



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: 08 January 2026

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 - GOV.UK](#) (Issued July 2021)
- 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)
Jan 2026	Updated to reflect changes the storage and retention arrangements for polygraph audio-video recordings

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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 and recall reports 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.
- Probation practitioners use the information from examinations to improve management of such cases.

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

- Polygraph examinations and data are 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 National Security Division (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;

4.6 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.

4.7 Probation practitioners should contact the central referrals unit at polygraph@justice.gov.uk 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.

4.8 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

4.9 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.

After the legal requirements are met, the individual must also meet certain policy requirements to be eligible for a polygraph testing licence condition (See Appendix 9 Polygraph eligibility flowchart).

Terrorist/Terrorist connected offending

4.10 Individuals convicted of terrorist/terrorist connected offences who meet both the legal and policy criteria set out below are described as mandatory and the probation practitioner must request the polygraph licence condition be added to their licence.

Legal criteria:

- Individuals aged 18 or over
- 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 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).[1] For example, someone who was convicted of murder, but where the motivation was terrorism;

HMPPS policy criteria:

- Currently serving a custodial sentence of 12 months or more for at least one polygraph eligible offence
- Assessed as very high or high risk of harm on OASys
- A completed ERG 22+

Sexual Offending

4.11 People convicted of sexual offences who meet the legal criteria for the polygraph licence condition may be eligible for testing on either a mandatory or discretionary basis. Where a probation practitioner identifies that someone meets the legal criteria they must then determine if they meet the HMPPS policy criteria.

Individuals who meet all the policy criteria set out in 4.12 are described as **mandatory** and the probation practitioner **must request** the polygraph licence condition be added to their licence.

Individuals who meet the legal criteria but not all of the policy criteria, in certain circumstances may be eligible to be referred on a **discretionary** basis as set out in 4.15.

Legal criteria

- Individuals aged 18 or over ;
- 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(relevant sexual offences); 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)

HMPPS policy criteria - mandatory cases

4.12 Probation practitioners **must request** a polygraph examination licence condition for individuals who meet the legal criteria and also meet the following policy criteria;

- Currently serving a custodial sentence of 12 months or more for at least one polygraph eligible offence (please see para 4.17 for guidance on individuals given consecutive sentences)
- Assessed as very high or high risk of harm on OASys
- Assessed as **high** or **very high** risk of sexual reoffending using **OSP/DC**

Individuals without an OSP/DC score

4.13 Any individual whose legal gender is recorded as female in OASys will not have OASys Sexual reoffending Predictor (OSP) risk scores. In such cases, the probation practitioner **must consider** whether the polygraph licence condition is necessary and proportionate to manage the risk posed. The decision should be based on whether the individual poses a high or very high risk of **sexual** reoffending and harm. To support this assessment, the practitioner should use the three additional sexual offending questions in OASys.

4.14 The polygraph examiner must be responsible for approving referrals in these instances.

Discretionary testing for people with sexual convictions

4.15 Where the legal criteria are met, but the HMPPS policy criteria are not all met, there is scope for certain individuals 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 are assessed as low or medium risk of reoffending 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. The decision must be made on a case-by-case basis, and evidence of one or more of the following criteria must be met:

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

4.16 Prior to requesting a licence condition in a parole report or PD1, the probation practitioner must complete the referral form, setting out the evidence and their rationale for why polygraph testing is necessary and proportionate.

The final decision regarding discretionary testing will be the responsibility of the polygraph examiner who will submit their decision and rationale to the Central Referrals Unit. The probation practitioner must receive a confirmation email from the central referral unit confirming the referral is accepted before requesting the condition is added.

Consecutive sentences – Terrorist/Terrorist connected and Sexual Offending

4.17 When individuals convicted of sexual offences have not been sentenced to 12 months or more for a polygraph eligible offence but have been given consecutive custodial sentences that total over 12 months, they can 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 4.15).

For example, if someone is given 8 months for a sexual assault to run consecutively to a sentence of 8 months for an offence of 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.

4.18 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.

The polygraph examiner is responsible for making the final decision to accept the referrals. 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 individual will not be eligible for polygraph.

Exceptional cases

4.19 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.

Individuals under the age of 18

Legislation does not allow for polygraph examinations to be used with any individual who was released whilst under the age of 18, 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.

Restricted transfers and repatriation

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 individual is sentenced in a military court – but only where the individual is serving their sentence in a civilian prison.

The referral process:

4.20 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 - [CRI009 Polygraph Examination v2.2.pdf](#)
- 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 Unit confirming the referral has been accepted or rejected.

4.21 At the earliest opportunity after the probation practitioner has confirmed that the referral has been accepted, they must contact 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

4.22 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:

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.

4.23 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

4.24 There are cases where a PCoSO 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 paragraph 4.15 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.

4.25 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 polygraph central referral unit secure mailbox in order for the condition to be requested.

4.26 For individuals released by the Parole Board, the probation practitioner must confirm to the polygraph central referral unit secure mailbox that the individual has been released within 5 working days.

4.27 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

4.28 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.

4.29 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

4.30 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

4.31 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.

4.32 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.

4.33 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.

4.34 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.

Examination arrangements

4.35 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 4.38) 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 for example to a named colleague or Senior Probation Officer.

4.36 Having completed the examination; the examiner must prepare the polygraph report within five working days of the examination and upload it on NDelius. The examiner must add the **‘Polygraph report complete – action required’** contact on NDelius. This will notify the PP that the polygraph report is available and requires action to be taken.

4.37 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”.

4.38 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 timeframe for the next examination.

Setting questions for the polygraph examination

4.39 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.

4.40 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

4.41 As well as being fit for the examination (see paragraph 4.49), 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.

4.42 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.

4.43 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.

4.44 Each examination will include:

- Recording of the entire session using audio-visual equipment. This will be reviewed by the examiner to enable them to accurately record any disclosures made within the polygraph report (See 4.87-4.93 for further information)
- 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 individuals' physiological responses are placed on the individual. This is a short phase 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.

4.45 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.

4.46 Examinations can only be undertaken using Lafayette³ equipment, as approved by the Secretary of State.

4.47 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

4.48 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.

4.49 Examiners must complete an assessment of suitability. This 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

4.50 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.

³ 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.

4.51 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.

4.52 If evidence is required to determine suitability, for example medical evidence to confirm a specific health condition, the probation practitioner must obtain the evidence, and the licence condition must remain in place until such time that suitability has been determined. 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 who will remove the polygraph licence condition. The probation practitioner 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.

4.53 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

4.54 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

4.55 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.

4.56 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. Probation practitioners must also consider any impact on risk to self and where necessary consult with a manager about relevant safety planning as part of the risk management process.

4.57 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

4.58 The probation practitioner must alert the relevant police offender manager to the fact that a PCoSO has a polygraph condition on their licence. The polygraph examiner will upload the polygraph report to NDelius within 5 working days of the examination taking place and will select the 'add to ViSOR' box to ensure the report can be copied and pasted into the ViSOR system.

4.59 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.

4.60 Where there is an indication that the risk of harm to others has increased, information must be shared with the police immediately following the post-polygraph examination three-way meeting (see 4.55) 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 NDelius by the examiner within five working days of the examination and flagged to add to ViSOR. 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

4.61 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.

4.62 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 and record their decision making on NDelius.

4.63 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.

4.64 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.

4.65 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

4.66 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.

4.67 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.

4.68 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.

4.69 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.

4.70 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.

4.71 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.

4.72 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

4.73 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).

4.74 If the individual subject to mandatory testing has been recalled to custody, and the polygraph licence condition remains part of the risk management plan on re-release, the probation practitioner will need to notify the Central Referrals Unit of the release date and testing will resume. For discretionary cases the probation practitioner must submit a new referral to the Central Referrals Unit setting out the evidence supporting the discretionary criteria is still met and their rationale for why polygraph testing is necessary and proportionate.

4.75 Where a PCSO 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.

4.76 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 4.9 - 4.12 polygraph examination eligibility criteria.

Oral Hearings

4.77 In some cases that are referred to the Parole Board for consideration of release, 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 direct any further polygraph information the Probation Practitioner must in the first instance contact the polygraph examiner to discuss. 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'.

4.78 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.

4.79 It should be noted that not all Parole Board members 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

4.80 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.

4.81 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 3.92 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.

4.82 The probation practitioner must inform the central referrals unit within five days of a polygraph condition being removed from an individual's licence.

Concurrent sentences

4.83 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

4.84 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.

4.85 If the individual has been recalled to custody and will still be eligible, and licence condition remains on the licence for the polygraph condition on re-release,

4.86 The probation practitioner must inform the central referrals unit within five days of a polygraph condition being removed from an individual's licence.

Recording of information

4.87 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.

4.88 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.

Management of polygraph data

4.89 The processing of personal data under this Policy Framework must be done in accordance with the Data Protection Act 2018/UK General Data Protection Regulation, as set out in the Records Information Management Policy PSI 04/2018. Access to the information relating to this Policy Framework and other related information will also be considered under The Freedom of Information Act 2000, and Environmental Information Regulations 2004).

Polygraph reports

4.90 Once produced, the polygraph report written by the polygraph examiner, will be uploaded onto NDelius, for use by the probation practitioner. Polygraph reports will be stored and retained in line with the Offender record as set out in the Information Management Policy Framework.

Storage and Retention of Polygraph Audio-Video recordings

4.91 Polygraph examiners are required to store polygraph files in the Probation shared data area. The polygraph examiner must delete the audio-video recording of the polygraph session within one calendar month after the test, once the polygraph report is complete.

4.92 One recording per calendar month must be retained by each polygraph examiner for the purposes of supervision and professional development. This recording must be deleted by the Polygraph Examiner six months after the date of the test.

4.93 Polygraph video/audio recordings retained for the purposes of polygraph examiner supervision are anonymised and must only be viewed at HMPPS sites or played (not shared) by the Polygraph Examiner during a virtual supervision session using Microsoft Teams.

Data access requests

4.94 Any requests from "data subjects" for access to their polygraph report or polygraph audio/video recording must 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.

4.95 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 Region 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).

4.96 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.

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 in terrorism and terrorism-related cases.

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

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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 (procurement of girl under twenty-one).

85 An offence under section 24 of that Act (detention of woman in brothel).

86 An offence under section 25 of that Act (permitting girl under thirteen to use premises for intercourse).

87 An offence under section 26 of that Act (permitting girl under sixteen to use premises for intercourse).

88 An offence under section 27 of that Act (permitting defective to use premises for intercourse).

89 An offence under section 28 of that Act (causing or encouraging the prostitution of, intercourse with or indecent assault on girl under sixteen).

90 An offence under section 29 of that Act (causing or encouraging prostitution of defective).

91 An offence under section 32 of that Act (soliciting by men).

92 An offence under section 33 of that Act (keeping a brothel).

93 An offence under section 128 of the Mental Health Act 1959 (c. 72) (sexual intercourse with patients).

94 An offence under section 1 of the Indecency with Children Act 1960 (c. 33) (indecent conduct towards young child).

95 An offence under section 4 of the Sexual Offences Act 1967 (c. 60) (procuring others to commit homosexual acts).⁴

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).

⁴ '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.'

- 102 An offence under section 1 of the Sexual Offences Act 2003 (c. 42) (rape).
- 103 An offence under section 2 of that Act (assault by penetration).
- 104 An offence under section 3 of that Act (sexual assault).
- 105 An offence under section 4 of that Act (causing a person to engage in sexual activity without consent).
- 106 An offence under section 5 of that Act (rape of a child under 13).
- 107 An offence under section 6 of that Act (assault of a child under 13 by penetration).
- 108 An offence under section 7 of that Act (sexual assault of a child under 13).
- 109 An offence under section 8 of that Act (causing or inciting a child under 13 to engage in sexual activity).
- 110 An offence under section 9 of that Act (sexual activity with a child).
- 111 An offence under section 10 of that Act (causing or inciting a child to engage in sexual activity).
- 112 An offence under section 11 of that Act (engaging in sexual activity in the presence of a child).
- 113 An offence under section 12 of that Act (causing a child to watch a sexual act).
- 114 An offence under section 13 of that Act (child sex offences committed by children or young persons).
- 115 An offence under section 14 of that Act (arranging or facilitating commission of a child sex offence).
- 116 An offence under section 15 of that Act (meeting a child following sexual grooming etc.).
- 117 An offence under section 16 of that Act (abuse of position of trust: sexual activity with a child).
- 118 An offence under section 17 of that Act (abuse of position of trust: causing or inciting a child to engage in sexual activity).
- 119 An offence under section 18 of that Act (abuse of position of trust: sexual activity in the presence of a child).
- 120 An offence under section 19 of that Act (abuse of position of trust: causing a child to watch a sexual act).
- 121 An offence under section 25 of that Act (sexual activity with a child family member).
- 122 An offence under section 26 of that Act (inciting a child family member to engage in sexual activity).
- 123 An offence under section 30 of that Act (sexual activity with a person with a mental disorder impeding choice).

124 An offence under section 31 of that Act (causing or inciting a person with a mental disorder impeding choice to engage in sexual activity).

125 An offence under section 32 of that Act (engaging in sexual activity in the presence of a person with a mental disorder impeding choice).

126 An offence under section 33 of that Act (causing a person with a mental disorder impeding choice to watch a sexual act).

127 An offence under section 34 of that Act (inducement, threat or deception to procure sexual activity with a person with a mental disorder).

128 An offence under section 35 of that Act (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception).

129 An offence under section 36 of that Act (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

153 An offence of—

- (1) aiding, abetting, counselling or procuring the commission of an offence specified in this Part of this Schedule,
- (2) An attempt to commit such an offence.
- (3) Conspiracy to commit such an offence.
- (4) Incitement to commit such an offence.
- (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which an offence specified in this Part of this Schedule is the offence (or one of the offences) which the person intended or believed would be committed.

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 with no evidence of sufficient protective factors; 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 the last 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 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 s/he is accessing the internet to seek out terrorist related information.

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

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 **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 7

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
TAUT	Counter Terrorism offenders
VCU	Victim Contact Unit
VH	Very High
VLO	Victim Liaison Officer

Annex 9:

Eligibility Flow Charts

- Legal Criteria
- HMPPS Criteria
- Eligible
- Not Eligible



