# RESETTLEMENT OUTSIDE ENGLAND AND WALES ON LICENCE

This instruction applies to:

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<td>PSI 01/2013</td>
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**Public Sector and Private Prisons**

**Providers of Probation Services**

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<th>Issue Date</th>
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<td>11 January 2013</td>
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**Issued on the authority of**

NOMS Agency Board

**For action by (who is this instruction for)**

- All staff responsible for the development and publication of policy and instructions *(Double click in box, as appropriate)*
  - NOMS HQ
  - All prisons
  - High Security Prisons only
  - Contracted Prisons*
  - Probation Trusts
  - Governors
  - Heads of Groups
  - Contract Managers in Probation Trusts
  - Probation Trust Chief Executives
  - *(If this box is marked, then in this document the term Governor also applies to Directors of Contracted Prisons except where specified)*

**Instruction type**

Service improvement

**For information**

- Senior Community Managers
- Offender Managers
- Victim Liaison Officers and Victim Unit Managers
- Staff in prison establishments dealing with release on licence

**Provide a summary of the policy aim and the reason for its development/revision**

This instruction provides all staff with an explanation of the processes for permanent transfer or resettlement outside of England and Wales of offenders on licence. It also contains key contact points in the other jurisdictions within the UK and Islands and the updated transfer order templates.

**Contact**

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**Associated documents**

- PC 25/2007 “Case Transfers – Community Orders, Suspended Sentence Orders and Licences”
- PSI 29/2010 PI 06/2010 “PSO 4700 The Indeterminate Sentence Manual Chapters 3, 7, 8, 10, 11, 12 and 15”
- PSI 27/2012 “Licences and Licence Conditions”
- PI 13/2012 “Licence Conditions and Temporary Travel”

**Replaces the following documents which are hereby cancelled:**
**PC 52/1997 “Offenders Undergoing or about to Undergo Post-Release Supervision Who Wish to Resettle or Travel Outside England and Wales”**

*All hard copies of these Instructions must be destroyed*

**Audit/Monitoring:** Deputy Directors of Custody, Controllers and NOMS Senior Community Managers will monitor compliance with the mandatory actions set out in this instruction.
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1. Executive summary

Background

1.1 The aims of supervision in the community following release from custody are to protect the public, to prevent re-offending and to aid the rehabilitation of the offender. Allowing offenders on licence to transfer to other United Kingdom and Islands jurisdictions (which for these purposes include England, Wales, Scotland, Northern Ireland, Isle of Man, Jersey and the Bailiwick of Guernsey – including Alderney, Herm and Sark) or to permanently resettle abroad, i.e. outside of the UK and Islands, can assist in these aims and be of benefit both to the offender and the public in general. It can afford the offender access to the support of their close family and alleviates the hardships otherwise faced by family members seeking to maintain contact.

1.2 The National Offender Management Service has a duty of care to protect the public from those offenders under its supervision. There will be different considerations when an offender applies to transfer to another UK jurisdiction, compared with applying to resettle outside the UK. The Crime (Sentences) Act 1997 gives the authority for offenders to be transferred between UK and Island jurisdictions, which enable the licence to be enforced following a transfer. However, a licence imposed on an offender by England and Wales is not enforceable outside of the UK and Islands, and therefore an offender would not be under supervision by the local authorities if they were to transfer abroad whilst on licence.

1.3 The period of post-release supervision on licence forms an integral part of the sentence imposed by the court. To ensure that offenders remain subject to such supervision, permanent resettlement outside England and Wales must be permitted only where it meets the appropriate criteria. The Criminal Justice (Sentencing) (Licence Conditions) Order 2005 describes the relevant standard condition of a post-release licence as: “Not travel outside the United Kingdom, the Channel Islands or the Isle of Man without the prior permission of the responsible officer; except where he is deported or removed from the United Kingdom in accordance with the Immigration Act 1971 or the Immigration and Asylum Act 1999”. A derivative of this wording appears on each release licence. Although it does not extend to preventing the offender from travelling to another jurisdiction inside the UK and Islands, the condition “(P)ermanently to reside at an address approved by your supervising officer and notify him/her in advance of any proposed change to address or any proposed stay (even for one night) away from that approved address”, requires that a supervising officer must approve any change in residency within those areas.

Desired outcomes

1.4 This Instruction has been issued to ensure that sufficient advice has been given to enable staff to accurately access applications from offenders who wish to be relocated outside of England and Wales on a permanent basis, and ensure that staff are aware of:

- the difference in processes and considerations for transfer between the jurisdictions of the UK and Islands, and resettlement outside of them;
- where responsibilities for actions lie within those processes;
• the relevant contact points for other jurisdictions within the UK and Islands and
• the appropriate transfer order templates and the need to complete them in every case transferred between England and Wales and another jurisdiction.

Application

1.5 Section 2 is predominantly for Probation Trusts as it relates to the resettlement of offenders outside the UK and Islands. The processes involved in this are primarily for the Probation Trust. However, Governors have authority to approve requests for transfer (see 2.11), and licence variation prior to an offender’s resettlement abroad and information sharing regarding a specific case may sometimes be required, requiring prison staff involvement.

1.6 Sections 3 and 4 both deal with transfers between jurisdictions, during the licence period, and, as such, relate only to Probation Trusts. Section 3 relates to outgoing transfers from England and Wales and section 4 referring to incoming transfers.

1.7 Prison staff involvement in the post-release transfer processes is limited to acting as a representative of the Secretary of State in order to review applications and sign transfer orders. Prison staff should also be aware of the requirement for Probation to lead on any requests for transfer following release and that prison staff should not arrange them directly with another jurisdiction/country. The actions for establishment staff are listed in 3.18 and 3.19, along with the templates at Annexes G, H, I and J.

1.8 PSO 6000 Chapter 13 “Transfer of Prisoners and Post Release Supervision Between United Kingdom Jurisdictions and the Islands – Parole and Supervision” should continue to be used for inter-jurisdictional transfers of serving prisoners until it is cancelled by a further instruction.

Mandatory actions

1.9 Contract Managers in Probation Trusts must ensure that probation staff are aware of, and comply with, the mandatory requirements which are summarised below:

• That the appropriate criteria are considered when an offender applies to be transferred to another UK jurisdiction or overseas.
• That the correct authority approves an offender’s request to travel under either scheme.
• That for approved inter-jurisdictional transfers, a request is made of the Offender Management Unit at the releasing establishment to produce a transfer order for the offender.

1.10 Governors must ensure that all relevant staff are aware of and comply with the mandatory requirements which are summarised below:

• To ensure that transfers to be conducted upon the release of an offender are arranged by the relevant Probation Trust, which may include seconded probation staff within an establishment, and not by Prison staff. Governors of Young Offender Institutions should ensure that
arrangements for those under 18 are made by the relevant Youth Offending Team, not the relevant Probation Trust.

- To review applications for resettlement abroad as a representative of the Secretary of State.
- To ensure that the additional licence condition as specified is added to the licence upon request by the Offender Manager.
- To produce transfer orders as are required from the templates supplied in this instruction, or on PNOMIS should they become available.

Resource Impact

1.11 The processes are primarily unchanged since their introduction in 1997 and so should not have an impact on resources other than the potential increase in applications as due to the increased availability of the policy on EPIC/Quantum following the publication of this instruction.

(approved for publication)

Digby Griffith
Director of National Operational Services, NOMS
2. Resettlement from England and Wales to a country outside of the UK and Islands

2.1 A licence imposed on an offender by England and Wales is not enforceable outside of the UK and Islands. Therefore, when considering any application from an offender to resettle elsewhere, it must be taken into account that, if an offender resettles in another country (including the Republic of Ireland, and any British Overseas Territories such as Gibraltar or Bermuda), the conditions on the licence will not be enforced.

2.2 The policy on resettlement abroad must not be seen as a replacement for the deportation process for foreign national offenders. It is expected that the offenders affected by this policy will be limited to foreign nationals who do not meet the threshold for deportation and British nationals (including those who hold dual nationalities) who normally reside outside of the UK and Islands.

2.3 An offender is required to spend a suitable period of time in the community in the UK and Islands before they can be considered for resettlement overseas. This is to allow enough time to have passed in order to assess the offender's risk of reoffending and compliance with licence requirements in the community. However, in exceptional circumstances it may be suitable to allow an offender to resettle overseas directly from custody upon their release into the community; in general, this approach should be limited to those offenders who have been approved for early release on compassionate grounds, or where the Parole Board have approved this as part of the offender's resettlement plan. It may also be applicable where an offender has no ties to the United Kingdom and where resettlement abroad immediately upon release to return to their home country would reduce the risk of reoffending or serious harm to the public.

2.4 In the case of any immediate resettlement upon release, the offender would be expected to report on a single occasion to the supervising Probation Trust so that the licence can be explained to them by their Offender Manager which would include an explanation of the re-imposition of the licence should they return to the UK and Islands following resettlement overseas. In the case of an offender who is of no fixed abode in the UK, this would be the Probation Trust in which the committing court is located.

Considerations for resettlement outside the UK and Islands

2.5 If an offender indicates a desire to resettle permanently outside the UK and Islands, the responsible officer must firstly consider:

1) Does the offender have close family or residential ties in the place he wishes to resettle, including, but not limited to, any compassionate reasons?

2) Is the offender's index offence connected or potentially connected with the country they wish 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 1 is ‘no’, or criterion 2 is ‘yes’, then the application should be refused.

Should the application still remain viable, then the responsible officer must consider:

3) Would the protection of the public (including victims), reduction in the risk of reoffending and rehabilitation of the offender be undermined by such resettlement?

If the answer to criterion 3 is ‘yes’, then the application should be refused.

2.6 Criterion #3 must be carefully considered as, for example, it would not be appropriate to allow an offender who poses a high risk of violent and/or sexual re-offending to resettle outside the UK and Islands where they would be unsupervised, as it would undermine the protection of the public.

2.7 Criterion #1 allows for resettlement outside the UK and Islands to take place on compassionate grounds as part of the Early Release on Compassionate Grounds scheme (ERCG). For further details of that scheme see PI 06/2010 for indeterminate offenders or PSO 6000 Chapter 12 for determinate offenders.

2.8 If the Offender Manager is concerned that the proposed move is likely to increase the offender’s risk of serious harm, the Offender Manager must review the proposal with their line manager at the earliest opportunity. If/when a decision is reached not to approve the proposed move the offender must be notified immediately. The decision, the reasons for it and the offender’s response to it must be recorded on the case record.

2.9 Where an offender is subject to a Foreign Travel Order (FTO) preventing them from travelling overseas, there must be consideration of the reason(s) why this was implemented. If it is decided that the reasons for travel outweigh the requirements of the FTO, then it will need to be varied by court order to allow for the offender to travel aboard. If the court does not agree to modifying or cancelling the FTO, then the offender should be informed that permission to resettle abroad has been turned down due to the FTO remaining in place.

Who may approve resettlement requests?

2.10 Resettlement outside of the United Kingdom and Islands for any offender on licence under Probation supervision must be authorised in line with this guidance by the Trust’s Chief Executive (or delegated authority thereof). Once granted, this must then be confirmed by the Secretary of State.

2.11 The Secretary of State has the authority to grant applications to allow an offender on licence to resettle outside of the United Kingdom and Islands. This is by approving a request to permanently travel under the relevant standard licence condition as described in 1.3. In practice, approval of such requests must be carried out by either:

- in the case of determinate sentence prisoners, the Governor of the establishment from which the offender was released; or
• in the case of indeterminate sentence prisoners (lifers/IPPs), the Public Protection Casework Section (PPCS) within NOMS.

Licences

2.12 The Offender Manager must make clear to the offender that the licence itself remains in force while they are overseas, and its expiry date should be made clear to the offender. For life sentenced offenders, it must be made clear that the requirement will remain in place indefinitely, unless the supervision requirements have already been suspended. If the offender returns to the United Kingdom or Islands prior to the expiry of the licence, they should contact the supervising service holding the licence within 2 working days. Failure to do so could result in breach proceedings being instituted and the licence being revoked, with the offender being recalled to custody.

2.13 Where an offender has resettled outside the UK and Islands but will be returning for a short period during the licence period, e.g. for a layover between international flights, it should be suggested to them that they contact their Offender Manager beforehand to ensure that no accidental breach action is taken.

Sex offender registration requirements

2.14 As of 13 August 2012, the notification requirements of registered sex offenders have changed. Offenders were previously required to give the police advance notification of any travel outside of the United Kingdom for a period of longer than three days. This has now changed to apply to any length of time to be spent outside of the UK.

2.15 The requirements to supply information related to travel elsewhere in this section does not replace that notification requirement and instead are to be considered in addition to it. The offender should contact the police separately to inform them of any approved travel or resettlement outside of the UK.
3. Transfers from England and Wales to other jurisdictions within the UK and Islands

3.1 Unlike with requests for resettlement abroad, the presumption with transfers between UK jurisdictions is that the offender will be subject to equivalent monitoring following transfer. There is, therefore, no requirement that an offender must spend a minimum period of time on licence in England and Wales prior to transfer. However, the receiving jurisdiction may wish for a period of resettlement to occur in some high risk cases, where a move to the new area may occur as part of a move-on plan rather than immediately.

3.2 An Offender Manager who receives a request from an offender to transfer to another jurisdiction must first make an initial assessment, which should be referred to their CEO or nominated deputy, about the appropriateness of taking up the request with the relevant person in the other jurisdiction. If the request does appear to justify further action, the Offender Manager from the supervising Probation Trust should then contact the appropriate person in the jurisdiction to which the transfer is requested (Annex A). In consultation with that person, they should then determine whether it would be appropriate for a transfer to take place. This will be either on a restricted or unrestricted basis, depending on the type of sentence and the supervision required, as appropriate.

3.3 In essence, the difference between restricted and unrestricted transfers is that the Probation Trust maintains an overview of the offender under a restricted transfer, i.e. the receiving jurisdiction manages the offender on behalf of the Probation Trust from England and Wales, but the Trust retains a role in case of breach. An unrestricted transfer is one in which the offender is completely transferred to the other jurisdiction, falling completely under their laws, with the Probation Trust from England and Wales no longer being involved in the management of the case.

Considerations for transfer to another jurisdiction within the UK and Islands

3.4 If an offender indicates a desire to resettle permanently outside England and Wales, the Offender Manager must firstly consider:

1) Does the offender have close family or residential ties in the place he wishes to resettle, including, but not limited to, any compassionate reasons?

If the answer is 'no', the application should be refused.

If the answer is 'yes', the responsible officer should then consider:

2) Would the protection of the public (including victims), reduction in the risk of reoffending and rehabilitation of the offender be undermined by such resettlement?

3.5 If the Offender Manager is concerned that the proposed move is likely to increase the risk to the public (e.g. if there is no approved premises in the receiving jurisdiction), the Offender Manager must review the proposal with their line manager at the earliest opportunity. If/when a decision is reached not to approve the proposed move the offender must be notified immediately.
The decision, the reasons for it and the offender’s response to it must be recorded on the case record.

3.6 Criterion #1 allows for transfers to other jurisdictions to take place on compassionate grounds as part of the Early Release on Compassionate Grounds scheme. For further details of that scheme see PI 06/2010 for indeterminate sentence offenders or chapter 12 of Prison Service Order 6000 for determinate sentence offenders.

What type of transfer: Restricted and unrestricted transfer?

3.7 Where a decision has been made in principle to transfer the case, the Offender Manager must decide whether this should be on a restricted or unrestricted basis. If either of the following criteria are met, then the offender is ineligible for unrestricted transfer and the Offender Manager must transfer them under restricted transfer arrangements:

- The offender has a type of sentence which does not exist in the jurisdiction to which they are applying to transfer.

- There would be a substantial reduction or increase in the period or level of supervision they would be subject to in the other jurisdiction compared with what they would expect in England and Wales.

Restricted transfer

3.8 Should a restricted transfer be agreed, it must be confirmed with the relevant person in the receiving jurisdiction (see Annex A) that the conditions attached to the offender’s supervision can be enforced there. If this cannot be established, the presumption will be that resettlement outside England and Wales is inappropriate, and a recommendation made that the request be refused on these grounds.

3.9 Some amendment of the licence conditions may be considered appropriate to reflect the fact that the offender is to be supervised in the receiving jurisdiction, but such changes should not be contemplated if this would be inconsistent with the fundamental aims of supervision. Where inter-jurisdictional transfer has been agreed before the offender’s release from prison, consideration will have already been given as to the appropriate licence conditions, in view of the anticipated transfer.

Unrestricted transfer

3.10 If approval for an unrestricted transfer is given, and the offender is permitted to resettle following release in the requested jurisdiction, the relevant Probation Trust in England and Wales will have no further responsibility for supervision, and this will become entirely a matter for the authority in the receiving jurisdiction under their own arrangements, as if the offender had been sentenced and released from prison there. It will be necessary, therefore, for the receiving jurisdiction to issue a licence for the offender and thereafter be responsible for any additions or amendments to the conditions.

3.11 Once the transfer has taken place, there is no requirement for the receiving jurisdiction to keep the service in England and Wales appraised of the offender’s circumstances, although the two services may agree between
themselves that continued contact about the offender may be of benefit in certain cases. In cases where the offender has a nominal record held on ViSOR, and the receiving jurisdiction also has access to the system, it is recommended that the shared system be used in order for a better exchange of risk assessment and management information between the two jurisdictions.

3.12 There may be occasions when it is necessary for the sending and receiving authorities to agree a timescale for the transfer and to make secure arrangements for the offender's first contact with the receiving authority.

Who may approve transfer requests?

3.13 The Secretary of State has the authority to grant applications for transfer from England and Wales to other jurisdictions in the British Islands under Schedule 1 of the Crime (Sentences) Act 1997. In practice, approval of such requests must be carried out by either:

- in the case of determinate sentence offenders; this role is delegated to the Chief Executive of the Probation Trust of which the offender is managed; or,

- in the case of indeterminate sentence offenders, the application must first be endorsed by the relevant Trust CE and then sent to PPCS, who will review the case based on the reports provided. The final decision is taken by PPCS for the Secretary of State.

Sex Offender Registration

3.14 A registered sex offender is required to inform their local police force of any travel outside of the UK (where this is at least overnight). This includes a requirement to inform the local police of travel to the Isle of Man or the Channel Islands, including on permanent transfer.

3.15 Some jurisdictions, such as Jersey, will require sex offenders to register with their police force on arrival. The Offender Manager should check with the jurisdiction's representative what the appropriate arrangements are during the course of arranging the transfer.

Breach actions

3.16 **Unrestricted**: If the offender breaches the terms of the licence imposed in the receiving jurisdiction, even if they return to England and Wales, any breach action must be taken by the appropriate authorities in that other jurisdiction under their own provisions and, if necessary and appropriate, recalled to prison there.

3.17 **Restricted**: If an offender who has resettled to another jurisdiction on a restricted basis breaches the terms of the licence, the supervising authority in the receiving jurisdiction has the power to take breach action by applying the provisions of the relevant England and Wales legislation. The power to recall remains with the sending jurisdiction, but it can be executed by the receiving jurisdiction. This includes the other jurisdiction being able to use the originating powers in court, should recall be dealt with in such a way in the originating jurisdiction. Where recall is required, the other jurisdiction should
pass the relevant information to the offender’s Probation Trust in England and Wales, who must then make the decision whether or not to request recall through PPCS as normal.

Issuing Transfer Orders

3.18 Where it is agreed that post-release supervision should be transferred to another jurisdiction, the offender must be issued with the appropriate Transfer Order. Transfer orders are typically produced by staff in an establishment who hold the responsibility for producing licences for offenders. Where an offender is already in the community it must be produced by the establishment from which he/she was most recently released. Offenders must sign the Order to indicate that they understand the conditions of transfer in the same way as the explanation of a licence. In cases of doubt, or where a prisoner is to be/has been released under a provision of either one of the Criminal Justice Acts 1991 & 2003 which is not contained in one of the Orders at Appendix G and H, advice must be obtained from PPCS. Where a determinate sentence offender has been released on or after 3 December 2012, they should always be considered to have been released under the provisions of the Criminal Justice Act 2003, regardless of which Act they were sentenced under. This is due to the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

Returning an offender to England and Wales

3.19 It is possible for an offender to be returned to England and Wales after they have been transferred to another jurisdiction on a restricted basis.

3.20 Where an offender may return the Probation Trust in England and Wales must obtain authorisation for the return from the following, who will make the decision for the Secretary of State. This must be done by producing the transfer order at Annex J and seeking agreement from either:

For determinate sentence offenders: the Governor of the prison from where the offender was originally released (who would have issued the licence);

For indeterminate sentence offenders: PPCS.

3.21 If the appropriate authority (as above) gives authorisation for the offender’s return, the arrangements to do so should be agreed with the CEO of whichever Probation Trust would be required to take on responsibility for supervising the offender and applying the licence conditions. (This may not necessarily be the Trust that supervised the offender prior to the original transfer, but must be where the offender wishes to resettle as that will becoming the supervising Trust). Once authorisation has been given and the arrangements for supervision agreed with the appropriate service, the offender may be returned to England/Wales.

3.22 For an offender wishing to return to England and Wales who had been transferred on an unrestricted basis to another jurisdiction, they will fall under the law and polices of that jurisdiction. Therefore the offender will need to request a transfer under that jurisdiction’s policy in order to return to England and Wales. The considerations that will apply for accepting a transfer are contained within chapter 4 below.
4. Requests to transfer from another jurisdiction in the UK and Islands to England and Wales

4.1 This section only applies to transfers from another jurisdiction within the UK and Islands, i.e. only from Scotland, Northern Ireland, Isle of Man or the Channel Islands. It does not apply to transfers from countries outside of the UK and Islands.

Unrestricted transfers

4.2 If a Probation Trust in England and Wales is approached by the relevant authority in another jurisdiction with a request from an offender to transfer their supervision here, the same considerations should be undertaken as set out in paragraph 3.7 above for outgoing transfers.

4.3 If it is considered that an unrestricted transfer to England and Wales would be appropriate, in the case of a determinate sentence offender, this may be agreed by a CE or nominated deputy in the receiving Probation Trust. In the case of an indeterminate sentence offender, an application for transfer must be sent to PPCS for approval, who will act on behalf of the Secretary of State. Any incoming request to transfer an indeterminate sentence offender to England and Wales must be agreed with PPCS prior to a Transfer Order being issued.

4.4 In the case of licence variations being sought for determinate sentence offenders who have been transferred on an unrestricted basis, the CE in the Probation Trust concerned has the authority on behalf of the Secretary of State to undertake this role by virtue of Paragraph 15(4) of Schedule 1 to the Crime (Sentences) Act 1997 Act.

4.5 Licence variations for indeterminate sentence offenders transferred to England and Wales on an unrestricted basis are handled in a way similar to offenders who originate from England and Wales, since the issue and variation of licence conditions will be a matter for the Parole Board, which already has authority to undertake such functions. To apply for a licence variation for an indeterminate sentence offender, the Probation Trust will need to forward the release dossier sent by the original jurisdiction to PPCS.

Restricted transfers

4.6 If it is considered that an offender is suitable for transfer but only on a restricted basis, the receiving Trust should ask the authority in the sending jurisdiction to set out the licence conditions and arrangements for those conditions to be implemented in England and Wales. As with outgoing transfers, enforcement of licence conditions will be undertaken by applying the relevant provisions of the sending jurisdiction’s legislation in England and Wales. When taking on responsibility for the offender’s licence, the receiving Probation Trust should, therefore, familiarise itself with those provisions and be ready to enforce them should it be necessary to take breach action. Depending on the type of sentence the offender is serving, and the originating jurisdiction, the offender may be returned to court to determinate whether s/he should be recalled to custody. In these cases it is possible to enforce the relevant law from the other jurisdiction in an England and Wales court under the 1997 Act.
4.7 If the receiving Probation Trust in England and Wales considers that it is necessary to make any variations to the offender's licence conditions, authority to do so should be sought from the person or body in the sending jurisdiction with responsibility for issuing the licence.

MAPPA cases and sex offender registration

4.8 Probation Trusts must ensure that offenders meeting the criteria for one of the MAPPA categories are identified and registered with the local MAPPA unit. Furthermore, where the offender is a sex offender, liaison must be made with the local police force regarding potential sex offender registration in England and Wales.

Breach actions

4.9 Unrestricted: The offender must be managed under the legislation of the jurisdiction which is actively managing him, i.e. the Probation Trust is responsible for considering and, where necessary, initiating recall proceedings where the offender is considered to have breached the terms of his supervision.

4.10 Restricted: Under the 1997 Act, there is scope for England and Wales to invoke the legislation of the sender in recalling the offender without sending them back to the original jurisdiction. It must be confirmed what the appropriate breach actions are with the sending jurisdiction at the time of arranging the transfer. However, the decision to recall rests with the sending jurisdiction.

Returning transferees to the sending jurisdiction

4.11 There is a provision for an offender whose supervision has been transferred to England and Wales on a restricted basis to be returned to the original jurisdiction. This may be at the request of the offender, or if the supervising services in either the receiving or sending jurisdiction consider it necessary to do so. Authority for returning supervision arrangements to the sending jurisdiction would be by the relevant transfer order as produced by the other jurisdiction.

4.12 This will mean the supervising Trust in England and Wales must obtain authorisation for the return for the Secretary of State. This must be done by seeking agreement from whoever has delegated authority for the type of licence concerned in the originating jurisdiction:

For determinate sentence offenders: this will be the governor of the prison from where the offender was released (who would have issued the licence);

For indeterminate sentence offenders: PCS.

4.13 If offenders who have been transferred on an unrestricted basis wish to return to the original sending jurisdiction during the original licence period, they must be treated as though they have served their prison sentence and been released in the jurisdiction to which they have been transferred. In other words, it must be treated as a new transfer request and considered on its merits under the policy in the jurisdiction where they are currently managed.
ANNEX A

Permanent transfer to another jurisdiction in the UK and Islands: Summary of Contacts

Guernsey
Senior Practitioner, Guernsey Probation Service
Stuart Crisp
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Isle of Man
Director of Community Operations, Isle of Man Probation and Prison Service
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Email Pat.Ingram@probation.dha.gov.im

Jersey
Chief Probation Officer
Brian Heath
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Email b.heath@gov.je

Northern Ireland
Director of Probation
Brian McCaughey
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Email Brian.mccaughey@pbni.gsi.gov.uk

Scotland
Criminal Justice Managers:

Lesley Simpson  
Aberdeen City Council  
Direct Tel No. 01224 765027  
Fax No. 01224 576109  
Lsimpson@aberdeencity.gov.uk  
Switchboard- 01224 765000

Eileen Gibson  
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Mr Sean McKendrick  
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</thead>
<tbody>
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<td>Mr Blair Dempsie</td>
<td>Moray Council</td>
<td>01343 557200</td>
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<td><a href="mailto:blair.dempsie@comm.moray.gov.uk">blair.dempsie@comm.moray.gov.uk</a></td>
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<tr>
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<td>01738 444250</td>
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<tr>
<td>Ms Allison Scott</td>
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<td>0141 842 5144</td>
<td><a href="mailto:Allison.Scott@renfrewshire.gsx.gov.uk">Allison.Scott@renfrewshire.gsx.gov.uk</a></td>
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<tr>
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<td><a href="mailto:mgray@scotborders.gsx.gov.uk">mgray@scotborders.gsx.gov.uk</a></td>
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<tr>
<td>Ms Denise Morgan</td>
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<td>01595 744455</td>
<td><a href="mailto:Denise.morgan@sic.shetland.gov.uk">Denise.morgan@sic.shetland.gov.uk</a></td>
</tr>
<tr>
<td>Nancy McNeil</td>
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<td>01292 260065</td>
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<td>01389 738480</td>
<td><a href="mailto:Norman.firth@west-dunbarton.gov.uk">Norman.firth@west-dunbarton.gov.uk</a></td>
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<td>Gillian Oghene</td>
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<td>01506 775925</td>
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</tr>
<tr>
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</tr>
</tbody>
</table>
POST-RELEASE SUPERVISION:
SUMMARY OF POSITION AND PARTICULAR CONSIDERATIONS WITH
SCOTLAND

The ‘appropriate person’

i. The ‘appropriate person’ who should be contacted when a request to transfer to Scotland is being considered is the Criminal Justice Manager as outlined in Annex A.

Unrestricted transfers

ii. Post-release supervision in Scotland is currently provided to offenders subject to the same type of sentences as in England and Wales, with supervision being provided to any offender subject to a sentence of 12 months or longer in custody.

iii. Supervision arrangements in Scotland are sufficiently akin to those in England and Wales to allow for unrestricted transfers to take place in most circumstances, in which case, the supervising service in England and Wales would lose any responsibility for the offender, and he/she would become subject to Scottish post-release supervision provisions. However, all cases will be considered individually.

Restricted transfers

iv. Although supervision arrangements in Scotland are similar to those in England and Wales, there may be some cases where there are particular conditions contained in an offender's licence which cannot be applied in Scotland under its provisions. In those circumstances, consideration must be given as to whether such conditions could be imposed under the law of England and Wales - in which case, the transfer should be granted on a restricted basis.

v. Scotland does not carry the Imprisonment for Public Protection sentence, and so any transfers of IPP offenders to Scotland must take place on a restricted basis only.

vi. The Scottish authorities would generally have no difficulty supervising offenders transferred on a restricted basis - their arrangements are sufficiently similar to allow supervision to take place under England and Wales provisions.

vii. If there are particular licence conditions in an individual case which could only be dealt with in England and Wales - for example, if there is a particular programme operating which is not available in Scotland - the only option may be to refuse the application and require the offender to continue supervision in England and Wales. The application can be looked at again once the offender has completed that particular programme.

Breach action
viii. If the behaviour of an offender on restricted transfer gives rise to concern, the supervising service in Scotland will inform the Probation Trust in England and Wales as to the circumstances and it will be for the Trust to decide whether or not to apply for recall.

ix. Where an offender is recalled to prison, if the offender is subject to a 28 day fixed term recall, and with the agreement of the establishment’s Governor, it should be possible for an offender to be recalled to prison in Scotland. If this is not appropriate, for example, if it is an offender who requires a higher level of security, it will be necessary to return the offender to a suitable prison in England and Wales.

x. Should the offender have been transferred on an unrestricted basis, then they will be subject to local breach action without involvement of the England and Wales Probation Trust.

**MAPPA**

xi. MAPPA in Scotland is restricted to only Category 1; sex offenders. While the levels remain the same as in England and Wales, there are no categories for violent or other sexual offenders, or for other offenders who require a multi-agency approach.

**Requests to transfer from Scotland to England and Wales**

xii. Transfers of offenders from Scotland to England and Wales will typically be conducted on an unrestricted basis as in the majority of cases a Scottish sentence has a counterpart in the England and Wales judicial system and therefore similar post supervision arrangements can be maintained.

xiii. As with iv above, there may be circumstances in an individual case where a condition on an offender from Scotland may not be enforceable in England and Wales. However, England and Wales licence conditions are sufficiently flexible for most situations as long as the condition is necessary and proportionate to the individual case; for further advice on the consideration of individual conditions contact the Public Protection Casework Section as it may be that the condition can be inserted into an England and Wales licence as a bespoke condition allowing the offender to transfer on an unrestricted basis.
ANNEX C

POST RELEASE SUPERVISION:
SUMMARY OF POSITION AND PARTICULAR CONSIDERATIONS WITH NORTHERN IRELAND

The ‘appropriate person’

i. The ‘appropriate person’ who should be contacted when a request to transfer to Northern Ireland is being considered is the Director of Probation, Probation Board for Northern Ireland (PB NI).

Unrestricted transfers

ii. Post-release supervision in Northern Ireland is currently provided to offenders subject to the same type of sentences as in England and Wales, with supervision being provided to any offender subject to a sentence of 12 months or longer in custody.

iii. The supervising service should contact the Northern Ireland Director of Probation to discuss whether it would be appropriate for a transfer to take place on that unrestricted basis, taking into account whether the (probable) reduction in supervision would be appropriate. This would normally only be the case for offenders subject to sentenced of less than 4 years. However, Northern Ireland is the only jurisdiction within the UK and Islands other than England and Wales that has an indeterminate sentence for public protection (IPP). This means that it may be possible on a case by case basis to transfer offenders on an IPP sentence to Northern Ireland on an unrestricted basis.

Restricted transfers

iv. Although supervision arrangements in Northern Ireland are similar to those in England and Wales, there may be some cases where there are particular conditions contained in an offender’s licence which cannot be applied in Northern Ireland under their provisions. In those circumstances, consideration must be given as to whether such conditions could be imposed under the law of England and Wales - in which case, the transfer should be granted on a restricted basis.

v. The Northern Ireland authorities would generally have no difficulty supervising offenders transferred on a restricted basis - their arrangements are sufficiently similar to allow supervision to take place under England and Wales provisions.

vi. If there are particular licence conditions in an individual case which could only be dealt with in England and Wales - for example, if there is a particular programme operating which is not available in Northern Ireland - the only option may be to refuse the application and require the offender to continue supervision in England and Wales. The application can be looked at again once the offender has completed that particular programme.

Breach action

vii. If the behaviour of an offender on restricted transfer gives rise to concern, the supervising service in Northern Ireland will inform the Probation Trust in
England and Wales as to the circumstances and it will be for the Trust to decide whether or not to apply for recall.

viii. Where an offender is recalled to prison, if the offender is subject to a 28 day fixed term recall, and with the agreement of the establishment’s Governor, it should be possible for an offender to be recalled to prison in Northern Ireland. If this is not appropriate, for example, if it is an offender who requires a higher level of security, it will be necessary to return the offender to a suitable prison in England and Wales.

ix. Should the offender have been transferred on an unrestricted basis, then they will be subject to local breach action without involvement of the England and Wales Probation Trust.

MAPPA

x. The Public Protection Arrangements Northern Ireland (PPANI) have a similar remit to the MAPPA arrangements in England & Wales in relation to violent and sexual offenders. The same category and level structure is used as in England and Wales.

Terrorist/Politically Motivated Offenders (T/PMO)

xi. The Probation Board of Northern Ireland does not provide supervision in the community for offenders who have served sentences related to terrorism or politically motivated offences. They will maintain contact with an individual offender in relation to resettlement needs. The mechanism for the agreement of specific licence conditions for these types of offenders is under discussion with the relevant agencies in Northern Ireland.

Requests to transfer from Northern Ireland to England and Wales

xii. Transfers of offenders from Northern Ireland to England and Wales will typically be conducted on an unrestricted basis as in the majority of cases a Northern Ireland sentence has a counterpart in the England and Wales judicial system and therefore similar post supervision arrangements can be maintained.

xiii. As with iii above, there may be circumstances in an individual case where a condition from Northern Ireland may not be enforceable in England and Wales. However, England and Wales licence conditions are sufficiently flexible for most situations as long as the condition is necessary and proportionate to the individual case. For further advice on the consideration of individual conditions contact the Public Protection Casework Section as it may be that the condition can be inserted into an England and Wales licence as a bespoke condition, allowing the offender to transfer on an unrestricted basis.
ANNEX D

POST-RELEASE SUPERVISION:
SUMMARY OF POSITION AND PARTICULAR CONSIDERATIONS WITH
ISLE OF MAN

The 'appropriate person'

i. The 'appropriate person' who should be contacted when a request to transfer to the Isle of Man is being considered is the Chief Probation Officer of the Isle of Man. Also, no offender may be transferred to the Isle of Man without the consent of their Department of Home Affairs (see Schedule 1, paragraph 4(1) of the 1997 Act, as modified by the Transfer of Prisoners (Isle of Man)(No.2) Order 1997).

Unrestricted transfers

ii. Post-release supervision in the Isle of Man is currently provided to offenders subject to the same type of sentences as in England and Wales, with supervision being provided to any offender subject to a sentence of 12 months or longer in custody. There is no difficulty, in principle, therefore, with offenders being transferred to the Isle of Man on an unrestricted basis except for those with IPP sentences.

Restricted transfers

iii. Although supervision arrangements in the Isle of Man are similar to those in England and Wales, there may be some cases where there are particular conditions contained in an offender's licence which cannot be applied in the Isle of Man under their provisions. In those circumstances, consideration must be given as to whether such conditions could be imposed under the law of England and Wales - in which case, the transfer should be granted on a restricted basis.

iv. The Isle of Man does not carry the Imprisonment for Public Protection sentence, and so any transfers of IPP offenders to Isle of Man must take place on a restricted basis only.

v. The Isle of Man authorities would generally have no difficulty supervising offenders transferred on a restricted basis - their arrangements are sufficiently similar to allow supervision to take place under England and Wales provisions.

vi. If there are particular licence conditions in an individual case which could only be dealt with in England and Wales - for example, if there is a particular programme operating which is not available in the Isle of Man - the only option may be to refuse the application and require the offender to undergo supervision in England and Wales. The application can be looked at again once the offender has completed that particular programme.

Breach action

vi. If the behaviour of an offender on restricted transfer gives rise to concern, the supervising service in the Isle of Man will inform the Probation Trust in
England and Wales as to the circumstances and it will be for the Trust to decide whether or not to apply for recall.

vii. Where an offender is recalled to prison, if the offender is subject to a 28 day fixed term recall, and with the agreement of the establishment’s Governor, it should be possible for an offender to be recalled to prison in the Isle of Man. If this is not appropriate, for example, if it is an offender who requires a higher level of security, it will be necessary to return the offender to a suitable prison in England and Wales.

viii. Should the offender have been transferred on an unrestricted basis, then they will be subject to local breach action without involvement of the England and Wales Probation Trust.

MAPPA

ix. The Isle of Man does not have a MAPPA process although interagency discussions may take place as part of the normal management of an offender.

Requests to transfer from the Isle of Man to England and Wales

x. Transfer of offenders from the Isle of Man to England and Wales will typically be conducted on an unrestricted basis as in the majority of cases a Manx sentence has a counterpart in the England and Wales judicial system and therefore similar post supervision arrangements can be maintained.

xi. As with iii above, there may be circumstances in an individual case where a condition on an offender from the Isle of Man may not be enforceable in England and Wales. However, England and Wales licence conditions are sufficiently flexible for most situations as long as the condition is necessary and proportionate to the individual case; for further advice on the consideration of individual conditions contact the Public Protection Casework Section as it may be that the condition can be inserted into an England and Wales licence as a bespoke condition allowing the offender to transfer on an unrestricted basis.
The ‘appropriate person’

i. The ‘appropriate person’ who should be contacted when a request to transfer to Jersey is being considered is the Chief Probation Officer for the Island.

Unrestricted transfers

ii. Under Jersey’s own provisions, only those offenders under the age of 21 are subject to post-release supervision. The twelve month supervision period would last until the end of sentence, or the 22\textsuperscript{nd} birthday, whichever comes first. This would mean that adult offenders transferred there on an unrestricted basis would not be supervised following release. In view of this, it is unlikely that transfers of adult offenders to Jersey would be unrestricted, although each case should be considered on its own merits.

Restricted transfers

iii. Jersey is able to provide supervision for offenders from other UK jurisdictions, where they remain under the law of those other jurisdictions. \textit{Therefore in order for an offender to be supervised on licence in Jersey, they must be transferred on a restricted basis.}

iv. If there are particular licence conditions in an individual case which could only be dealt with in England and Wales - for example, if there is a particular programme operating which is not available in Jersey - the only option may be to refuse the application and require the offender to undergo supervision in England and Wales. The application can be looked at again once the offender has completed that particular programme.

v. Jersey does not have a probation hostel/approved premises, and so where release to such premises is required in order to successfully manage an offender in the community, the England and Wales Probation Trust may be required to wait until after that placement is no longer needed before seeking to transfer the offender to Jersey.

Breach action

vi. If the behaviour of an offender on restricted transfer gives rise to concern, the supervising service in Jersey will inform the Probation Trust in England and Wales as to the circumstances and it will be for the Trust to decide whether or not to apply for recall.

vii. Where an offender is recalled to prison, if the offender is subject to a 28 day fixed term recall, and with the agreement of the establishment’s Governor, it should be possible for an offender to be recalled to prison in Jersey. If this is not appropriate, for example, if it is an offender who requires a higher level of security, it will be necessary to return the offender to a suitable prison in England and Wales.
viii. Should the offender have been transferred on an unrestricted basis, then they will be subject to local breach action without involvement of the England and Wales Probation Trust.

**MAPPA**

ix. Jersey runs a system called JMAPPA. It works in essentially the same manner as the MAPPA system in England and Wales, with all the categories and levels, but also had an additional fourth category of offender for Potentially Dangerous Persons (PDPs). One further thing to note about sex offenders in Jersey, is that Jersey law requires that any sex offenders travelling to Jersey notify local police within three days of arriving.

**Requests to transfer from Jersey to England and Wales**

x. As only offenders under the age of 21 in Jersey are subject to post-release supervision, any requests to transfer from Jersey to England and Wales will be limited to these offenders. It may be possible to accept these offenders on an unrestricted basis, depending on whether or not the licence period matches what it would be if they were an England and Wales offender. If the transfer is restricted, the receiving Trust will supervise the offender by applying the relevant Jersey provisions.

xi. As with v above, there may be circumstances in an individual case where a condition on an offender from Jersey may not be enforceable in England and Wales. However, England and Wales licence conditions are sufficiently flexible for most situations as long as the condition is necessary and proportionate to the individual case; for further advice on the consideration of individual conditions contact the Public Protection Casework Section as it may be that the condition can be inserted into an England and Wales licence as a bespoke condition allowing the offender to transfer on an unrestricted basis.
POST-RELEASE SUPERVISION:
SUMMARY OF POSITION AND PARTICULAR CONSIDERATIONS WITH
GUERNSEY (INCLUDING ALDERNEY, HERM AND SARK)

The ‘appropriate person’

i. The ‘appropriate person’ who should be contacted when a request to transfer to Guernsey is being considered is the Chief Probation Officer.

Unrestricted transfers

ii. Under Guernsey’s own provisions, only those offenders under the age of 21 or released on parole are subject to post-release supervision. This would mean that adult offenders transferred there on an unrestricted basis would not be supervised following release, with the exception of offenders subject to a life sentence. In view of this, it is unlikely that transfers of adult offenders to Jersey would be unrestricted, although each case should be considered on its own merits.

Restricted transfers

iii. Guernsey is able to provide supervision for offenders from other UK jurisdictions, where they remain under the law of those other jurisdictions. Therefore in order for an adult offender to be supervised on licence in Guernsey following release in England and Wales, they must be transferred on a restricted basis.

iv. Guernsey does not carry the Imprisonment for Public Protection sentence, and so any such offenders who wish to transfer must be transferred on a restricted basis only.

v. If there are particular licence conditions in an individual case which could only be dealt with in England and Wales - for example, if there is a particular programme operating here which is not available in Guernsey - the only option may be to refuse the application and require the offender to undergo supervision in England and Wales. The application can be looked at again once the offender has completed that particular programme.

Breach action

vi. If the behaviour of an offender on restricted transfer gives rise to concern, the supervising service in Guernsey will inform the Probation Trust in England and Wales as to the circumstances and it will be for the Trust to decide whether or not to apply for recall.

vii. Where an offender is recalled to prison, if the offender is subject to a 28 day fixed term recall, and with the agreement of the establishment’s Governor, it should be possible for an offender to be recalled to prison in Guernsey. If this is not appropriate, for example, if it is an offender who requires a higher level of security, it will be necessary to return the offender to a suitable prison in England and Wales.
viii. Should the offender have been transferred on an unrestricted basis, then they will be subject to local breach action without involvement of the England and Wales Probation Trust.

MAPPA

ix. Guernsey does not yet have a MAPPA process in statute; however they are looking to put one in place.

Requests to transfer from Guernsey to England and Wales

xi. As only those under the age of 21 in Guernsey are subject to post-release supervision, any requests to transfer from Guernsey to England and Wales will be limited to these types of offenders. It may be possible to accept these types of offenders on an unrestricted basis, depending entirely on whether or not the licence expiry dates match what they would be if they were an England and Wales offender. If the transfer is restricted, the receiving Trust will supervise the offender by applying the relevant Guernsey provisions.

xii. As with iii above, there may be circumstances in an individual case where a condition on an offender from Guernsey may not be enforceable in England and Wales. However, England and Wales licence conditions are sufficiently flexible for most situations as long as the condition is necessary and proportionate to the individual case; for further advice on the consideration of individual conditions contact the Public Protection Casework Section as it may be that the condition can be inserted into an England and Wales licence as a bespoke condition allowing the offender to transfer on an unrestricted basis.
ORDER FOR THE UNRESTRICTED TRANSFER OF SUPERVISION TO:

Crime (Sentences) Act 1997, Schedule 1 Paragraphs 4, 5, 6 (1) (b) & 15

Whereas was released from HM Prison on under the provisions of the Criminal Justice Act 2003;

And whereas the period of supervision commenced on and expires on;

And whereas has requested the transfer that supervision;

Now, in pursuance of paragraph 4 of Schedule 1 to the Crime (Sentences) Act 1997 (‘the 1997 Act’), the Secretary of State orders that the supervision of should be transferred to for the remainder of the supervision period and that the transfer should be unrestricted within the meaning of paragraph 6 (1) (b) of Schedule 1 to the 1997 Act.

Signed:

Status:

Date:

for the Secretary of State for Justice

This Order has been given to me and its effect has been explained.

Signed:

Date:
ORDER FOR THE RESTRICTED TRANSFER OF SUPERVISION TO:

Crime (Sentences) Act 1997, Schedule 1 Paragraphs 4, 5, 6 & 7)

Whereas was released from HM Prison on under the provisions of of the Criminal Justice Act 2003;

And whereas the period of supervision commenced on and expires on ;

And whereas has requested the transfer of that supervision;

Now, in pursuance of paragraph 4 of Schedule 1 to the Crime (Sentences) Act 1997 ('the 1997 Act'), the Secretary of State orders that the supervision of should be transferred to for the remainder of the supervision period and

the Secretary of State further orders, in pursuance of paragraph 5 (1) of Schedule 1 to the 1997 Act, that the transfer shall have effect so that is, for the duration of the transfer to , be treated for the relevant purposes of the 1997 Act (as defined in paragraph 6(2) of Schedule 1 to the 1997 Act) as if still subject to the provisions applicable for these purposes under the law of England and Wales;

For the purpose of paragraph 7 (2) of Schedule 1 to the 1997 Act, reference to the Secretary of State shall be taken to mean the Secretary of State for Justice.

Signed:

Status:

Date:

for the Secretary of State for Justice

This Order has been given to me and its effect has been explained.

Signed:

Date:
ORDER FOR THE REMOVAL OF THE CONDITIONS OF A RESTRICTED TRANSFER OF SUPERVISION TO

Crime (Sentences) Act 1997, Schedule 1 Paragraphs 4, 5, 6 (1) (b) 15 & 16

Whereas was released from HM Prison on under the provisions of the Criminal Justice Act 2003;

And whereas was granted a restricted transfer from England and Wales to;

And whereas it now appears appropriate to the Secretary of State for the restrictions placed on the transfer by the Order dated to be removed;

Now, in pursuance of paragraph 4 of Schedule 1 to the Crime (Sentences) Act 1997 (‘the 1997 Act’), the Secretary of State removes the conditions specified in the Order dated and by this Order authorises that the transfer should be unrestricted within the meaning of paragraphs 6 (1)(b) and 16 of Schedule 1 to the 1997 Act.

Signed:

Status:

Date:

for the Secretary of State for Justice

This Order has been given to me and its effect has been explained.

Signed:

Date:
ORDER FOR THE RETURN OF SUPERVISION TO ENGLAND AND WALES

Crime (Sentences) Act 1997, Schedule 1 Paragraphs 4, 5, 6 & 7

Whereas was released from HM Prison on under the provisions of of the Criminal Justice Act 2003;

And whereas was granted a restricted transfer from England and Wales to ;

And whereas it now appears appropriate to the Secretary of State that the supervision of should be returned to Probation Trust.

Now, in pursuance of paragraph 7 (1) (b) of Schedule 1 to the Crime (Sentences) Act 1997, the Secretary of State hereby orders that should be subject to supervision by Probation Trust as soon as the necessary arrangements are in place.

Signed:

Status:

Date:

for the Secretary of State for Justice

This Order has been given to me and its effect has been explained.

Signed:

Date:
Stage 1 – initial screening

The first stage of conducting an EIA is to screen the policy to determine its relevance to the various equalities issues. This will indicate whether or not a full impact assessment is required and which issues should be considered in it. The equalities issues that you should consider in completing this screening are:

- Race
- Gender
- Gender identity
- Disability
- Religion or belief
- Sexual orientation
- Age (including younger and older offenders).

Aims

What are the aims of the policy?

The current policy on transfers to other jurisdictions and resettlement outside the UK and Islands were published in PC 52/1997, some fifteen years ago. As such, the policy contained within does not take into account the changes of the Criminal Justice Act 2003 as well as other more recent introductions in post-release management such as sex offender registration and the Multi-Agency Public Protection Arrangements (MAPPA). In addition, the 1997 PC contains a breakdown of post-release arrangements for the other jurisdictions within the UK and Islands, all of which are out of date.

While it is intended to keep the general process the same, the detail needs to be updated as the existing circular is quite out of date.

Effects

What effects will the policy have on staff, offenders or other stakeholders?

The publication of the new Instruction should reduce the workload on staff, and increase the delegation to the Probation Trusts. PC 52/1997 isn’t well known, and on occasion, staff have incorrectly applied the more recently published policy on temporary travel to offenders who are attempting to resettle abroad permanently, and more often have been simply unaware of the policy at all and not considering approaches from offenders who would like to know if they can move back overseas while on licence.

A particular issue has arisen with offenders with dual nationalities which include British nationality. Because they are not considered foreign nationals, they cannot be considered for voluntary resettlement by UKBA, and because of their British nationality and the lack of staff knowledge of the 1997 PC, it was resulting in certain offenders being refused permission to resettle overseas without any review of their circumstances.

The new instruction will be more visible and will lead to those previously affected offenders getting a fair review under the revised policy. Regarding inter-jurisdictional transfers, the instruction will update the existing transfer order templates and make it...
Easier for staff to access. This will have a follow on effect that transfers will be conducted in a more orderly manner with the correct paperwork completed, as we have seen legal challenges made recently due to the transfer order either going missing, or never having been completed in the first instance.

Evidence

Is there any existing evidence of this policy area being relevant to any equalities issue?

Identify existing sources of information about the operation and outcomes of the policy, such as operational feedback (including local monitoring and impact assessments)/Inspectorate and other relevant reports/complaints and litigation/relevant research publications etc. Does any of this evidence point towards relevance to any of the equalities issues?

Due to the policy, it can be thought that foreign nationals or dual nationality offenders will have an advantage in applying for permanent resettlement outside of the UK as only they will have the required family links in the area that they wish to resettle to. There have been cases were ex-patriot British national offenders have returned to the UK and offended but their family remained overseas, so that would be the limited group of British nationals who would qualify for resettlement.

A similar restriction applies to inter-jurisdictional travel in that it requires a family link in the other jurisdiction (Scotland, Northern Ireland, Isle of Man, Jersey and the Bailiwick of Guernsey). Whether or not an offender would qualify under that criteria would be entirely dependent on the location of their family in the UK and Islands rather than any equalities issue.

Stakeholders and feedback

Describe the target group for the policy and list any other interested parties. What contact have you had with these groups?

British national offenders or dual nationals are the target group for this Instruction, as foreign nationals will have other routes for permanent resettlement abroad through deportation services. Our most commonly received correspondence subject from offenders on licence relates to travel/transfer abroad. From this we can identify the groups which will be most affected by this instruction, which is in the vast majority those whose nationality is British or British and another nationality.

Do you have any feedback from stakeholders, particularly from groups representative of the various issues, that this policy is relevant to them?

We have taken on board feedback from cases in which we have received correspondence, and consultation with Offender Managers who have dealt with resettlement requests in the past. The response was positive with no significant issues raised, and the instruction has been described as “a realistic and practical appraisal of the situation as it impinges upon Probation staff who supervise in such circumstances” by the NAPO representative.
Impact
Could the policy have a differential impact on staff, prisoners, visitors or other stakeholders on the basis of any of the equalities issues?

The policy should not have any differential impact in terms of equality issues, as the two key considerations for both forms of transfer are whether there is a family link in the location they wish to travel to (and not the nationality/race of the offender) and whether or not there would be an increase in the risk that the offender poses should travel go ahead.

Local discretion
Does the policy allow local discretion in the way in which it is implemented? If so, what safeguards are there to prevent inconsistent outcomes and/or differential treatment of different groups of people?

The consideration for determinate sentence offenders is being fully delegated to the Probation Trusts with this instruction, allowing for local consideration on those offenders. As with the current policy, should an offender find issue with those considerations then they will write to Ministers which will highlight any inconsistent practice by OMs.

Additionally, as the Parole Board through the Public Protection Casework Section in OMPPG will be considering applications for resettlement abroad for indeterminate sentence offenders. Caseworkers there will be able to highlight any inconsistent practice by Trusts and provide feedback on how they are interpreting the appropriate criteria.

Summary of relevance to equalities issues

<table>
<thead>
<tr>
<th>Strand</th>
<th>Yes/No</th>
<th>Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Race</td>
<td>No</td>
<td>Foreign nationals will typically have other routes with which to return to their country of origin. Therefore this instruction will mostly be used for British citizens who wish to travel abroad, or otherwise live abroad. This includes dual nationality citizens who would not otherwise qualify for a FNP relocation scheme.</td>
</tr>
<tr>
<td>Gender (including gender identity)</td>
<td>No</td>
<td>Gender is not included in the criteria for any types of travel.</td>
</tr>
<tr>
<td>Disability</td>
<td>No</td>
<td>Disability is not included in the criteria for any types of travel.</td>
</tr>
<tr>
<td>Religion or belief</td>
<td>No</td>
<td>Religion or beliefs are not included in the criteria for any types of travel.</td>
</tr>
<tr>
<td>Sexual orientation</td>
<td>No</td>
<td>Sexual orientation is not included in the criteria for any types of travel.</td>
</tr>
<tr>
<td>Age (younger offenders)</td>
<td>No</td>
<td>Age is not included in the criteria for any types of travel.</td>
</tr>
<tr>
<td>Age (older offenders)</td>
<td>No</td>
<td>Age is not included in the criteria for any types of travel.</td>
</tr>
</tbody>
</table>

If you have answered ‘Yes’ to any of the equalities issues, a full impact assessment must be completed. Please proceed to STAGE 2 of the document.
If you have answered 'No' to all of the equalities issues, a full impact assessment will not be required, and this assessment can be signed off at this stage. You will, however, need to put in place monitoring arrangements to ensure that any future impact on any of the equalities issues is identified.

Monitoring and review arrangements

Describe the systems that you are putting in place to manage the policy and to monitor its operation and outcomes in terms of the various equalities issues.

While resettlement abroad is being fully delegated to the Probation Trusts for determinate offenders with this instruction, there remains an interactive element with the Public Protection Casework Section and the Parole Board for indeterminate offenders. Because of this, caseworkers will be able to keep a continual eye on how certain Trusts operate the criteria for transfer/resettlement.

State when a review will take place and how it will be conducted.

A review of the instruction will take place at around the half way point of the instruction’s lifespan, unless initial findings raise any issues which require immediate rectification.

<table>
<thead>
<tr>
<th>Name and signature</th>
<th>Date</th>
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<tbody>
<tr>
<td>Policy lead</td>
<td></td>
</tr>
<tr>
<td>Brian Chapman</td>
<td>10/10/12</td>
</tr>
<tr>
<td>Head of group</td>
<td></td>
</tr>
<tr>
<td>Gordon Davison</td>
<td>15/10/12</td>
</tr>
</tbody>
</table>