only be to secure public safety in the short term and no risk reduction or other offending behaviour work is thought to be of effective use. Alternatively, further risk reduction work may be of benefit; however, this should not be used as a reason for consideration of submission to the HMPPS Panel Secretariat. Referring a prisoner to the Parole Board under this policy will result in an offender spending less time in the community on licensed supervision, and this may have an impact on the prisoner's long-term risk. These potential impacts must be balanced with the shorter-term benefits in terms of public safety and must clearly be set out in the case presented to the HMPPS Panel via their Secretariat.

6.15 The submission of a case to the HMPPS Panel Secretariat should be made as near to the 12-month starting point (i.e., 12 months prior to CRD) as possible. After that 12-month point has passed, the submission process should begin as soon as there is sufficient reason to believe the legal threshold and policy requirements may be met to justify doing so. It is right that all parties involved, including the prisoner, have as much notice as possible if release is not going to be automatic. Early notice will increase transparency and procedural fairness.

6.16 As well as addressing how those responsible for managing the prisoner will work to reduce the prisoner's risk during the additional prison time, and inclusion of a risk management plan, ongoing risk management will remain important. A submission under this policy could have a damaging effect on relationships with the prisoner or cause the prisoner to disengage with identified interventions.

6.17 There is an assumption that the sort of new or additional evidence or intelligence triggering consideration under this policy will have also triggered a review of a prisoner's security category. This should, in principle, mean that prisoners considered under this policy are, therefore, located in closed conditions. However, if they are in an open prison, the expectation is that this would prompt a swift review of the prisoner's security category.

6.18 Critically, as is clear from the requirements section of this framework, the policy sets out that the power should be applied only where other risk management approaches to management of risk in the community have been assessed as insufficient to manage the

risk presented on release, as indicated by the new evidence or intelligence, and the power is considered the only remaining reasonable option.

Evidence to support case submission to the HMPPS Panel Secretariat

6.19 Evidence will be collated from a range of different sources, including intelligence from within prison and from the police and other partner agencies, to build a comprehensive picture of the nature and level of risk the prisoner presents. This must also include any exculpatory evidence which may lower the prisoner's assessed risk.

6.20 This would draw on existing sources of evidence and assessments, including risk assessments conducted in prison (e.g., the Extremism Risk Guidance 22+, the OASys risk assessment, ViSOR record, or MAPPA screening). Other sources of risk evidence would include those assessments around the prisoner's engagement and progress with offending behaviour programmes and interventions including theological and ideological interventions provided by specialist prison chaplains, violence reduction programmes or programmes aimed at those convicted of sexual offending.

6.21 The HMPPS Panel must have sufficient information to take a decision. When collating evidence, give full consideration as to whether you have provided adequate information upon which the HMPPS Panel can base their decision.

6.22 In some cases, there will be sensitive intelligence about the risk a prisoner presents, and this intelligence may play an important role in the case for submission to the HMPPS Panel under this policy. This may be possible to overcome to a level which appropriately satisfies procedural fairness, for instance in the form of a gist.

6.23 As far as possible, using non-disclosable evidence should be avoided. If the grounds for considering a prisoner dangerous and suitable for referral under this power solely consist of non-disclosable evidence, then a Ministry of Justice legal representatives should review the case and agree a legal strategy before the HMPPS Panel make their decision.

6.24 As described above, for the processes within this policy to be effective and used lawfully, prisoners must be given reasons as to why their conditional early release has been denied. In order to do so, the evidence used in these cases must be credible and predominantly overt and disclosable.

Submissions to the HMPPS Panel Secretariat

6.25 Referrals to the HMPPS Panel Secretariat will need to be concise yet well-evidenced and based on at least some disclosable evidence. The HMPPS Panel must be given all relevant material in order to take a decision, in a form which is sufficient to demonstrate accurately the content and credibility of the primary material. If a case is purely reliant on non-disclosable evidence, then it will not be deemed appropriate for the use of this policy.

6.26 Submissions should be made in conjunction with a deliverable plan which aims to reduce the prisoner's risk during the additional time spent in custody. This is to ensure that any submission would assist in achieving a reduction in the prisoner's risk in the long term as well as the short term.

6.27 The decision to refer a case to the HMPPS Panel Secretariat should be made no earlier than 12 months prior to the prisoner's conditional release date. This is to strike a balance between allowing enough time for the processes to occur (including the Parole Board hearing ideally taking place before the original conditional release date) and being confident that the risk posed by the prisoner is credible and imminent upon release.

6.28 After the 12-month point has passed, the referral process should begin as soon as there is sufficient reason to believe the legal threshold and policy criteria may be met to justify doing so. Prisoners will be notified of the decision to refer their case to the Parole Board, via the HMPPS Panel Secretariat, in line with the requirement at 4.44 and the guidance at 6.38 to and 6.40. All parties involved, including the prisoner, should have as much notice as possible if release is not going to be conditional but instead decided by the Parole Board.

6.29 In cases identified for submission to the HMPPS Panel Secretariat where the prisoner's conditional release date is imminent, the HMPPS Panel dossier must be collated as a priority and submitted to the HMPPS Panel Secretariat in enough time to allow the HMPPS Panel to consider the information provided ahead of the prisoner's conditional release date. If this is not possible, guidance should be sought from the HMPPS Panel Secretariat about how to proceed. Those managing the case and considering referral to the HMPPS Panel Secretariat should give full consideration as to what other mechanisms are available to manage the newly identified risks on release and decide if, on balance, submission under this policy is the most reasonable course of action considering the timeframes.

6.30 Heads of Service/HoNSU are responsible for ensuring that the reports (including the Power to Detain Report) submitted to the HMPPS Panel Secretariat are of sufficient quality for the HMPPS Panel to consider them. Heads of Service/HoNSU should ensure that the Power to Detain Report contains a full rationale for submission of the case to the HMPPS Panel Secretariat, and that the supporting reports are appropriately referenced with links made between new evidence/intelligence and increased risk.

HMPPS Panel and HMPPS Panel Secretariat

6.31 To ensure the quality and volume of cases being referred to the Parole Board are of an appropriate, consistent, and reasonable standard, a panel of senior HMPPS staff will act as the SSJ's representatives and will make the decision to refer cases to the Parole Board on his behalf.

6.32 The HMPPS Panel will comprise the HMPPS Lead Psychologist, Executive Director for Security and the Chief Probation Officer, or an appropriate senior representative in their absence. This provides a fair balance of perspectives from across HMPPS and ensures that, rightly, the decision as to whether a referral to the Parole Board under this policy should be used, sits squarely with the prison and probation services, on behalf of the SSJ.

6.33 The HMPPS Panel will consider cases against the legal threshold as set out in the PCSC Act 2022:

The Secretary of State is of the requisite opinion if the Secretary of State believes on reasonable grounds that the prisoner would, if released, pose a significant risk to members of the public of serious harm occasioned by the commission of any of the following offences—

(a) murder;
(b) specified offences, within the meaning of section 306 of the Sentencing Code.

6.34 The panel will perform a 'triage' function by assessing whether offenders meet the threshold to be referred to the Parole Board by applying the following criteria:

a) the prisoner will present a risk of serious harm to the public or a specified individual imminently on release (specified offences, within the meaning of section 306 of the Sentencing Code. See Annex B.);
b) there is evidence of this risk;

c) the risk cannot be managed effectively in the community using existing available means (even under very stringent licence conditions); and
d) a referral to the Parole Board is in the public interest (noting that further time in prison could cause the offender to be released without any period of management on licence).

6.35 To make this decision, the HMPPS Panel will consider a 'panel dossier' comprising of the mandatory reports listed at 4.37. The HMPPS Panel will consider the dossier presented and will decide whether they believe the prisoner meets the legal threshold and policy criteria (see 4.1 to 4.13) and should be referred to the Parole Board.

6.36 The HMPPS Panel does not need to consider all primary evidence relating to the prisoner; a summary of such evidence will be sufficient so long as it covers all relevant information and contains enough information to be able to make their decision. Those submitting cases will assess all the relevant information which relates to the prisoner and can inform the 'panel dossier' as part of their submission and will ensure they present a balanced view when composing their statement about why the prisoner warrants referral to the HMPPS Panel.

6.37 The HMPPS Panel Secretariat are based in the Public Protection Casework Section in HMPPS Public Protection Group and will ensure that all mandatory reports (including the Power to Detain Report) is received from the COM/YOT. The HMPPS Panel Secretariat will not be responsible for quality assurance of these documents as that responsibility will sit with Heads of Service/HoNSU ahead of submission of a case.

6.38 The HMPPS Panel Secretariat will ensure that the panel dossier is submitted to the HMPPS Panel for review and will be responsible for writing up the HMPPS Panel's decision and rationale for their decision. The HMPPS Panel Secretariat will also produce the letter (the Notice pursuant to section 244ZB(4) of the Criminal Justice Act 2003) notifying the prisoner in cases where the HMPPS Panel decide that a referral to the Parole Board is appropriate. The written notification to the prisoner must be produced and provided to the prisoner before the referral to the Parole Board takes place. The write up of the HMPPS Panel's decision and notification to the prisoner will take place within 2 working days of the HMPPS Panel Secretariat receiving the HMPPS Panel's decision. The letter to the prisoner must explain:

- the effect of the referral in relation to the prisoner's release;
- the SSJ's reasons for making the referral; and
- the prisoner's right to make representations to the HMPPS Panel (which can be made at any time up until the Parole Board makes a decision).

6.39 The notification to the prisoner must contain sufficient material for them to understand the HMPPS Panel's decision and why it was taken, and to be able to make representations to the HMPPS Panel. This means genuine and meaningful disclosure of any allegations, in the form of a gist if appropriate. Generic statements which do not tell a prisoner anything about the basis of the information upon which the HMPPS Panel have based their decision will not be adequate.

6.40 Prisoners must be notified of the HMPPS Panel's decision by a member of staff who is able to explain it to them in full: the POM, Key Worker or other member of the Offender Management Unit is appropriate. This must take place within 1 working day of receipt of the decision from the HMPPS Panel Secretariat, which will be received via the prison's Offender Management Unit. The member of staff notifying the prisoner should set out what the prisoner may expect to happen next i.e., that their case will be referred to the Parole Board who may decide to release or further detain them. It should also be explained that

the prisoner may submit representations against the HMPPS Panel's decision. **This will obviously be a difficult conversation to have with the prisoner and their wellbeing, and the safety and wellbeing of all involved (staff and prisoner), should be carefully considered when making this notification.**

6.41 The Notice overrides the prisoner's conditional release date. The HMPPS Panel must consider any representations made by the prisoner who will then have the opportunity to make representations to the SSJ up until the point the Parole Board makes a decision.

6.42 Referral to the Parole Board, in cases which are submitted to the HMPPS Panel Secretariat with a reduced amount of time before conditional release, will take place using an expedited generic parole process. This expedited process will be set depending on the individual circumstances of each case.

6.43 If the HMPPS Panel conclude that the prisoner no longer meets the legal threshold for referral to the Parole Board (either because of representations or other reasons), the HMPPS Panel Secretariat must issue notification to the prisoner within 2 working days (or immediately where the CRD has already passed) of receipt of the HMPPS Panel's decision to rescind. The prisoner must be notified of this, and that release will take place at their CRD, or immediately if that has passed, as described above – by the POM, Key Worker, or a member of the Offender Management Unit with sufficient knowledge to explain the decision to the prisoner, within 1 working day of receipt of the decision from the HMPPS Panel Secretariat (or immediately following receipt where immediate release must take place).

6.44 If the HMPPS Panel reject the case, the relevant COM/YOT will be notified by the HMPPS Panel Secretariat and case management will continue as before. The notification will set out the HMPPS Panel's rationale for rejecting the case.

6.45 Where the HMPPS Panel decide that referral to the Parole Board is appropriate, the HMPPS Panel Secretariat will commence the referral to the Parole Board in line with the Generic Parole Process only once the formal Notice to the prisoner has been issued and received - all information considered by the HMPPS Panel must be made available to the Parole Board. Where insufficient time is left prior to the prisoner's conditional release date, shorter timeframes for provision of mandatory reports may be set to enable timely progression of the case.

6.46 Where the Parole Board does not direct the release of the prisoner, the SSJ must refer that prisoner to the Parole Board again no later than the first anniversary of the Parole Board's decision, and then annually thereafter, until the full expiration of the sentence. At this point release must take place.

Annex A

This annex describes how to apply the power to detain to offenders serving multiple sentences, and at what point the referral can be applied.

Once the referral points referenced below have passed, the prisoner is no longer eligible for the process to be applied to them. Once the prisoner is released on licence, they are no longer eligible for the process to be applied to them – the below examples assume the prisoner continues to be detained up until the relevant CRD.

Concurrent sentences

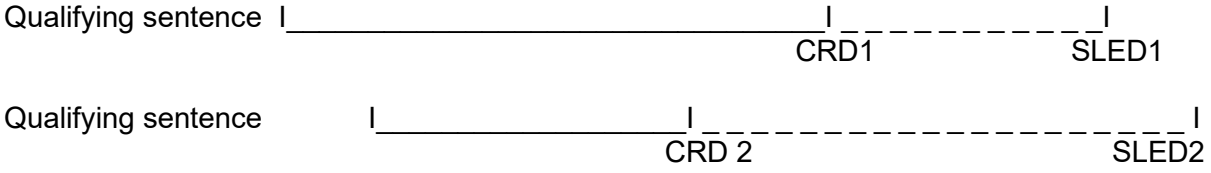
1. For prisoners who meet the legal threshold who are serving concurrent sentences where all the sentences are qualifying sentences, the referral cut-off is the latest CRD and conclusion of the process will apply to the latest SLED, in line with concurrent sentencing principles. See example 1.

2. Prisoners who meet the legal threshold who are serving concurrent qualifying and non-qualifying sentences, where the CRD of the non-qualifying sentence falls before the CRD of the qualifying sentence, will be considered under this policy, and the referral requirement will attach to the CRD of the qualifying sentence – this is because the prisoner will not have been considered by the Board owing to the later CRD on the qualifying sentence, and will not be eligible at any point to be considered by the Board on the custodial term of their non-qualifying sentence. See example 2.

3. In example 2, where the SLED from the qualifying sentence falls before the SLED of the non-qualifying sentence, prisoners must not be detained past the SLED of the qualifying sentence. In these circumstances, if the Parole Board has not decided to release prior to SLED, release on the qualifying SLED will take place and the prisoner will be on licence to the SLED of the non-qualifying sentence. Where the SLED for the non-qualifying sentence falls before the SLED for the qualifying sentence, the prisoner must be detained until the later SLED unless the Board release them on licence before this - see example 3.

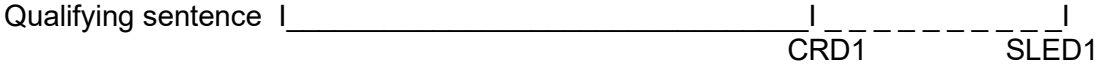
4. Where a prisoner's CRD for their qualifying sentence falls before the CRD for the non-qualifying sentence, the first CRD will be converted to a PED and the prisoner will be referred to the Parole Board if they meet the criteria for use of this policy. See example 4.

Example 1



- If evidence to apply this policy, CRD1 becomes the PED.
- If no parole granted, prisoner not entitled to be released before SLED2

Example 2



EDS/SOPC sentence I_________I_________I _I
PED 2 CRD 2 SLED2

- Because the CRD of the qualifying sentence is later than the PED2 and CRD2 of the concurrent EDS/SOPC, there will be no parole consideration on the EDS/SOPC as the prisoner cannot be physically released until CRD1.
- If evidence to apply this policy, CRD1 becomes a PED. If parole is not granted, then conditional release would take place at SLED1.
- Release would be on the extant licence in respect of the EDS/SOPC to SLED 2

Example 3

Qualifying sentence I_______________________________I _ _ _ _ _ _ _ _ _ _ _ _ _ _ I
CRD1 SLED1

EDS/SOPC sentence I __________I_________I _ _ _ _ _ _ _ _ _ _ _ _ _ _ I
PED 2 CRD 2 SLED2

- Because the CRD of the qualifying sentence is later than the PED2 and CRD2 of the concurrent EDS/SOPC, there will be no parole consideration on the EDS/SOPC as the prisoner cannot be physically released until CRD1.
- If evidence to apply this policy, CRD1 becomes a PED. If parole is not granted, then conditional release would take place at SLED1.
- Release would be unconditional as there is no extant licence period at that point.

Example 4

Qualifying sentence I_____________________________I _ _ _ _ _ _ _ _ _ _ _ _I
CRD1 SLED1

EDS/SOPC sentence I_______________I__________________I _ _ _ _ __ _ _ __I
PED2 CRD2 SLED2

- CRD1 would default to a PED as that is the earliest point parole could be granted on the EDS/SOPC.
- If no evidence to apply this policy, CRD1 would be a normal parole review and, if not granted parole, conditional release would be at CRD2.
- If evidence to apply this policy, CRD1 would be a parole review under the new process.
- If parole is not granted under the new process, the prisoner would be liable to be detained until SLED1.
- Release would be on the extant licence in respect of the EDS/SOPC to SLED 2.

Example 5

Qualifying sentence I__________________I _I
CRD1 SLED1

EDS/SOPC sentence I__________________I_____________I _ _ _ _ _ _ _ _ __I
PED2 CRD2 SLED2

- CRD1 is overridden by CRD2 with parole considered at PED2.
- If no evidence to apply this policy, PED2 would be a normal parole review and, if not granted parole, conditional release would be at CRD2.
- If evidence to apply this policy, PED2 would be a parole review under the new process.
- If parole is not granted under this policy, the prisoner would be liable to be detained until SLED1.
- Release would be unconditional as there is no extant licence period at that point

Consecutive sentences

5. For prisoners who meet the legal threshold who are serving consecutive sentences, where all the sentences are qualifying sentences, the referral will apply to the aggregate CRD and conclusion of the process will apply to the latest SLED, in line with consecutive sentencing principles.

6. For prisoners who meet the legal threshold who are serving consecutive sentences, where at least one but not all the sentences are qualifying sentences, the referral will apply to the latest CRD, and conclusion of the process will apply to the latest SLED, in line with consecutive sentencing principles.

Example 6

Qualifying sentence with
consecutive EDS/SOPC sentence I_____I_____I _ _ _ _ _ _ _ _ _ _I
PED CRD SLED

- Parole is considered at the effective PED of the aggregate, if no evidence to meet new process criteria and release is granted, the prisoner will be on licence until SLED of the aggregate.
- If parole refused, but no evidence to meet new process criteria, release will take place at the effective CRD of the aggregate.
- If evidence to apply this policy after parole refused at PED, CRD becomes new PED.
- If no parole granted, prisoner is liable to be detained until SLED.

7. Where the policy is applied, Prison-NOMIS overrides should be utilised; the prisoner's SLED will become their CRD and the CRD becomes the PED. For example:

	Calculated	**Override**
CRD	28/09/2021	
PED		
NPD		
LED	20/10/2024	
PRRD		
SED	20/10/2024	

Where the policy applied, the key dates would need to be overridden and the screen would show:

	Calculated	Override
CRD	28/09/2021	20/10/2024
PED		28/09/2021
NPD		
LED	20/10/2024	
PRRD		
SED	20/10/2024	

Annex B

SCHEDULE 18 SPECIFIED OFFENCES FOR PURPOSES OF SECTION 306

Section 306

Part 1 Specified Violent Offences

Common law offences

1

Manslaughter.

2

Kidnapping.

3

False imprisonment.

Offences against the Person Act 1861

4

An offence under any of the following provisions of the Offences against the Person Act 1861—

(a) section 4 (soliciting murder);

(b) section 16 (threats to kill);

(c) section 18 (wounding with intent to cause grievous bodily harm);

(d) section 20 (malicious wounding);

(e) section 21 (attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence);

(f) section 22 (using chloroform etc to commit or assist in the committing of any indictable offence);

(g) section 23 (maliciously administering poison etc so as to endanger life or inflict grievous bodily harm);

(h) section 27 (abandoning children);

(i) section 28 (causing bodily injury by explosives);

(j) section 29 (using explosives etc with intent to do grievous bodily harm);

(k) section 30 (placing explosives with intent to do bodily injury);

(l) section 31 (setting spring guns etc with intent to do grievous bodily harm);

(m) section 32 (endangering the safety of railway passengers);

(n) section 35 (injuring persons by furious driving);

(o) section 37 (assaulting officer preserving wreck);

(p) section 38 (assault with intent to resist arrest);

(q) section 47 (assault occasioning actual bodily harm).

Explosive Substances Act 1883

5

An offence under any of the following provisions of the Explosive Substances Act 1883—

(a) section 2 (causing explosion likely to endanger life or property);

(b) section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property);

(c) section 4 (making or possession of explosive under suspicious circumstances).

[(d) section 5 (punishment of accessories to offences of causing or attempting to cause explosions or making or possessing explosives) in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force.]

Infant Life (Preservation) Act 1929

6

An offence under section 1 of the Infant Life (Preservation) Act 1929 (child destruction).

Children and Young Persons Act 1933

7

An offence under section 1 of the Children and Young Persons Act 1933 (cruelty to children).

Infanticide Act 1938

8

An offence under section 1 of the Infanticide Act 1938 (infanticide).

Firearms Act 1968

9

An offence under any of the following provisions of the Firearms Act 1968—

(a) section 16 (possession of firearm with intent to endanger life);

(b) section 16A (possession of firearm with intent to cause fear of violence);

(c) section 17(1) (use of firearm to resist arrest);

(d) section 17(2) (possession of firearm at time of committing or being arrested for offence specified in Schedule 1 to that Act);

(e) section 18 (carrying a firearm with criminal intent).

Theft Act 1968

10

An offence under any of the following provisions of the Theft Act 1968—

(a) section 8 (robbery or assault with intent to rob);

(b) section 9, where the offence is burglary with intent to—

(i) inflict grievous bodily harm on a person, or

(ii) do unlawful damage to a building or anything in it;

(c) section 10 (aggravated burglary);

(d) section 12A (aggravated vehicle-taking), where the offence involves an accident which caused the death of any person.

Criminal Damage Act 1971

11

(1) An offence of arson under section 1 of the Criminal Damage Act 1971.

(2) An offence under section 1(2) of that Act (destroying or damaging property) other than an offence of arson.

[*Biological Weapons Act 1974*

11A

An offence under section 1 of the Biological Weapons Act 1974 (developing certain biological agents and toxins or biological weapons) in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force.]

Taking of Hostages Act 1982

12

An offence under section 1 of the Taking of Hostages Act 1982 (hostage-taking).

Aviation Security Act 1982

13

An offence under any of the following provisions of the Aviation Security Act 1982—

(a) section 1 (hijacking);

(b) section 2 (destroying, damaging or endangering safety of aircraft);

(c) section 3 (other acts endangering or likely to endanger safety of aircraft);

(d) section 4 (offences in relation to certain dangerous articles).

[(e) section 6(2) (inducing or assisting the commission of offences relating to safety of aircraft) in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force.]

[*Nuclear Material (Offences) Act 1983*

13A

An offence under either of the following provisions of the Nuclear Material (Offences) Act 1983 in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force—

(a) section 1B (offences relating to damage to the environment);

(b) section 2 (preparatory acts and threats).]

Mental Health Act 1983

14

An offence under section 127 of the Mental Health Act 1983 (ill-treatment of patients).

Prohibition of Female Circumcision Act 1985

15

An offence under section 1 of the Prohibition of Female Circumcision Act 1985 (prohibition of female circumcision).

Public Order Act 1986

16

An offence under any of the following provisions of the Public Order Act 1986—

(a) section 1 (riot);

(b) section 2 (violent disorder);

(c) section 3 (affray).

Criminal Justice Act 1988

17

An offence under section 134 of the Criminal Justice Act 1988 (torture).

Road Traffic Act 1988

18

An offence under any of the following provisions of the Road Traffic Act 1988—

(a) section 1 (causing death by dangerous driving);

(b) section 3ZC (causing death by driving: disqualified drivers);

(c) section 3A (causing death by careless driving when under influence of drink or drugs).

Aviation and Maritime Security Act 1990

19

An offence under any of the following provisions of the Aviation and Maritime Security Act 1990—

(a) section 1 (endangering safety at aerodromes);

(b) section 9 (hijacking of ships);

(c) section 10 (seizing or exercising control of fixed platforms);

(d) section 11 (destroying fixed platforms or endangering their safety);

(e) section 12 (other acts endangering or likely to endanger safe navigation);

(f) section 13 (offences involving threats).

[(g) section 14(4) (inducing or assisting the commission of offences relating to hijacking of ships, or destroying ships or fixed platforms or endangering their safety) in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force.]

Channel Tunnel (Security) Order 1994

20

An offence under Part 2 of the Channel Tunnel (Security) Order 1994 (SI 1994/570) (offences relating to Channel Tunnel trains and the tunnel system).

[*Chemical Weapons Act 1996*

20A

An offence under either of the following provisions of the Chemical Weapons Act 1996 in a case where the offender is convicted on or after the day on which section 15 of the Counter-Terrorism and Sentencing Act 2021 comes into force—

(a) section 2 (use etc of chemical weapons);

(b) section 11 (premises or equipment used for producing chemical weapons).]

Protection from Harassment Act 1997

21

An offence under section 4 or 4A of the Protection from Harassment Act 1997 (putting people in fear of violence and stalking involving fear of violence or serious alarm or distress).

Crime and Disorder Act 1998

22

(1) An offence under section 29 of the Crime and Disorder Act 1998 (racially or religiously aggravated assaults).

(2) An offence falling within section 31(1)(a) or (b) of that Act (racially or religiously aggravated offences under section 4 or 4A of the Public Order Act 1986).

International Criminal Court Act 2001

23

An offence under section 51 or 52 of the International Criminal Court Act 2001 (genocide, crimes against humanity, war crimes and related offences), other than one involving murder.

Female Genital Mutilation Act 2003

24

An offence under any of the following provisions of the Female Genital Mutilation Act 2003—

(a) section 1 (female genital mutilation);

(b) section 2 (assisting a girl to mutilate her own genitalia);

(c) section 3 (assisting a non-UK person to mutilate overseas a girl's genitalia).

Domestic Violence, Crime and Victims Act 2004

25

An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing a child or vulnerable adult to die or suffer serious physical harm).

[*Serious Crime Act 2015*

25A

An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).]

Modern Slavery Act 2015

26

(1) An offence under section 1 of the Modern Slavery Act 2015 (slavery, servitude and forced or compulsory labour).

(2) An offence under section 2 of that Act (human trafficking) which is not within Part 2 of this Schedule.

Inchoate offences

27

An inchoate offence (see section 398) in relation to an offence specified in any of the preceding paragraphs of this Part of this Schedule.

28

An inchoate offence in relation to murder.

Part 2 Specified Sexual Offences

Sexual Offences Act 1956

29

An offence under any of the following provisions of the Sexual Offences Act 1956—

(a) section 1 (rape);

(b) section 2 (procurement of woman by threats);

(c) section 3 (procurement of woman by false pretences);

(d) section 4 (administering drugs to obtain or facilitate intercourse);

(e) section 5 (intercourse with girl under 13);

(f) section 6 (intercourse with girl under 16);

(g) section 7 (intercourse with a defective);

(h) section 9 (procurement of a defective);

(i) section 10 or 11 (incest);

(j) section 14 (indecent assault on a woman);

(k) section 15 (indecent assault on a man);

(l) section 16 (assault with intent to commit buggery);

(m) section 17 (abduction of woman by force or for the sake of her property);

(n) section 19 (abduction of unmarried girl under 18 from parent or guardian);

(o) section 20 (abduction of unmarried girl under 16 from parent or guardian);

(p) section 21 (abduction of defective from parent or guardian);

(q) section 22 (causing prostitution of women);

(r) section 23 (procuration of girl under 21);

(s) section 24 (detention of woman in brothel);

(t) section 25 (permitting girl under 13 to use premises for intercourse;

(u) section 26 (permitting girl under 16 to use premises for intercourse);

(v) section 27 (permitting defective to use premises for intercourse);

(w) section 28 (causing or encouraging prostitution of, intercourse with, or indecent assault on, girl under 16);

(x) section 29 (causing or encouraging prostitution of defective);

(y) section 32 (soliciting by men);

(z) section 33A (keeping a brothel used for prostitution).

Mental Health Act 1959

30

An offence under section 128 of the Mental Health Act 1959 (sexual intercourse with patients).

Indecency with Children Act 1960

31

An offence under section 1 of the Indecency with Children Act 1960 (indecent conduct towards young child).

Sexual Offences Act 1967

32

An offence under either of the following provisions of the Sexual Offences Act 1967—

(a) section 4 (procuring others to commit homosexual acts);

(b) section 5 (living on earnings of male prostitution).

Theft Act 1968

33

An offence under section 9 of the Theft Act 1968 of burglary with intent to commit rape.

Criminal Law Act 1977

34

An offence under section 54 of the Criminal Law Act 1977 (inciting girl under 16 to have incestuous sexual intercourse).

Protection of Children Act 1978

35

An offence under section 1 of the Protection of Children Act 1978 (indecent photographs of children).

Customs and Excise Management Act 1979

36

An offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (indecent or obscene articles).

Criminal Justice Act 1988

37

An offence under section 160 of the Criminal Justice Act 1988 (possession of indecent photograph of a child).

Sexual Offences Act 2003

38

An offence under any of the following provisions of the Sexual Offences Act 2003—

(a) section 1 (rape);

(b) section 2 (assault by penetration);

(c) section 3 (sexual assault);

(d) section 4 (causing a person to engage in sexual activity without consent);

(e) section 5 (rape of a child under 13);

(f) section 6 (assault of a child under 13 by penetration);

(g) section 7 (sexual assault of a child under 13);

(h) section 8 (causing or inciting a child under 13 to engage in sexual activity);

(i) section 9 (sexual activity with a child);

(j) section 10 (causing or inciting a child to engage in sexual activity);

(k) section 11 (engaging in sexual activity in the presence of a child);

(l) section 12 (causing a child to watch a sexual act);

(m) section 13 (child sex offences committed by children or young persons);

(n) section 14 (arranging or facilitating commission of a child sex offence);

(o) section 15 (meeting a child following sexual grooming etc);

(p) section 15A (sexual communication with a child);

(q) section 16 (abuse of position of trust: sexual activity with a child);

(r) section 17 (abuse of position of trust: causing or inciting a child to engage in sexual activity);

(s) section 18 (abuse of position of trust: sexual activity in the presence of a child);

(t) section 19 (abuse of position of trust: causing a child to watch a sexual act);

(u) section 25 (sexual activity with a child family member);

(v) section 26 (inciting a child family member to engage in sexual activity);

(w) section 30 (sexual activity with a person with a mental disorder impeding choice);

(x) section 31 (causing or inciting a person with a mental disorder impeding choice to engage in sexual activity);

(y) section 32 (engaging in sexual activity in the presence of a person with a mental disorder impeding choice);

(z) section 33 (causing a person with a mental disorder impeding choice to watch a sexual act);

(aa) section 34 (inducement, threat or deception to procure sexual activity with a person with a mental disorder);

(ab) section 35 (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception);

(ac) section 36 (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder);

(ad) section 37 (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception);

(ae) section 38 (care workers: sexual activity with a person with a mental disorder);

(af) section 39 (care workers: causing or inciting sexual activity);

(ag) section 40 (care workers: sexual activity in the presence of a person with a mental disorder);

(ah) section 41 (care workers: causing a person with a mental disorder to watch a sexual act);

(ai) section 47 (paying for sexual services of a child);

(aj) section 48 (causing or inciting sexual exploitation of a child);

(ak) section 49 (controlling a child in relation to sexual exploitation);

(al) section 50 (arranging or facilitating sexual exploitation of a child);

(am) section 52 (causing or inciting prostitution for gain);

(an) section 53 (controlling prostitution for gain);

(ao) section 57 (trafficking into the UK for sexual exploitation);

(ap) section 58 (trafficking within the UK for sexual exploitation);

(aq) section 59 (trafficking out of the UK for sexual exploitation);

(ar) section 59A (trafficking for sexual exploitation);

(as) section 61 (administering a substance with intent);

(at) section 62 (committing an offence with intent to commit a sexual offence);

(au) section 63 (trespass with intent to commit a sexual offence);

(av) section 64 (sex with an adult relative: penetration);

(aw) section 65 (sex with an adult relative: consenting to penetration);

(ax) section 66 (exposure);

(ay) section 67 (voyeurism);

(az) section 69 (intercourse with an animal);

(ba) section 70 (sexual penetration of a corpse).

Modern Slavery Act 2015

39

An offence under section 2 of the Modern Slavery Act 2015 (human trafficking) committed with a view to exploitation that consists of or includes behaviour within section 3(3) of that Act (sexual exploitation).

Inchoate offences

40

An inchoate offence (see section 398) in relation to any offence specified in this Part of this Schedule.

Part 3 Specified Terrorism Offences

Terrorism Act 2000

41

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 support for a proscribed organisation);

(c) section 54 (weapons training);

(d) section 56 (directing terrorist organisation);

(e) section 57 (possession of article for terrorist purposes);

(f) section 58 (collection of information likely to be of use to a terrorist);

(g) section 58A (publishing information about members of the armed forces);

(h) section 58B (entering or remaining in a designated area);

(i) section 59 (inciting terrorism overseas).

Anti-terrorism, Crime and Security Act 2001

42

An offence under any of the following provisions of the Anti-terrorism, Crime and Security Act 2001—

(a) section 47 (use etc of nuclear weapons);

(b) section 50 (assisting or inducing certain weapons-related acts overseas);

(c) section 113 (use of noxious substance or thing to cause harm or intimidate).

Terrorism Act 2006

43

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 5 (preparation of terrorist acts);

(d) section 6 (training for terrorism);

(e) section 8 (attendance at a place used for terrorist training);

(f) section 9 (making or possession of radioactive device or material);

(g) section 10 (misuse of radioactive device or material for terrorist purposes etc);

(h) section 11 (terrorist threats relating to radioactive devices etc).

Inchoate offences

44

An inchoate offence (see section 398) in relation to any offence specified in this Part of this Schedule.