



# National Offender Management Service

## PERMANENT RESETTLEMENT OUTSIDE ENGLAND AND WALES OF OFFENDERS SUBJECT TO POST-RELEASE SUPERVISION

<b>This instruction applies to:-</b>		<b>Reference:-</b>
Prisons Providers of Probation Services		<b>PSI 08/2015</b> <b>PI 07/2015</b>
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<b>Issued on the authority of</b>	NOMS Agency Board	
<b>For action by (who is this instruction for)</b>	<p>All staff responsible for the development and publication of policy and instructions</p> <p><input type="checkbox"/> NOMS HQ</p> <p><input checked="" type="checkbox"/> Public Sector Prisons</p> <p><input checked="" type="checkbox"/> Contracted Prisons*</p> <p><input checked="" type="checkbox"/> Governors</p> <p><input checked="" type="checkbox"/> National Probation Service (NPS)</p> <p><input checked="" type="checkbox"/> Community Rehabilitation Companies (CRCs)</p> <p><input checked="" type="checkbox"/> NOMS Rehabilitation Contract Services Team</p> <p><input checked="" type="checkbox"/> Other providers of Probation and Community Services</p> <p><i>* If this box is marked, then in this document the term Governor also applies to Directors of Contracted Prisons except where specified</i></p>	
<b>Instruction type</b>	<b>Service improvement</b>	
<b>For information</b>	<p>Supervising Officers in both the National Probation Service and the Community Rehabilitation Companies</p> <p>Victim Liaison Officers and Victim Unit Managers</p> <p>Staff in prison establishments dealing with release on licence</p>	
<b>Provide a summary of the policy aim and the reason for its development/revision</b>	<p>This instruction provides all staff with an explanation of the processes for permanent transfer or resettlement outside of England and Wales of offenders subject to licence or post-sentence supervision. It also contains key contact points in the other jurisdictions within the UK and Islands and the transfer order templates. Additional advice has been provided regarding the return of Irish nationals to the Republic of Ireland while subject to licence or post-sentence supervision.</p> <p><b>Update October 2015</b> – Amendments made to the contact details on the front page.</p>	
<b>Contact</b>	<p>Brian Chapman - Licence Conditions Senior Policy Manager. Email: <a href="mailto:Brian.Chapman@noms.gsi.gov.uk">Brian.Chapman@noms.gsi.gov.uk</a> Tel: 020 3334 0454</p>	
<b>Associated documents</b>	<p>PI 07/2014 Case Transfers: For Offenders Subject to Statutory Supervision either Pre Release from Custody or whilst completing an Order or Licence</p> <p>PI xx/2015 Home Detention Curfew (yet to be published)</p> <p><a href="#">PSI 29/2010</a> - PI 06/2010 - <a href="#">PSO 4700</a> The Indeterminate Sentence Manual Chapters 3, 7, 8, 10, 11, 12 and 15</p>	

PI 56/2014 - [PSI 40/2014](#) Mandatory Use of ViSOR  
[PSI 18/2014](#) Licences, Licence Conditions and Polygraph  
Examinations  
PI 11/2014 Licence Conditions. Polygraph Examinations and  
Temporary Travel  
[PSI 31/2014](#) – PI 29/2014 Post-Sentence Supervision Requirements  
MAPPA Guidance 2012

**Replaces the following documents which are hereby cancelled:** PSI 20/2014 - PI 14/2014  
Permanent Resettlement outside England and Wales of Offenders on Licence

***All hard copies of these Instructions must be destroyed***

**Audit/Monitoring:** The Director of NPS in England, Director of NOMS in Wales and NOMS  
Director of Rehabilitation Services for CRCs will monitor compliance with the mandatory  
requirements in this instruction.

NOMS contract management will hold providers to account for delivery of mandated instructions  
as required in the contract.

NOMS Deputy Directors of Custody and Controllers, will monitor compliance with the mandatory  
actions set out in this Instruction.

**Notes: *All Mandatory Actions throughout this instruction are in italics and must be strictly  
adhered to.***

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## 1. Executive Summary

### Background

- 1.1 There are two main forms of supervision in the community following release from custody:
- Licence: which has the purposes of public protection, prevention of re-offending, and securing the successful re-integration of the offender into the community and
  - Post-sentence supervision: which follows licence for relevant offenders released from custodial sentences of more than 1 day but less than 2 years, and which has the purpose of rehabilitation.
- 1.2 Allowing offenders subject to either of these forms of post-release supervision to transfer to other United Kingdom and Islands jurisdictions or to permanently resettle abroad 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.
- 1.3 For the purposes of these Instructions, the United Kingdom and Islands includes England, Wales, Scotland, Northern Ireland, Isle of Man, Jersey and the Bailiwick of Guernsey (including Alderney, Herm and Sark).
- 1.4 The National Offender Management Service has a duty of care to protect the public from those offenders under its management. *To ensure that offenders remain subject to appropriate post-release supervision, permanent resettlement outside England and Wales must be permitted only where it meets the appropriate criteria.*
- 1.5 There will be different considerations when an offender applies to transfer to another jurisdiction within the UK and Islands, compared with applying to resettle outside the UK and Islands:
- Transfer within the UK and Islands: the Crime (Sentences) Act 1997 gives the authority for offenders to be transferred between the jurisdictions of the UK and Islands, and enables the licence or post-sentence supervision period to be enforced following a transfer. It is open to another jurisdiction in the UK and Islands not to accept a request for transfer under these provisions.
  - Transfer outside the UK and Islands: a licence or post-sentence supervision period 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 any form of compulsory supervision by the local authorities if they were to transfer abroad whilst on licence.
- 1.6 All post-release licences contain the following standard condition: “Not to travel outside the United Kingdom unless otherwise directed by your supervising officer”. As a matter of policy post-sentence supervision periods will also contain this requirement (with rare exceptions). Where a request to resettle outside the UK and Islands is approved, any licence or post-sentence supervision period remains in force so travel for the purpose of resettlement needs be agreed by the supervising officer under the terms of this requirement.
- 1.7 All standard licences also contain the condition “Permanently to reside at an address approved by your supervising officer and obtain the prior permission of the supervising officer for any stay of one or more nights at a different address”. All post-sentence supervision periods will also contain this requirement.(with rare exceptions). *Where a request to resettle outside the UK and Islands is approved, the supervising officer must approve the address the offender will reside at in the receiving jurisdiction. Where the*

transfer is unrestricted then this is done by the supervising officer of the receiving jurisdiction. When the transfer is restricted this is done by the supervising officer of the sending jurisdiction, with the assistance of the receiving jurisdiction who will be able to assist with home circumstances checks.

### Desired outcomes

- 1.8 This Instruction has been issued to ensure that sufficient advice has been given to enable staff to accurately assess 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

- 1.9 Section 2 is predominantly for Providers of Probation Services as it relates to the resettlement of offenders outside the UK and Islands.
- 1.10 Sections 3 and 4 both deal with transfers between jurisdictions, during either the licence or post-sentence supervision period. As such, they relate only to Probation Providers. Section 3 relates to outgoing transfers from England and Wales and section 4 refers to incoming transfers.
- 1.11 Further information on the sentencing and supervisory frameworks available in the other jurisdictions within the United Kingdom and Islands are included in Annexes B to F.
- 1.12 Governors should be aware of the requirement for the National Probation Service (NPS) to lead on any requests for transfer following release and that prison staff should not arrange them directly with another jurisdiction/country. The action regarding the issuing of transfer orders for establishment staff is in 3.17, along with the templates at Annexes G, H, I and J.
- 1.13 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. This is a prison led transfer system, and the associated document is available on the Quantum system.

### Mandatory actions

- 1.14 *Managers in Community Rehabilitation Companies (CRCs) must ensure that the relevant staff are aware of, and comply with, the mandatory actions which are summarised below:*
- *The appropriate criteria are considered when an offender applies to be transferred to another UK and Islands jurisdiction or overseas.*
  - *Where they wish to support an application for resettlement overseas, the case is referred to the correct authority for approval.*
  - *Where they wish to support an application for an inter-UK and Islands transfer, following initial checks with the other jurisdiction, the case is passed to the NPS for approval*
  - *Where an inter-UK and Islands transfer is approved for an offender currently managed by the CRC, a request is made of the Offender Management Unit at the releasing establishment to produce a transfer order for the offender.*

- *Where a case has been approved by the NPS to allow an offender to resettle outside of the UK and Islands, the supervising officer should liaise with Home Office Immigration Enforcement (HOIE) to ensure that the offender leaves the country as agreed, and to provide a check should the offender return to the UK and Islands*

1.15 *Managers in the NPS must ensure that the relevant staff are aware of, and comply with, the mandatory requirements which are summarised below:*

- *The appropriate criteria are considered when an offender applies to be transferred to another UK and Islands jurisdiction or overseas.*
- *Where the CRC reviews an application to resettle outside of the UK and Islands or transfer to another jurisdiction within the UK and Islands, the NPS should act as the review authority for those movements.*
- *Where a CRC case is transferred to another jurisdiction within the UK and Islands on a restricted basis, the NPS should take over management of that case while it is being supervised by the other jurisdiction.*
- *Where they wish to support an application for resettlement overseas or an inter-UK and Islands transfer, the case is referred to the correct authority for approval.*
- *Where an inter-UK and Islands transfer is approved for an offender currently managed by the NPS, a request is made of the Offender Management Unit at the releasing establishment to produce a transfer order for the offender*
- *Where an application to resettle outside of the UK and Islands is approved for an offender currently managed by the NPS, the supervising officer should liaise with HOIE to ensure that the offender leaves the country as agreed, and to provide a check should the offender return to the UK and Islands.*

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

- Transfers conducted following the release of an offender are arranged by the relevant Probation Provider (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 NPS/relevant CRC.
- Transfer orders are produced as required from the templates supplied in this instruction, or on PNOMIS should they become available.

## **Resource Impact**

1.17 Following the creation of the NPS, the processes for approving transfers outside of the UK and Islands have been streamlined which should have a positive impact on resources.

1.18 The introduction of licences and post sentence supervision for sentences of up to two years under the ORA 2014 will have a minor resource impact in relation to this policy. This has been baselined as part of the wider resources for extending post-release supervision to short-sentenced offenders as part of the Transforming Rehabilitation reforms.

(Approved for Publication)

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Director, NOMS in Wales

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## **2. Resettlement from England and Wales to a country outside of the UK and Islands**

- 2.1 *Post-release supervision imposed on an offender by England and Wales – whether that is a licence or a period of post-sentence supervision following the licence – 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 or post-sentence supervision period will not be enforced.*
- 2.2 *Any offer of supervision by a Probation Provider outside of the UK and Islands must not be included in the risk assessment for consideration of whether or not the offender meets the criteria in 2.6 as such supervision is voluntary and the offender can decide to stop attending at any time. However, it is expected that the offender manager would contact the relevant Probation authority of the receiving country should the application to resettle be approved, as they may be able to provide support to the offender on basis of voluntary engagement following the move. If such support is made available, then it must be recorded on any transfer summary.*
- 2.3 *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. It should be noted that, generally, Irish nationals are not eligible for deportation except for exceptional cases. Therefore they will fall under the policy in this document for resettlement outside of the UK and Islands should they wish to return to the Republic of Ireland during their licence period.*
- 2.4 *An offender is required to spend a suitable period of time (the length of which is dependent on the complexity of the case and the risk of serious harm that the offender poses) 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 likelihood of reoffending and compliance with 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.*
- 2.5 *In the case of any immediate resettlement upon release, the offender would be expected to report on a single occasion to the responsible Probation Provider so that the licence and any post-sentence supervision period can be explained to them by their supervising officer. This should include an explanation of what licence conditions or post-sentence supervision requirements would apply to the offender 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 Provider in which the committing court is located.*

### **Considerations for resettlement outside the UK and Islands**

- 2.6 *If an offender indicates a desire to resettle permanently outside the UK and Islands, the supervising officer must firstly consider:*
- 1) *Does the offender have close family or residential ties in the place s/he wishes to resettle, including, but not limited to, any compassionate reasons?*

*If the answer to criterion 1 is 'no' then the application should be refused.*

- 2) *Is the offender'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 2 is 'yes', then the application should be refused.*

*Should the application still remain viable, then the supervising 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.*

- 2.7 *Criterion 3 must be carefully considered as, for example, it would not be appropriate to allow an offender on licence 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. This will be a relevant consideration even in the case of an offender subject to post sentence supervision. Every effort should be made by the supervising officer to contact the country where the offender is seeking to resettle in order to ascertain any relevant risk information to consider. This contact should also be used to inform the receiving country of the offender's request for resettlement. Where a Victim Liaison Officer is assigned to the case (in accordance with the statutory criteria in NPS cases, or for CRCs on a discretionary basis), the supervising officer must contact them in order to ensure that there are no victim issues in the case that would be exacerbated by the offender's resettlement to another country.*
- 2.8 *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. There are no additional compassionate grounds specific to an application for overseas transfers.*
- 2.9 *If the supervising officer is concerned that the proposed move is likely to increase the offender's risk of serious harm, or otherwise undermine the rehabilitation of the offender then the supervising officer must review the proposal with their line manager at the earliest opportunity. It may be necessary at this stage to undertake a review of the offender's assessment (using OASys or other approved tool) to determine the effects of the proposed move on the offender. 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.*
- 2.10 *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 by the Probation Provider (and approved by the NPS, where they are not supervising the case) 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 abroad. A request for variation can only come from the offender him/herself or the relevant Chief Officer of Police (Sexual Offences Act 2003, Section 118), and it would be expected that an up to date risk assessment would be provided. If the court does not agree to modifying or cancelling the FTO, the offender should be informed that permission to resettle abroad has been refused due to the FTO remaining in place.*

### **Who may approve resettlement requests?**

- 2.11 *Resettlement outside of the United Kingdom and Islands for any offender subject to licence or post-sentence supervision who is managed by the National Probation Service must be authorised in line with this guidance by the Head of the NPS local delivery unit (or delegated authority thereof). Where an offender subject to licence or post-sentence supervision has been allocated to a Community Rehabilitation Company, and they wish to approve the application for resettlement, they must refer it to the NPS for consideration and liaise as appropriate to ensure that the reviewing officer has sufficient information to come to a decision.*
- 2.12 *The Secretary of State has the authority to grant applications to allow an offender subject to licence or post-sentence supervision to resettle outside of the United Kingdom and Islands. This is by approving a request to permanently travel under the relevant standard licence condition or post-sentence supervision requirement 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 Head of the NPS local Delivery Unit relevant to the contract package area in which the offender is managed; or*
  - *in the case of indeterminate sentence prisoners (lifers/IPPs), the Public Protection Casework Section (PPCS) within NOMS.*

### **Licences and post-sentence supervision**

- 2.13 *If approval for the offender to resettle abroad is given, the supervising officer must make clear to the offender that a licence or post-sentence supervision period 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 licence conditions have already been suspended. If the offender returns to the United Kingdom or Islands prior to the expiry of the licence or post-sentence supervision period, they must contact the service which they were formerly managed by within 48 hours. Failure to do so could result in breach proceedings being instituted with the offender potentially being returned to custody.*
- 2.14 *Where an offender has resettled outside the UK and Islands but will be returning for a short period during the licence or post-sentence supervision period, e.g. for a layover between international flights, s/he should be advised to contact his/her supervising officer beforehand to ensure that no accidental breach action is taken when they pass through border control. It would not be anticipated that any supervisory action would be required for these types of occurrences.*

### **Sex offender registration requirements**

- 2.15 *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.*
- 2.16 *An offender must separately contact the Police directly in order to meet the requirements of their Sex Offender notification requirements. Supplying information to the NPS in order to apply for resettlement abroad does not meet the requirements of sex offender notification. The supervising officer in these types of cases should remind the offender of this obligation and record that discussion on local casework systems.*

### **Liaison with Home Office Immigration Enforcement (HOIE)**

- 2.17 *If an application to resettle permanently outside of the UK and Islands is approved, then the supervising officer must liaise with Home Office Immigration Enforcement to ensure that the*

*offender leaves the country as expected and is not seeking to evade the requirements of their licence or post-sentence supervision period.*

- 2.18 This will also have the added benefit that HOIE may be able to indicate if the offender returns to the UK or Islands unexpectedly during their period of licence or post-sentence supervision period, which in turn will allow the supervising officer to decide on enforcement action if the offender then fails to report to the responsible probation provider in order to resume supervision.

### **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 from England and Wales to another UK jurisdiction 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 subject to licence or post-sentence supervision in England and Wales prior to transfer.* However, the receiving jurisdiction may wish for a period of supervision 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.
- 3.1 The process for the review and arrangement of transfers for cases under management by the National Probation Service and Community Rehabilitation Companies will vary slightly. *Where a case is managed by a CRC, the supervising officer must take the initial consideration and make contact with the other jurisdiction themselves if appropriate. They must then ask the NPS to review the case, if they wish to proceed with the transfer, before completing the transfer themselves. For the NPS, there is no requirement to consult with another organisation within England and Wales unless the offender is subject to an indeterminate sentence.* These processes are explained in the following paragraphs in further detail, as well as the flowchart at Annex K.

#### **Initial consideration and criteria**

- 3.3 *A supervising officer who receives a request from an offender to transfer to another jurisdiction must first make an initial assessment, according to the following criteria.*

- 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 supervising officer should then consider:*

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

*This will be a relevant consideration for either offenders serving their licence period or post sentence supervision period.*

- 3.4 *The supervising officer must consult with a VLO where one is assigned to the case, in order to ensure that there are no victim issues in the case that would be exacerbated by the offender's resettlement to the other jurisdiction. If the supervising officer is concerned that the proposed transfer is likely to increase the risk to a known victim, to the public (e.g. if there is no approved premises in the receiving jurisdiction, or the offender would be of no fixed abode following transfer), they must review the proposal with their line manager at the earliest opportunity. It may be necessary at this stage to undertake a review of the offender's risk of serious harm assessment (using OASys or other approved tool) to determine the effects of the proposed move on the assessed level of risk. If 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.*
- 3.5 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. There are no additional compassionate grounds specific to an application for cross-jurisdictional transfer.

#### **What type of transfer: Restricted and unrestricted transfer?**

- 3.6 There are two ways in which an offender subject to licence or post-sentence supervision can be transferred to another UK jurisdiction:
- Restricted: the sentencing provisions of the exporting jurisdiction are incorporated into the law of the receiving jurisdiction in relation to the transferred offender so that the offender can be managed in the receiving jurisdiction. The exporting jurisdiction retains overall control of the sentence.
  - Unrestricted: the offender transfers onto an equivalent sentence in the receiving jurisdiction's legislation. The receiving jurisdiction assumes complete control of the offender.
- 3.7 *Where the criteria at 3.3 are met, the supervising officer must consider whether the transfer 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 they would normally only be transferred under restricted transfer arrangements:
- The offender has a type of sentence or supervision 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.

This will always apply in the case of post sentence supervision, the equivalent of which does not exist in the other UK and Islands jurisdictions.

#### **Initial liaison with other jurisdiction**

- 3.7 Once the supervising officer has reached a view that a transfer is suitable and on what basis, they should make initial contact with the potential receiving jurisdiction. The contact points are listed in Annex A.
- 3.8 *Should a **restricted** transfer be considered suitable, the supervising officer must confirm with the relevant person in the receiving jurisdiction 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 *In contacting the jurisdiction where the offender is seeking to transfer, the supervising officer must ascertain any relevant risk information to consider.*
- 3.10 It is open to the receiving jurisdiction to propose alternative provision in order to meet the supervision conditions, where they cannot provide a particular programme or intervention as currently in place. It is also open to the receiving jurisdiction to refuse to accept the case if they cannot provide the necessary resources to supervise the offender in question.
- 3.10 The receiving jurisdiction will want to conduct a home circumstances check. Once this discussion is held, the outcome should be noted and, if the case is currently managed by a CRC, passed along to the NPS representative responsible for approving transfers on behalf of the Secretary of State.
- 3.10 There is an expectation that there will be ongoing liaison with the receiving jurisdiction, especially if further clarification is required over certain arrangements – for example, if there is more than a single home circumstances check required if the first address proves unsuitable.

## Who may approve transfer requests?

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

### Cases originating in a CRC:

- *If the CRC remains supportive of the transfer following the discussion with the receiving jurisdiction, and the receiving jurisdiction is able to accept the transfer, then they must pass it to the Head of the NPS local delivery unit for review on behalf of the Secretary of State. The NPS should then review the case against the criteria in 3.3, taking into account any relevant information supplied by the CRC and asking for further information if required to come to an appropriate and evidenced decision. If approved, it will be for the CRC to finalise the transfer arrangements. If the transfer is conducted on a restricted basis, then management of the case will pass to the NPS after the offender has physically moved so that they can manage any potential breach actions.*

### Cases originating in the NPS:

- *Following the initial discussion with the receiving jurisdiction, the application must be sent to the Head of the NPS local delivery unit, who will make a decision on behalf of the Secretary of State.*
- *In the case of all offenders whose initial release was made by the Parole Board, (i.e. those serving indeterminate or determinate discretionary release sentences), the application must be endorsed by the Head of the NPS local delivery unit and then sent to PPCS, who will review the case based on the reports provided. The final decision is made by PPCS, on behalf of the Secretary of State, with approval first obtained from the Parole Board.*

## Making a restricted transfer

3.13 Where a transfer is agreed on a restricted basis, some amendment of the licence or post-sentence supervision 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 purpose(s) of the type of supervision to which the offender is subject. *In cases where the offender originated from the CRC, the CRC must provide the information requested by the NPS to enable them to make this decision.* 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 and any subsequent post-sentence supervision requirements (where a period of post sentence supervision applies), in view of the anticipated transfer.

## Making an unrestricted transfer

3.14 Where a transfer is agreed on an **unrestricted** basis, the relevant Probation provider 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 or other form of post-release supervision for the offender and thereafter be responsible for any additions or amendments to the conditions.

3.15 Once the transfer has taken place, there is no requirement for the receiving jurisdiction to keep the service in England and Wales apprised 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 such as where the originating jurisdiction can continue to provide ongoing assistance in advising on historical factors in the case. In cases where the offender has a nominal record held on ViSOR (the confidential police sex offender registration system), 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. For further information on the use of ViSOR, see PI 56/2014 / PSI 40/2014 Mandatory Use of ViSOR

- 3.16 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.

### Issuing Transfer Orders

- 3.17 *Where it is agreed that post-release supervision should be transferred to another jurisdiction, the offender must be issued with the appropriate Transfer Order. The supervising officer in the NPS/CRC must request that staff in the releasing establishment produce the appropriate transfer order from the Annexes attached to this instruction. Offenders must sign the Order to indicate that they understand the conditions of transfer in the same way as the explanation of a licence.*

### Breach actions

- 3.18 **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.*
- 3.19 **Restricted:** *If an offender who has resettled to another jurisdiction on a restricted basis breaches the terms of the licence or post-sentence supervision period, 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 initiate breach proceedings remains with the NPS, but it can be executed by the receiving jurisdiction. This includes the receiving jurisdiction being able to use the originating powers in court, should recall be dealt with in such a way in the originating jurisdiction. In the case of licences, where the NPS considers that recall is required the receiving jurisdiction should pass the relevant information to the NPS, who must then make the decision whether or not to request recall through PPCS as normal.*

### MAPPA cases and sex offender registration

- 3.20 Registered Sex Offenders (RSOs) will always be managed by the National Probation Service as they will be MAPPA Category 1 offenders. RSOs are 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.
- 3.21 Some jurisdictions, such as Jersey, will require sex offenders to register with their police force on arrival. The supervising officer should check with the jurisdiction's representative what the appropriate arrangements are during the course of arranging the transfer.
- 3.22 Further information about the transfer of MAPPA cases is available in chapter 17 of the MAPPA Guidance 2012 (v4).

### Returning an offender to England and Wales

- 3.23 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.
- 3.24 *Where a determinate sentenced offender has requested to return, the NPS must decide on behalf of the Secretary of State whether or not the offender may return to England and Wales. However, in the case of an offender whose initial release was made by the Parole Board, (i.e. those serving an indeterminate or determinate discretionary release sentence), then they must make a recommendation and seek permission from PPCS, who in turn will require approval from the Parole Board. The original releasing establishment in England and Wales must then produce the transfer order at Annex J.*
- 3.25 Once confirmed, the NPS-based officer should apply the case allocation system to determine whether the case will be managed by the NPS or the CRC and contact the relevant provider in the location to which the offender is transferring. If the offender is allocated to a CRC, then the CRC is responsible for providing local information to the NPS, such as conducting a home circumstances check.
- 3.26 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.
- 4.2 The National Probation Service is the central point of contact for any other jurisdictions whose offenders may wish to transfer permanently to England and Wales on licence. Any Community Rehabilitation Companies who receive queries about incoming transfers should forward them to the Head of the NPS local delivery unit.

#### **Unrestricted transfers**

- 4.3 If the NPS is approached by the relevant authority in another jurisdiction with a request from an offender to transfer their supervision to England and Wales, the same considerations should be undertaken as set out in paragraph 3.7 above for outgoing transfers.
- 4.4 *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 the Head of the NPS local delivery unit. 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 by the other jurisdiction.*
- 4.5 Following this decision the NPS-based officer should apply the case allocation system to determine whether the case will be managed by the NPS or the CRC and contact the relevant provider in the location to which the offender is transferring.
- 4.6 *In the case of licence variations sought for determinate sentence offenders who have been transferred on an unrestricted basis, all such requests must be sent to PPCS who will deal with them rather than a releasing establishment.*
- 4.7 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 NPS will need to forward the release dossier sent by the original jurisdiction to PPCS.

#### **Restricted transfers**

- 4.8 *If it is considered that an offender is suitable for transfer but only on a **restricted** basis, the NPS-based officer 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 relevant Probation Provider 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 determine 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.*

- 4.9 If the NPS 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**

- 4.10 *The NPS must ensure that offenders meeting the criteria for one of the MAPPA categories are identified. The MAPPA Guidance gives further details on the process for identification and further liaison between the arrangements of different jurisdictions. All offenders subject to MAPPA will be managed by the NPS, and so the procedures in this subsection do not apply to CRC managed cases. For MAPPA level one management, section 6.27 of the MAPPA Guidance 2012 (v4) describes that such cases should be flagged on local case management systems with access allowed for the local MAPPA Co-ordinator. If a case reviewed as being at level two or three be transferred, then chapter 17 of the MAPPA Guidance 2012 (v4) describes the process for inter-MAPPA liaison.*
- 4.11 *The arrangements for MAPPA in other jurisdictions are described in the jurisdiction annexes attached to this instruction. However, when transferring MAPPA cases, the offender's MAPPA eligibility must always be reviewed again as elements such as the breakdown of levels may be slightly different in other jurisdictions. In addition, the ViSOR record must be maintained – for further information on the use of ViSOR see PI 56/2014 / PSI 40/2014 Mandatory Use of ViSOR.*
- 4.12 *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.*

### **Allocation to Community Rehabilitation Companies**

- 4.13 *Other than offenders falling within scope of MAPPA who will always be supervised by the NPS; the NPS must identify and allocate any relevant incoming offenders to the CRCs using the allocation process described in the separate probation instruction.*

### **Breach actions**

- 4.14 **Unrestricted:** *The offender must be managed under the legislation of the jurisdiction which is actively managing him, i.e. the NPS/CRC is responsible for considering and, where necessary, initiating recall proceedings where the offender is considered to have breached the terms of his supervision.*
- 4.15 **Restricted:** *Under the 1997 Act, there is scope for the supervising agency in 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**

- 4.16 *There is 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.*
- 4.17 *The probation providers in England and Wales may decide to return a determinate sentenced offender to the originating jurisdiction. This must be approved by the Head of the*

*NPS local delivery unit. For offenders subject to indeterminate sentences, permission must be sought from PPCS on behalf of the Secretary of State.*

- 4.18 *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.*

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In order to liaise with supervisory agencies in other countries where a direct contact is not known, it is advised that contact is made with the embassy within the United Kingdom as they may be able to supply contact details.

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**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 many 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 four years or longer in custody. For those sentenced to less than four years, statutory supervision only applies to those who are subject to an Extended Sentence or a Supervised Release Order.
- 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 relation to offenders sentenced to four years or more, or an extended determinate sentence, 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 broadly similar to those in England and Wales for longer sentences, for those sentenced to less than four years, the same arrangements do not apply. In addition, 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. Nor is there any equivalent to post-sentence supervision in Scotland, so any transfers of offenders subject to post-sentence supervision would normally take place on a restricted basis.*
- 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. However, consideration will need to be made on an individual basis, and those sentenced to less than 12 months would not normally be supervised.
- vii. If there are particular supervision 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 NPS in England and Wales as to the circumstances and it will be for the NPS to decide whether or not to apply for recall.
- ix. Where an offender is returned to prison, if the offender is subject to a fixed term recall or committed to up to 14 days in custody for breach of post-sentence supervision, then 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 providers.

### **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.

**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 four 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 broadly 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. There is no equivalent to the post-sentence supervision period for short-sentenced offenders in Northern Ireland, so any transfers of offenders subject to post-sentence supervision would normally take place on a restricted basis.
- vi. 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. However, consideration will need to be made on an individual basis, and those sentenced to less than 12 months would not normally be supervised.
- 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 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**

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

- ix. Where an offender is returned to prison, if the offender is subject to a fixed term recall or committed to up to 14 days in custody for breach of post-sentence supervision, then 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.
- 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 providers.

### **MAPPA**

- xi. 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)**

- xii. 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**

- xiii. 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.
- xiv. 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.

**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 sentences of less than 12 months or subject to 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, or an equivalent to the post sentence supervision period, and so any transfers of IPP offenders or those who will be subject to post sentence supervision to the Isle of Man must take place on a restricted basis only.*
- iv. 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.
- v. If there are particular licence conditions or post-sentence supervision requirements 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 NPS in England and Wales as to the circumstances and it will be for the NPS 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 providers.

#### **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.

**POST-RELEASE SUPERVISION:  
SUMMARY OF POSITION AND PARTICULAR CONSIDERATIONS WITH  
JERSEY**

**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, other than life sentenced offenders, 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, 12 months after release, or the 22<sup>nd</sup> 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. *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 provider 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 NPS in England and Wales as to the circumstances and it will be for the NPS 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 provider.

**MAPPA**

- ix. Jersey runs a system called JMAPP. 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 probation provider 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. In Guernsey, Young Offenders, under 21 years, sentenced to more than 21 days, and adults sentenced to 12 months or more, are subject to post custody Notice of Supervision (Youth Detention Supervision Orders (YDSO) or Adult Custody Supervision Orders (ACSO)). Additionally, sentences of 15 months or more are also subject to discretionary release on Parole Licence at a Parole Eligibility Date (PED) at the 1/3 point of sentence. (Note: The Parole (Guernsey) Law, including PED calculations, is currently under review). Also, sexual or serious violent offenders may be subject to an Extended Sentence Licence (Note: in Guernsey an ESL is calculated from the EDR ie it commences after any discretionary parole period, but replaces any automatic post custody supervision).
- iii. In the case of released or about to be released UK Prisoners who are subject to UK licences or Notice of Supervision and wish to resettle in Guernsey, it will not always be possible to issue a substitute Guernsey licence for a UK one once the prisoner is in the community. Therefore, established policy and practice is for released UK prisoners who are subject to supervision, or are about to be released on supervision, to have their supervision transferred on a Restricted basis.

**Restricted transfers**

- iv. 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 offender to be supervised on licence in Guernsey following release in England and Wales, they must be transferred on a restricted basis.*
- v. *Guernsey does not carry the Imprisonment for Public Protection sentence, or operate an equivalent to the post sentence supervision period and so any such offenders who wish to transfer must be transferred on a restricted basis only.*
- 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 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.
- vii. If after transfer, the appropriate person in Guernsey considers that alteration of the offender's licence conditions would be appropriate, he or she can recommend changes to the governor of the prison in England and Wales from where the offender was released, or in the case of Indeterminate Sentenced Prisoners, to Public Protection and Casework Section.

**Breach action**

- viii. If the behaviour of an offender on restricted transfer gives rise to concern, the supervising service in Guernsey may consider it necessary to instigate breach proceedings. Breach

proceedings should be conducted by Guernsey by applying the relevant UK legislation, ie as if the offender was in England and Wales; the Guernsey Probation Service may seek advice from the sending Area as to UK processes.

- ix. Where breach action is taken and an offender is recalled to prison, if the period of recall is short, and subject to the agreement of the Prison Governor, it should be possible for an offender to be recalled to the prison in Guernsey. If the offender is considered dangerous, though, recall to a more secure prison in England and Wales might be required. This may be an example of a case where paragraph 7 of Schedule 1 of the 1997 Act may be applied; the provision to return restricted transferees to the sending jurisdiction (see, paragraph 3.21 above).
- 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 provider.

### **MAPPA**

- xi. For many years Guernsey has operated MAPPA and in 2014 MAPPA is going to be part of Guernsey Law. Currently there is a well developed system of operating multi agency public protection, very similar to that in England and Wales. If transferring offenders fit the MAPPA criteria, which is the same criteria as in England and Wales, then they will become subjects of Guernsey MAPPA.

### **Life and indeterminate sentences**

- xii. Guernsey does not have indeterminate sentences other than life sentences. Guernsey has no provision locally for the release of life sentence prisoners, so at present all such prisoners are transferred to England and Wales as Unrestricted prisoners, becoming subject to consideration by the Parole Board of England and Wales. Upon release the life licence would be transferred to Guernsey on a restricted basis, so the Guernsey Probation Service would manage these day to day, but any recall decision would remain with the Parole Board of England and Wales.

### **Sex offenders**

- xiii. In 2014, Guernsey will be introducing new sex offender legislation which will require sex offenders to register with the local police force much in the same manner as in England and Wales. Therefore any sex offender wishing to travel will have to inform the police of any travel outside of the Bailiwick of Guernsey. Also any sex offender travelling to the Bailiwick of Guernsey will have to register with the local police force, including permanent transfer. In such cases the supervising officer in England and Wales should check with the appropriate person what the appropriate arrangements are during the course of the transfer.

### **Requests to transfer from Guernsey to England and Wales**

- xiv. As explained above, those released on Parole Licence, or serving more than 21 days Youth Detention, or 12 months or greater prison sentence, or Extended Sentences, are subject to post- release supervision in Guernsey.
- xv. If Guernsey's Chief Probation Officer considers that a request from an offender to have his or her supervision transferred to England and Wales should be approved, the NPS will be contacted. In consultation with the person dealing with the request in Guernsey, the receiving service should make an assessment as to whether it would be appropriate for the offender's supervision to be transferred to them and if so whether this should be on a restricted or unrestricted basis.

- xvi. Parole Licences, Extended Sentence Licences, ACSO's and YDSO's may be subject to Unrestricted transfer if the receiving England and Wales NPS office is satisfied that it can issue a substitute UK licence of the same duration and requirements. In making this assessment, the considerations will be largely the same as for outgoing transfers.
- xvii. If it is agreed to transfer an offender's supervision on an unrestricted basis, the offender will become the responsibility of the receiving service in England and Wales, and be dealt with entirely under the arrangements and enforcement powers for supervision in force there, including breach action where necessary.
- xviii. If it is decided to transfer an offender's supervision on a restricted basis, the offender will become the responsibility of the receiving supervising service in the UK. Breach action can be taken by the receiving service by applying the relevant sections of Guernsey Law. The Guernsey Probation Service will have no day to day role, but will provide advice on breach processes and powers. However issues regarding recall should be referred to the Parole Review Committee in Guernsey.

**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            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:

**(a) 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** [redacted] was released from HM Prison [redacted] on [redacted] under the provisions of [redacted] of the Criminal Justice Act 2003;

**And whereas** [redacted] was granted a restricted transfer from England and Wales to [redacted] ;

**And whereas** it now appears appropriate to the Secretary of State for the restrictions placed on the transfer by the Order dated [redacted] 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 [redacted] 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** [redacted] was released from HM Prison [redacted] on [redacted] under the provisions of [redacted] of the Criminal Justice Act 2003;

**And whereas** [redacted] was granted a restricted transfer from England and Wales to [redacted];

**And whereas** it now appears appropriate to the Secretary of State that the supervision of [redacted] should be returned.

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

Signed:

Status:

Date:

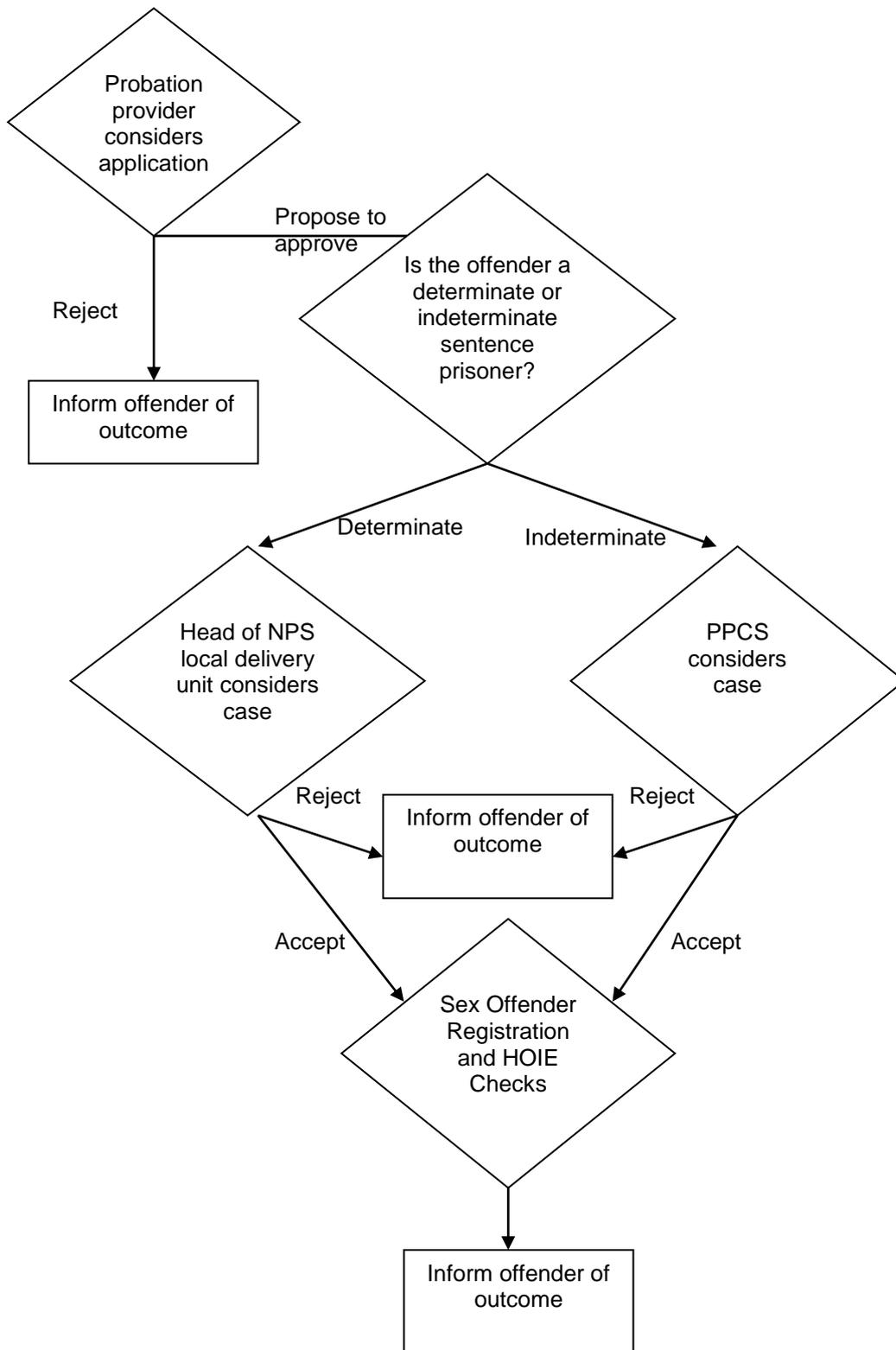
for the Secretary of State for Justice

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

Signed:

Date:

Resettlement from England and Wales to a country outside of the UK and Islands Flowchart



ANNEX L

Transfers between England and Wales and other jurisdictions within the UK and Islands  
Flowchart

