

## **Licence Conditions and Recall** **for determinate (fixed-term) sentences**

### **What does being on licence mean?**

When you are released you may be 'on licence'.

This means you have an allocated Community Offender Manager (COM) and conditions which you must follow until a certain date. If you do not follow these conditions you could be returned to prison.

Being on licence is sometimes called being 'on probation' or 'under supervision'. Your COM is sometimes called your 'probation officer' or your 'supervising officer'.

### **How long will I be on licence?**

The length of your licence depends on when you were sentenced, how long your sentence is, and what type of sentence it is.

You can check which release and licence arrangements apply to you in the *Sentence Calculation Policy Framework: determinate sentenced prisoners*.

Since February 2015 even people given short determinate sentences must serve time on licence after release. The period on licence is usually the remainder of your sentence after you have been released from custody. If this period is less than 12 months, this will be followed by a period on 'post-sentence supervision'. The post sentence supervision will finish 12 months after you were released from custody.

If you have an extended sentence there will be an extra period on licence in the community which will have been decided by the judge. For more details see our information sheet on *Extended Sentences*.

Your Licence End Date (LED) should be included on the notification the prison gives you when it works out your sentence. It will also be on the copy of the licence which you are given on release.

## **What are licence conditions?**

Licence conditions are the rules which you must follow when you are on licence. If you do not follow these conditions you could be returned to prison. This is called recall.

Your licence conditions will be written on your licence document which you will be given when you are released. You will be asked to sign this to show you understand the conditions. In some cases, these conditions will have been discussed with you by your Prison Offender Manager and/or your Community Offender Manager in advance of your release.

There are standard licence conditions which apply to everyone. There are also additional licence conditions which your offender manager can add to your licence if they think they are needed.

Licence conditions are covered in detail by the *Licence Conditions Policy Framework*.

### **Standard licence conditions**

The following are standard licence conditions and will be on every licence:

*During your licence period you must:*

- a) *be of good behaviour and not behave in a way which undermines the purpose of the licence period;*
- b) *not commit any offence;*
- c) *keep in touch with the supervising officer in accordance with instructions given by the supervising officer;*
- d) *receive visits from the supervising officer in accordance with instructions given by the supervising officer;*
- e) *reside permanently at an address approved by the supervising officer and obtain the prior permission of the supervising officer for any stay of one or more nights at a different address;*
- f) *not undertake work, or a particular type of work, unless it is approved by the supervising officer and notify the supervising officer in advance of any proposal to undertake work or a particular type of work;*
- g) *not travel outside the United Kingdom, the Channel Islands or the Isle of Man except with the prior permission of your supervising officer or for the purposes of immigration deportation or removal.*
- h) *tell your supervising officer if you use a name which is different to the name or names which appear on your licence.*
- i) *tell your supervising officer if you change or add any contact details, including phone number or email.*

## Additional licence conditions

You may also have additional licence conditions if your offender manager thinks it is necessary and proportionate to do this.

The following categories of licence condition could be added to your licence:

- 1) *residence at a specified place;*
- 2) *restriction of residency;*
- 3) *making or maintaining contact with a person;*
- 4) *participation in, or co-operation with, a programme or set of activities;*
- 5) *possession, ownership, control or inspection of specified items or documents;*
- 6) *disclosure of information;*
- 7) *curfew arrangement;*
- 8) *freedom of movement;*
- 9) *supervision in the community by the supervising officer, or other responsible officer, or organisation.*
- 10) *restriction of specified conduct or specified acts;*
- 11) *extremism;*
- 12) *polygraph condition*
- 13) *drug testing conditions*
- 14) *electronic monitoring conditions*

Within each category there are different types of licence condition which your offender manager could add to your licence. You can find these in the *Licence Conditions Policy Framework*.

Your offender manager must make sure that a request for additional licence conditions is necessary and proportionate. The *Licence Conditions Policy Framework* defines this criteria in the following way:

**Necessary:** Any licence condition requested must have been identified as a way to manage a specific risk or issue posed by the individual, without limitation to the current index offence;

**Proportionate:** Any licence condition must be the least intrusive means of enabling that management.

Some victims have the right to have their views considered about what conditions they think you should be subject to, and to be told about relevant conditions which are included in your licence. There is more information about this in the *Licence Conditions Policy Framework*.

## Approved Premises

Your COM may include residing in Approved Premises as part of the residence conditions of your licence. They might do this if they think it will help to manage any risks when you return to the community.

Refusing to do stay at an Approved Premises would be considered a breach of your licence and you could be recalled to prison. You can find more information in our *Approved Premises* information sheet, and in PI 32/2014 *Approved Premises*.

## Use of computers and mobile phones

Under additional condition 5) there are a number of restrictions which could be added to your use of devices such as mobile phones and computers.

For example, you may not be allowed to have more than one mobile phone, or any device with a camera function. You may be expected to make devices such as computers and phones available for inspection and told not to delete internet history information. You may be restricted from using any computer or device which is internet enabled without the prior agreement of your COM.

## Exclusion zones

You may have an exclusion zone included in your licence. This means you cannot enter a specific area whilst on licence. This could be based on where previous victims live or locations that are linked to offending behaviour. The Policy Framework states that 'exclusion zones must have clear boundaries that can be understood on the ground.'

You should speak to your COM if you do not understand an exclusion zone or have a concern about access to something within it such as a hospital.

## Terrorism/Extremism Related Licence Conditions

Your COM may request use of specific terrorism/extremism related conditions if they believe you pose a risk in this area. You do not have to have been convicted of a terrorist or extremism related offence. There is more information about these conditions and their use in Annex A of the *Licence Conditions Policy Framework*.

## Polygraph examinations

Polygraph examinations can be included as a licence condition for people convicted of relevant sexual offences and people convicted of relevant terrorist and terrorist connected offences. There is more information in the *Polygraph Examinations Policy Framework*.

## Drug testing

A drug testing condition can only be added if you have a history of misusing illegal drugs and there is a reason to believe that this is linked to offending behaviour. There is more information in PSI 32/2014 *Drug appointment and drug testing*.

## Electronic monitoring

Electronic monitoring, also known as 'tagging', is used to monitor conditions such as curfews and exclusion zones. It means having a 'tag' attached to you, usually on your ankle, and a monitoring unit installed in your agreed place of residence.

The Electronic Monitoring Service (EMS) will check the information from your tag and tell your COM if there is any indication you are breaching your licence condition. If you have any problems or questions about your electronic tag, you should contact EMS on 0800 137 291.

Electronic monitoring can now be included as a licence condition for a wider range of people, including those released on Home Detention Curfew (HDC) people serving extended sentences (e.g. EDS, EPP) or for acquisitive crime in some areas. If you have this on your licence and are not sure why, speak to your POM or COM about it, or call our advice service for more information.

## Alcohol monitoring

Alcohol Monitoring (AM) conditions are available for adults where alcohol is considered a risk factor in their offending and for any sentence type which has at least 30 days remaining on the licence period.

There are two types of alcohol monitoring licence conditions:

- You must not drink any alcohol until [licence end date]. You will need to wear an electronic tag all the time so we can check this.
- You will need to wear an electronic tag all the time until [licence end date] so we can check how much alcohol you are drinking, and if you are drinking alcohol when you have been told you must not. To help you drink less alcohol you must take part in any activities, like treatment programmes, your probation officer asks you to.

An alcohol tag is a device that is securely fitted to your ankle. It monitors for the presence of alcohol by taking a sample of sweat every 30 minutes, 24 hours a day. The information is uploaded to the Wireless Base Station, which will occur at an agreed time daily. The information from the tag will show if you have been drinking alcohol, or if you have attempted to obstruct or remove the tag.

Even if you do not have an Alcohol Monitoring condition, you should be aware that the condition to 'be of good behaviour' could be enough to justify recall if your behaviour or risk after consuming alcohol is unacceptable. You should also be aware that complying with alcohol testing could be a condition of an Approved Premises. Being evicted from an Approved Premises for consuming alcohol could result in being recalled to prison.

### **Bespoke conditions**

Your supervising officer may decide that the wording of the standard or additional licence conditions are not enough to manage a specific risk. They may make an application to the Public Protection Casework Section (PPCS) for a bespoke condition to be used.

## Can I travel abroad whilst on licence?

### Temporary travel abroad

The standard licence conditions mean that if you want to travel abroad for any reason including a seeing family, for business reasons, or for a holiday, you must get permission from your offender manager first.

You should be aware that it can be difficult to get permission to travel abroad, particularly in the early stages of your licence.

The *Travel and Transfer on Licence and PSS Outside of England and Wales Policy Framework* sets the following criteria for temporary travel abroad:

- A. Does the individual need to travel abroad to undertake the activity?
- B. Will the benefits to the individual of travelling abroad be realised if the travel is deferred until after the end of the licence and PSS period (for individuals subject to determinate sentences) or suspension of the supervision element of the licence (for individuals subject to indeterminate sentences)?;
- C. Are travel or activities carried out abroad connected or potentially connected to the individual's index offence (e.g. importation of drugs; fraud involving companies set up outside of the United Kingdom; human trafficking)?;
- D. Will the travel interfere with the sentence plan or:
  - 1. During a licence period: increase any risk of re-offending or risk of serious harm, including risk of serious harm to prior victims, or risk to the individual themselves?;
  - 2. During a PSS period: deter from the rehabilitation of the individual, and interfere with the reestablishment of family/community ties?;
- E. Will the travel interfere with reporting requirements or attendance at offending behaviour programmes or interventions?;
- F. Have there been any concerns regarding a lack of compliance or any escalation in risk of reoffending or risk of serious harm in the past 12 months?;
- G. Is the Senior Manager satisfied that the individual can be trusted to return and resume the supervisory period?

Note that the Policy Framework states that 'there is an expectation with both types of external travel that the individual will have been in the community for a period sufficiently long enough that the understanding of risk can be updated and so more accurately considered against the criteria for travel where needed.'

## Permanent resettlement abroad

If you would like to resettle outside of England and Wales whilst you are on licence you must make a request to your community offender manager. It can be very difficult to get permission to do this and you do not have automatic right to do so.

The *Travel and Transfer on Licence and PSS Outside of England and Wales Policy Framework* sets out the following criteria:

A. Does the individual hold the nationality or have strong residential ties in the place s/he wishes to resettle, including, but not limited to, any compassionate reasons? If the answer to criterion a is 'no' then the application should be refused.

B. Is the individual's index offence connected or potentially connected with the country s/he wishes to resettle in, or is generally connected with overseas activities? (e.g. fraud involving companies set up outside of the United Kingdom; sexual offences against children and wishes to travel to a country known for child sexual exploitation; people trafficking; extremism with potential or actual international links). If the answer to criterion b is 'yes', then the application should be refused.

C. Would the protection of the public (including victims), reduction in the risk of reoffending and rehabilitation of the individual be undermined by such resettlement? If the answer to criterion c is 'yes', then the application should be refused.

D. Have there been any concerns regarding a lack of compliance or any escalation in risk of reoffending or risk of serious harm in the past 12 months?; If the answer to criterion d is 'yes', then the application should be refused.

If you are considering making a request there is more information in the Policy Framework.

There is also a very helpful explanation on Unlock's Information Hub titled *Resettling abroad whilst on licence*.

<http://hub.unlock.org.uk/knowledgebase/travelling-licence/>



## **Licence variation and licence authorisation**

It is possible for your COM to make changes to additional licence conditions once you are in the community, on a temporary or permanent basis.

### **Licence variation**

Licence variation is where your COM applies to the decision maker for a change to additional conditions in your licence after you have been released from custody.

Additional licence conditions must continue to be both necessary and proportionate to remain on your licence. Your COM may therefore need to add or remove licence conditions as things change over time.

For example, it may be necessary to alter or remove a curfew requirement to enable you to engage in some employment.

The process for applying for a licence variation is set out in the *Licence Conditions Policy Framework*.

### **Licence authorisation**

Licence authorisation is where your COM gives permission for a temporary change to an additional licence condition. Many additional licence conditions include wording like “without prior permission of your supervising officer” which allows for this.

A licence authorisation should be used for exceptional circumstances only. It should only be approved where all other options have been explored and deemed unsuitable.

It should only be used for a specific reason. For example, a request for permission to attend a funeral taking place within your exclusion zone.

Where it is likely that the permission would be required on a repeated basis then a licence variation request is more appropriate.

There is more information about licence variation and licence authorisation in this guidance from the Ministry of Justice - *Variation and Authorisation: Changing and managing Licence Conditions Following Release*.

## **What can I do if I am unhappy with my licence conditions?**

If you are unhappy with a licence condition you can:

- Ask to speak with your offender manager about this

It may be helpful to explain to your offender manager why you are unhappy with the conditions and see if they will reconsider this.

- Make a complaint about the licence condition

If you have spoken to your offender manager and still think your licence conditions are unnecessary or disproportionate, you can make a complaint. Your initial complaint should be made to the relevant probation service. Our information sheet about *Probation Complaints* has more information about how to do this.

If you are still unhappy after following the internal complaints process you can then ask the Prison and Probation Ombudsman to investigate it.

- Get legal advice

It may be worth speaking to a solicitor to see if you can get any legal support challenging licence conditions. If you are in prison and need details of local solicitors, our Advice and Information Service can look for this information for you.

## **What happens if I do not follow my licence conditions?**

If you do not follow your licence conditions you could be returned to prison. This is called being 'recalled'.

## Recall – Determinate sentences

### What does being recalled mean?

Being recalled means you are returned to prison. This can happen if you do not follow your licence conditions.

Your Community Offender Manager will make a request to the Public Protection Casework Section (PPCS) if they think you need to be recalled. PPCS decide if you should be recalled and how long you should be recalled for (see below).

If the decision is made to recall you, your licence will be cancelled. This is known as having your licence 'revoked'.

The police will be informed, as well as your probation service and the prison you were released from. You will be arrested and returned to prison.

If you avoid being returned to prison it is called 'remaining unlawfully at large'. This is an offence and you could get up to two more years prison sentence.

### Considerations for recall

The *Recall, Review and Re-Release of Recalled Prisoners* Policy Framework gives details about the things that should be considered for the following types of sentence:

#### Determinate sentences

Paragraph 3.3.9 of the Policy Framework says:

'Offender managers must consider whether to seek recall in cases where the offender has breached the conditions of their licence, the offender's behaviour indicates that they present an increased or Risk of Serious Harm (RoSH) to the public or there is an imminent risk of further offences being committed. Offender managers must also consider recall in cases where contact between the offender manager and the offender has broken down.'

#### Extended Sentences (EPP and EDS)

Your Community Offender Manager must show that there is some link between your current behaviour and your behaviour at the time of the index offence.

COMs must meet one of the following criteria set out in paragraph 3.3.1 of the Policy Framework when assessing whether to request recall:

- i. Exhibits behaviour similar to behaviour surrounding the circumstances of the index offence;

- ii. Exhibits behaviour likely to give rise (or does give rise) to a sexual or violent offence;
- iii. Exhibits behaviour associated with the commission of a sexual or violent offence;  
or
- iv. Is out of touch with the offender manager and the assumption can be made that any of (i) to (iii) may arise.'

## **What happens after I am recalled?**

The prison should tell the Public Protection Casework Section (PPCS) that you have returned to custody immediately.

You should be told the reasons for being recalled. This information is in paperwork called your 'recall dossier'.

Your recall dossier is given to the prison by PPCS. This should happen within one working day of PPCS being told that you have been returned to custody

The prison should then give you a copy. This should happen within one working day of the prison receiving the recall dossier from PPCS.

You should be informed about your right to make representations to the Parole Board and given information about how to do this.

You should be given a list of legal aid lawyers.

You should be given the opportunity to make a legal telephone call within two working days of receiving the recall dossier.

There are different types of recall for determinate sentences. When and how you can be released will depend on which type of recall you are given.

## **Fixed term recall**

Fixed term recall means you are only recalled for a set period before being re-released.

You may be considered suitable for fixed term recall if it is assessed that you 'will not present a risk of serious harm to members of the public if released at the end of that period.'

You are not eligible for fixed term recall if you are serving an extended sentence.

If you are serving a determinate sentences of 12 months or more a fixed term recall will be 28 days.

If you are serving a determinate sentence of less than 12 months for an offence committed on or after 1 February 2015, then a fixed term recall will be for 14 days.

At the end of the fixed period you should be released automatically.

### Parole review for fixed term recall

If you are recalled to prison you can have this decision checked by the Parole Board. They will decide if you can be released earlier.

You must make representations for the decision to be checked. This means asking them to look at the decision and giving reasons why you think it should be changed. Your case will not be referred automatically if you do not make representations.

If you are on a fixed term recall, and choose to make representations to the Parole Board, the prison is responsible for passing your representations to the Public Protection Casework Section (PPCS). PPCS will then request a report from your offender manager and refer your case to the Parole Board.

### Executive release for fixed term recall

The Secretary of State has an executive power to release you before the end of your recall in some circumstances. In practice this decision is made by the Public Protection Casework Section (PPCS).

If you are on a fixed term recall your community offender manager can make a request to PPCS to consider executive release before the end of the fixed term if they think your risk of re-offending can be safely managed in the community.

## **Standard recall**

A standard recall means you could stay in prison until the end of your sentence.

You will be given a standard recall if you are considered unsuitable for a fixed term recall.

If you are serving an extended sentence you will be given a standard recall.

For information about recall for indeterminate sentenced prisoners please see our information sheet *Licence Conditions and Recall for indeterminate sentences*

### Parole review for standard recall

If you are on a standard recall, your case should be referred to the Parole Board no later than 28 days after your return to custody.

You must make your representations within 10 working days of being given your recall dossier. You can ask a solicitor for help with this.

Your case should be considered, and a decision should be made by the Parole Board 6 weeks after return to custody

At the review stage the Parole Board can:

- Direct release
- Fix a date for your release within one year
- Make no direction for release
- Direct an oral hearing to determine whether to release

If you are not released at the first review, the Parole Board must conduct an annual review no later than 12 months after your last parole review.

### Executive release for standard recall

The Secretary of State has an executive power to release you at any time during the rest of your sentence. In practice this decision is made by the Public Protection Casework Section.

If you are on a standard recall PPCS can consider executive release based on information in the Part B report. This usually happens 10 working days after return to custody. If PPCS decide to release you the case will not be referred to the Parole Board.

At any other time your offender manager can make a request to PPCS to consider executive release if they think your risk of re-offending can be safely managed in the community.

## **Emergency recall**

If your offender manager thinks you need to be recalled very urgently, they may request an emergency recall. This process is quicker. When recalled you will usually be held on a standard recall, as above.

## **Further information**

The following may be of interest to you. If you are unable to access them elsewhere feel free to contact our Advice and Information Service and we will be happy to send you a copy.

Useful Policy Frameworks, PSIs and PSOs (these should be available in the library):

*PSI 32/2014 Drug appointment and drug testing for licence conditions and post-sentence supervision requirements*

*Sentence Calculation Policy Framework: determinate sentenced prisoners*

*Licence conditions Policy Framework*

*Travel and transfer on licence and PSS outside of England and Wales Policy Framework*

*Polygraph examination licence condition policy framework*

*The Generic Parole Process Policy Framework*

*The Recall, Review and Re-Release of Recalled Prisoners Policy Framework*

*HMPPS Working with Recalled Prisoners - Best Practice Guide*

### PRT information sheets

*Understanding your sentence*

*Probation Complaints*

*Information booklet for people on licence for a sex offence*

### Other information sheets

*Prisoners' Advice Service infosheet Recall to prison (Determinate sentence prisoners)*

*Prisoners' Advice Service infosheet Release, Licence and Conditions (Determinate Sentences)*



## Contact our Advice and Information Service

We are a small service and we are independent of the prison service.

We can give you information on prison rules, life in prison and how to get help in prison.

Our freephone information line is **0808 802 0060**. This number is for **prisoners** only. This number is **free** and you do not need to put it on your PIN.

This number is open:

- Monday and Thursday afternoon from 3.30pm to 5.30pm.
- Wednesday morning from 10.30am to 12.30pm.

At other times, you can call on **0207 251 5070**. This number is open from Monday to Friday 10.00am - 5.30pm. This number is **not free** but you do not need to put it on your PIN.

You can also write to us at:

**Prison Reform Trust**  
**FREEPOST ND 6125**  
**London**  
**EC1B 1PN**

You do not need to use a stamp.