**National Objectives for Social Work Services in the Criminal Justice System: Standards – Throughcare**

**CHAPTER 1: INTRODUCTION AND LEGISLATIVE BACKGROUND**

**INTRODUCTION**

1. The following Standards relate to the prison based components of throughcare services supplied to the Scottish Prison Service by local authority social work departments and to the community based components of throughcare services provided by local authority social work departments in collaboration with other agencies. The term "throughcare" is used to denote the provision of a range of social work and associated services to prisoners and their families from the point of sentence or remand, during the period of imprisonment and following release into the community. These services are primarily concerned to assist prisoners to prepare for release, and to help them to resettle in the community, within the law, whether required by statute as part of a licence or because the prisoner seeks such a service.

2. Although these Standards focus separately on the prison and community based components of throughcare, they must be seen within an overall framework which recognises the shared responsibilities of local authorities and the prison service.

3. These Standards seek to ensure that a consistently good quality of service is provided across the country. Throughcare comprises 2 main elements - work in the prison and in the community. Clearly the safety of the public must be the prime concern of those responsible for the oversight of former prisoners released on supervision and this must be reflected in the exercise of supervisory responsibilities. At the same time, however, the successful resettlement of an offender within the community is probably the best guarantee against offending. This requires the prison service and social workers to assist offenders to deal with any problems which place them at risk of reoffending, commencing whenever possible during the period of imprisonment. (See also the Supplement to National Objectives and Standards, "Social Work Supervision - Towards Effective policy and Practice", issued by Social Work Services Group in 1991.)

4. In this section, as with other sections of the document, the term "Standard" is used to establish benchmarks against which the service provided can be tested and assessed, and to indicate the importance which is attached to the attainment of these benchmarks. Standards should promote and encourage the development and application of professional skills in management and practice and, except where clearly identified, the term does not imply the rigid application of rules and procedures. In common with other Standards, the National Standards for Throughcare will be reviewed and may be revised in the light of experience or legislative change.

**LEGISLATIVE BACKGROUND**

**Statutory Supervision**

5. Local authority social work departments exercise responsibilities on behalf of the Secretary of State in respect of prisoners eligible for release on licence. The legislative basis for such release is contained in the following statutory provisions.

**Parole**

6.Section 22 of the Prisons (Scotland) Act 1989 (the 1989 Act) empowers the Secretary of State to release on licence a prisoner who has served one third of the sentence or 12 months whichever is greater. This provision applies to all prisoners sentenced before 1 October 1993. Section 1(3) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (the 1993 Act) enables the Secretary of State to release on licence a long term prisoner after he has served half his sentence. A long term prisoner is defined as one serving 4 or more years in aggregate. This provision applies to prisoners sentenced on or after 1 October 1993. Both forms of discretionary release require a recommendation from the Parole Board for Scotland. These provisions apply equally to young offenders and to prisoners. A licence issued under either of these sections is referred to as a "parole licence".

**Non-Parole Licence - Offenders serving 4 or more years**

7. Section 1(2) of the 1993 Act provides that as soon as a long term prisoner has served two thirds of his sentence, the Secretary of State shall release him on licence. A licence issued under this section is referred to as a "non-parole" licence.

**Life Licence**

8. Under section 26(1) of the 1989 Act or section 1(4) of the 1993 Act the Secretary of State may release on licence a mandatory life prisoner (i.e. anyone convicted of murder) on the recommendation of the Parole Board and after consultation with the judiciary.

9. Under section 2(4) of the 1993 Act the Secretary of State must release on licence a discretionary life prisoner at the direction of the Parole Board, which shall make such a direction if it is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined. NB if the Board directs the release of such a prisoner the prisoner must be released on life licence immediately.

**Release on Licence from Psychiatric Hospital**

10. Where a prisoner has been transferred to hospital under section 71 of the Mental Health (Scotland) Act 1984 and made subject to special restrictions under section 72 of that Act (the 1984 Act) the Secretary of State may release the person on licence direct from hospital. Under section 4(1) of the 1993 Act, all legislation concerning prisoners in Part I of that Act applies to persons who have been transferred notwithstanding the transfer. This applies only to prisoners sentenced on or after 1 October 1993.

11. Section 4(3) of the 1993 Act replaces sections 74 and 75 of the 1984 Act with a new section which provides, in particular, where a person who would otherwise have been in custody reaches the date on which he/she would have been due for release under a "non-parole" licence, the person will be released on licence from hospital unless the Responsible Medical Officer has within the previous 28 days furnished reports seeking authority for the person's continued detention. If a person is detained beyond the expiry of their full sentence, and is subsequently discharged from a psychiatric hospital they will not be subject to a non-parole licence.

12. Under section 4 of the 1993 Act and the revised section 74 of the 1984 Act, release on a parole licence direct from hospital is a possibility in certain rare circumstances. This would require a positive recommendation by the Parole Board.

**Licence Duration and Recall**

13. The duration of a parole licence under the 1989 Act is until the two thirds point in sentence. The duration of parole and non-parole licences under the 1993 Act is until the sentence expiry date, but under section 17(6) of the 1993 Act a licence, other than a life licence, may be revoked early by the Secretary of State cancelling all the conditions in it. A life licence lasts for the whole of the person's natural life.

14.Any licensee may be recalled to custody by the Secretary of State under section 28 of the 1989 Act or section 17 of the 1993 Act either on the recommendation of the Parole Board or in an emergency without such a recommendation. The person is entitled to make representations against recall and these must be referred to the Board, as must the case of any person recalled without the Board's recommendation. On consideration of such a reference the Board may direct the person's immediate re-release.

**Compassionate Release**

15. Under section 3 of the 1993 Act, the Secretary of State may release a prisoner on licence if he is satisfied that there are compassionate grounds for doing so. If the prisoner is a long term prisoner the Secretary of State must first consult the Board, unless the circumstances are such as to render such consultation impracticable. The licence lasts until half sentence in the case of a short term prisoner and until the sentence expiry date in the case of a long term prisoner.

**Release on Licence of Certain Short Term Prisoners**

16. Under section 16 of the 1993 Act a person who has been released is at risk of being returned to custody by order of court if he/she is convicted of a further offence punishable by imprisonment during the currency of the original sentence. The period of return is subject to a maximum of the outstanding period of sentence at the time the offence was committed (or if the person appeals, the Appeal Court may return the person to custody for the whole outstanding period from the date of release). The period of return is treated as a further sentence of imprisonment. If, however, the person was on licence at the time of the return, he/she is re-released on licence even if the return period combined with any sentence for the new offence is [between 6 months and 4 years](http://www.gov.scot/Publications/2004/12/20473/49323), under section 16(7). This is referred to in these Standards as a "short sentence licence".

**Licence Conditions**

17. Section 12 of the 1993 Act deals with licence conditions. The standard conditions of a licence, and also any conditions applying in particular cases, are a matter for the Secretary of State. However the Secretary of State must consult the Board about the standard conditions, and also about any specific conditions to be applied in a particular case. In the case of discretionary life prisoners the Secretary of State is bound by the recommendations of the Board as to licence conditions.

18. Section 12(2) stipulates that all licences shall include from the outset a condition requiring the person subject to the licence:

18.1to be under the supervision of a relevant officer of such local authority as may be specified in the licence; and

18.2to comply with such requirements as that officer may specify for the purposes of supervision.

19. Licence conditions may be subsequently inserted, varied or cancelled by the Secretary of State after consultation with the Board. Early termination of the supervision conditions is possible. In addition under section 17(6) of the 1993 Act, the Secretary of State may revoke a licence by cancelling all the conditions in it, and if he does so, the person will be treated as having been released unconditionally.

**Supervised Release Orders**

20. [Under section 209 of the Criminal Procedure (Scotland) Act 1995](http://www.gov.scot/Publications/2004/12/20473/49323#1) (the 1995 Act) a court, when passing a sentence of at least one and less than 4 years on a person, may make a supervised release order (SRO) requiring the person to be under the supervision of an authority designated by the Secretary of State on release from custody. The duration of the supervision cannot exceed 12 months, nor can it extend beyond the date on which the full term of imprisonment has elapsed. A person who breaches the requirements of a supervised release order must be dealt with by the court which made it. Fuller details of the provisions for SROs are contained in Chapter 12.

**Supervision of Child Detainees**

21. [Under section 208 of the 1995 Act](http://www.gov.scot/Publications/2004/12/20473/49323#2), where a child is convicted on indictment of an offence, the court may order the child to be detained in such place and on such conditions as the Secretary of State may direct. Under section 7 of the 1993 Act (and Schedule 6 paragraph 4 in transitional cases) such a child must be released on licence at half sentence if the sentence is less than 4 years and at two thirds if the sentence is 4 years or more. The Secretary of State may release such a child at an earlier stage if recommended to do so by the Parole Board. The licence duration is until the sentence expiry date. Circular HHD 26/1993 (of 5 October 1993) requires the supervision of such licensees to be informed by the principles and practice set out in these Standards. However the Standards, and the associated funding arrangements, apply formally only to those detainees who are released after reaching the age of 16.

**Statutory Aftercare for Young Offenders**

22. Section 32 of the 1989 Act enables the Secretary of State to impose a notice of supervision on any young offender who has been released from a young offender’s institution. Following enactment of the 1993 Act this now applies only to young offenders sentenced before 1 October 1993 to a period of 2 or more years. This form of supervision will be phased out as the number of young offenders sentenced before 1 October 1993 reduces.

**Home Background Reports**

23. Under the Parole Board (Scotland) Rules 1993 and 1995 (SI 1993 No. 2225 (S.235) and 1995 No. 1273 (S.99)) a home background report must be included in every dossier relating to a case referred to the Board.

**Document Disclosure**

24.Under the Parole Board (Scotland) Rules 1993 and 1995 there is a requirement on the Secretary of State to disclose to the prisoner the dossier which he refers to the Board. This is subject to exclusions. Fuller details are to be found in Chapter 10 on Disclosure.

**Fine defaulters and Those Sentenced for Contempt of Court**

25. Under section 5 of the 1993 Act a person who has been sentenced for fine default or contempt of court must be released unconditionally on reaching half sentence if the term is less than 4 years and at two thirds if the term is four years or more. There is no possibility of release on licence for such a person. As release is unconditional, such a prisoner would be eligible only for voluntary social work support.

**Voluntary Assistance**

26.Section 27(1)(c) of the Social Work (Scotland) Act 1968, inserted by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, places a duty upon local authorities to make available "advice, guidance and assistance" to people who request such a service within 12 months of release from custody including those released following an appeal against conviction and/or sentence.

**Cross-Border Transfer**

27. Provision for transfer of licences and orders is contained in the Criminal Justice Act 1991 (England to Scotland) and the Prisoners & Criminal Proceedings (Scotland) Act 1993 (Scotland to England). The provisions are described in more detail in Chapter 9.

**Social Work in Prisons**

28. There is no specific statutory basis for the provision of social work services in prisons. Social work departments do have a general responsibility to "promote social welfare" (section 12 of the Social Work (Scotland) Act 1968): these services are provided by authority of the Secretary of State and in recognition of the fact that prisoners may continue to exercise those civil rights which are not expressly removed by virtue of imprisonment (egg the right to vote). The Secretary of State has an interest in the provision of efficient and effective throughcare services to serving and released prisoners. This requires collaboration between all service providers to ensure the development of an integrated approach and continuity of service provision between prison and community- based services. Social work services in prisons provide the critical link between these services. In addition, social workers in prisons are required to undertake a number of mandatory responsibilities and duties (for example, in relation to the release of offenders convicted of offences against children and in relation to Parole Board consideration of the discretionary release of prisoners), imposed by the Secretary of State and issued in the form of Circulars from The Scottish Office.

**CHAPTER 2: COMMENCEMENT OF THROUGHCARE: RESPONSIBILITIES**

**Commencement of Throughcare**

29. The responsibility of the social work department for the provision of throughcare services to prisoners and their families commences from the moment when the court imposes:

29.1any remand in custody prior to sentence;

29.2custody as an alternative to non-payment of a financial penalty; or

29.3a custodial sentence.

**Responsibilities of the Social Work Department in the Court**

30. Effective throughcare for prisoners and their families requires contact to be established between the prospective client(s) and the local authority as soon as possible. For many people this will occur at the point of sentence and it is essential that local authority court-based services facilitate this. Detailed guidance on the provision of post-sentence interviews, which will often constitute the start of a throughcare service to an individual, is provided at paragraph 127 of the National Standards for Court Services.

**Responsibilities of the Clerk of the Court**

31. It is the responsibility of the Clerk of the Court to forward to the Governor of the receiving prison a copy of:

31.1the complaint or indictment (for Schedule 1 offenders and cases which will result in release subject to supervision);

31.2the previous convictions libelled in court;

31.3the social enquiry report where prepared, and other reports (including medical reports) where appropriate; and

31.4notification of imposition of a supervised release order or recall under Section 16 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (where relevant).

In cases where a sentence of over 4 years is imposed, the Judge's report will be sent by the Justifier Office to the Parole and Lifer Review Branch. Two copies of the report will then be sent to the prison establishment. The Governor should ensure that one of the copies is forwarded to the social work unit on receipt.

32. These documents should be copied on receipt by the Governor to the social work unit, in relation to all prisoners subject to mandatory supervision on release. The specific procedures relating to Schedule 1 offences are detailed in Chapter 11. In all Schedule 1 cases such notification shall be within one day.

33. These documents should be made available to the social work unit, on a need to know basis, in relation to all other prisoners.

**CHAPTER 3: SOCIAL SERVICES IN PRISONS**

**INTRODUCTION**

34. Social work in prisons is part of the provision of a comprehensive throughcare criminal justice social work service, commencing before the arrival of the offender in prison and continuing, for many offenders, after release into the community. As part of their overall responsibility for throughcare services in the criminal justice system, local authorities are required to undertake a number of statutory and other mandatory core responsibilities and duties within prisons. As well as the mandatory responsibilities, other services, such as group work and support programmes, may be provided by the local authority. The Scottish Prison Service, in consultation with the Director of Social Work/Chief Social Work Officer, and in line with the established core activities/priorities of this document and the needs of the prisoner population of the establishment, will determine the balance of programme related work between prison staff, social workers and other professionals and agencies according to regime requirements. The formal, systematic involvement of prison officers in the provision of practical assistance and information to prisoners is an essential component in ensuring the efficiency and effectiveness of social work services in prisons. Prison officers should also undertake those welfare tasks which do not require professional social work skills.

35. All establishments are required to have formal systems in place to ensure that prison officers deal with prisoners' problems in relation to:

35.1the provision of information about prison procedures and routines (including services available from the social work unit), visits etc.

35.2the provision of information about and assistance with, welfare benefits (including Housing Benefit), discharge grants etc.; and

35.3practical assistance involving contact with prisoners' relatives, routine contacts with DSS, landlords, housing agencies, lawyers etc.

36. Prisoners participating in the SPS Sentence Planning Scheme are allocated personal officers (suitably trained prison officers) to assist them to develop a plan to make best use of their time in prison and to address their offending behaviour. Increasingly the SPS is organising work with prisoners on a multi-disciplinary basis, with prison staff undertaking intensive work, in conjunction with social workers and other specialists, to help prisoners to tackle their offending behaviour and related problems.

**OBJECTIVES**

37. The objectives of social work in prisons are:

37.1where agreed, to offer prisoners access to a range and level of social work services similar to those in the community;

37.2where agreed, to contribute through advising on, and in some cases providing, a range of individual and group work programmes to address offending behaviour as agreed with the Governor; and

37.3where agreed, to provide appropriate professional support and assistance to help prisoners resettle and reintegrate into society following release.

**OPERATIONAL PRINCIPLES**

38. Social work services in prisons must:

38.1be delivered, by fully qualified social workers, as an integral part of local authorities' social work services in the criminal justice system, taking due account of the statutory responsibilities these authorities have in respect of many prisoners before and after their release;

38.2have a specific focus on offending behaviour and seek also to address those problems arising from imprisonment and problems which are likely to confront prisoners on their release;

38.3help prisoners to maintain, as appropriate, their family and community ties (including working jointly with prisoners, family members and/or community based services, where necessary);

38.4take account of the nature of the prisoner population in the establishment and also take account of the function of the establishment within the prison system; and

38.5be delivered in a manner which is efficient, fair and consistent throughout the prison system, without discrimination against race, religion, colour, gender or sexual orientation.

**SOCIAL WORK ACTIVITIES IN PRISONS**

39. The core activities of social workers in prisons include:

39.1assessment- of risk and dangerousness to self and others, personal and social need, and re-offending risk in conjunction with other professionals;

39.2contributing a distinctive social work perspective to the strategic planning of the establishment including programme planning;

39.3liaison with, and consultancy for, prison staff and managers, including the provision of specific training programmes where required; and

39.4work with prisoners' families and other social supports, including through community based social workers, to reduce the risk of re-offending on release and to assist reintegration within the community.

40. The role played by social workers in prisons in relation to programmes will vary from prison to prison. Social work input to programmes will be agreed locally between the Governor and the Director of Social Work/Chief Social Work Officer in the context of SLAs. Such input will contribute to agreed priorities including those prisoners subject to mandatory supervision on release. Thereby social work will:

40.1contribute to the provision of an agreed range of individual and group work programmes designed to address particular offending behaviours or problems associated with such behaviour (for example, alcohol or drug problems) and to help prepare prisoners for release;

40.2contribute to co-ordinating the provision of a range of programmes, services and interventions from other agencies or providers, particularly those in the community, appropriate to the needs and requirements of the prisoners at the establishment, aimed at reducing re-offending and assisting resettlement;

40.3assist in monitoring and evaluation of social work programmes in prison.

**PRIORITIES FOR SOCIAL WORK IN PRISONS**

**Basic Requirements**

41. For social work units in prisons, there are a range of required tasks which have to be carried out in relation to pre-release assessment and planning, associated with parole and other statutory supervision post-release. This pre-release work encompasses provision of information, assessments and reports from social workers in prisons and their community-based colleagues, as well as the arrangement of pre-release planning meetings. Detailed procedures in relation to these areas of work are described in Chapters 4 & 5, and include:

41.1supervised release orders (see also Chapter 12);

41.2life licence;

41.3non-parole licence;

41.4parole;

41.5children sentenced to detention;

41.6short sentence licence;

41.7compassionate release; and

41.8Schedule 1 offenders (see also Chapter 11).

42. Determination of priorities for social work in prison must reflect the interests and responsibilities of each of the partners in provision of social work services to prisoners, SPS, The Scottish Office and local authority social work departments.

43. While priorities must take account of national considerations, they should also be subject to an element of local determination which reflects the needs of the prisoner population and the scale and function of the prison establishment. The determination, application and review of priorities for social work services will be agreed between the Governor-in-Charge and the Director of Social Work/Chief Social Work Officer in the context of negotiation of the Service Level Agreement for each establishment (see Annex B).

44. In the main, the setting of priorities for social work in prisons derives from 2 principal concerns:

44.1to offer support to those prisoners most likely to be vulnerable in custody; and

44.2to focus intervention on those prisoners most likely to prove a risk to themselves or others in the community post-release.

**Priority Client Groups**

45. The following priority client groups reflect the twin concerns of vulnerability and risk. While each category is not necessarily applicable to each establishment, it is for Directors of Social Work/Chief Social Work Officers and Governors to ensure that social work activity is focused appropriately towards these groups, in accordance with the needs of the population and function of the establishment.

46. These client groups are:

46.1those at risk of self-injury;

46.2those identified as vulnerable, e.g. through post-sentence interviews at court;

46.3those experiencing custody for the first time;

46.4those who are mentally disturbed;

46.5those who have a learning and/or physical disability;

46.6those subject to supervised release orders;

46.7Schedule 1 offenders;

46.8sex offenders;

46.9those likely to be subject to statutory supervision on release, e.g. parole, life licence, non-parole licence etc.

46.10children and young offenders up to 18 years;

46.11those with, or at risk of HIV/AIDS;

46.12those with alcohol or drug-related problems;

46.13those eligible for compassionate release supervision; and

46.14those requesting voluntary after care post-release.

**Work with Prisoners and Families**

47. Social work input to prisoners and their families, together with support from prison staff and other agencies, has significant potential in increasing the effectiveness of work in relation to the above processes and client groupings. Such work can be instrumental in countering isolation and vulnerability for the prisoner while in custody and promoting and sustaining a supportive family environment post-release. Investing in this work, where appropriate, can be crucial in reducing patterns of re-offending post-release.

**ACCESS TO SOCIAL WORK SERVICES**

48. Social workers must make use of an induction period to inform prisoners about social work services. Information can be conveyed in a variety of ways, including service description leaflets, video presentations and individual interviews. Social workers should also ensure that information about complaints procedures are available to prisoners.

49. In addition to these general responsibilities, social workers have a specific responsibility to initiate early contact with particular groups of prisoners who will be subject to statutory supervision on release or who fall within the remit of Schedule 1 (see Chapter 11).

50. Governors and social work unit managers must ensure that systems are in place which enable prisoners to gain access to social work services. Such systems should be appropriate to the establishment and should assist social work units in targeting their services effectively.

51. Governors are responsible for ensuring that appropriate mechanisms are in place for identifying priority groups of prisoners listed in paragraph 46 as early as possible following admission and must ensure that this information is routinely and timeously made available to social work units in prisons.

52. The purpose of any agreed self-referral system is to provide prisoners with regular opportunities to seek social work assistance with any personal or social problems which may affect their eventual re-settlement or help in addressing offending behaviour.

53. Governors must ensure that social work interviews are conducted in accommodation which provides both privacy and staff safety.

**WORK WITH REMAND PRISONERS**

54. Work with prisoners on remand must reflect the presumed innocence of unconvinced prisoners. It must always be underpinned by the operational principles set out at paragraph 38 and, in all cases, must be directed towards achieving the objectives set out at paragraph 37. In every case, decisions about the scope of the work to be undertaken will be determined by a range of factors, but must always take account of the length of the remand period. Additionally, in certain cases (for example, with some convicted prisoners awaiting sentence), it may be possible to engage in work directed towards addressing offending behaviour or intended to begin to motivate people toward such work following sentence.

55. Many remand prisoners will have pressing problems, often of a practical nature, arising from or exacerbated by remand in custody. Practical problems (for example, accommodation difficulties, benefit issues, contact with lawyers and families etc.) must be addressed rapidly, taking due account of the length of the remand period, and should normally be dealt with by prison staff trained to undertake the welfare task (see paragraph 35 above).

56. For many people, a custodial remand constitutes a time of crisis, during which they may be particularly vulnerable and would benefit particularly from social work assistance. In all cases, social workers must bear in mind that the quality of early contacts with prisoners on remand may well influence their subsequent attitudes to social work involvement, in the event of conviction. Social workers dealing with remand prisoners should, where appropriate, ensure that relevant information relating to work undertaken during a remand period is passed to any social work unit in a prison which may be involved with the offender following sentence. Information may also be supplied to any social work department involved subsequently with the offender (including for the purposes of preparing social enquiry reports), as requested by that department.

57. Some remand prisoners may face complex practical or emotional problems as a result of their remand, or may begin to identify problems they may not previously have recognised. Building on the concept of crisis intervention, social workers in prisons can have a key role in helping people on remand to address their problems by:

57.1offering advice and, where necessary, help to cope with imprisonment;

57.2offering advice, and where necessary, help to deal with personal problems (e.g. family or relationship difficulties, health issues, drug or alcohol-related problems);

57.3facilitating contacts with family and friends; and

57.4facilitating contacts with relevant statutory and voluntary agencies in their local communities, where appropriate.

58.In order for social workers in prisons to work efficiently with remand prisoners whose vulnerability or other difficulties are such as to make them priorities for social work intervention, Governors of establishments must ensure that effective systems to identify such prisoners be in place in all establishments holding remand prisoners.

59.In addition, Governors-in-Charge of establishments holding remand prisoners must ensure that appropriate mechanisms are in place to provide early information to such prisoners about the social work and welfare services available to them, and will reflect the service level agreement for social work services in that establishment.

**WORK WITH CONVICTED PRISONERS**

**Focus of Work**

60. Work with convicted prisoners must be underpinned by the operational objectives and principles set out in paragraphs 37 and 38 and will reflect the service level agreements for social work services in that establishment.

61. In order to ensure the most effective development of throughcare services, local authority social work services in prisons should be targeted on:

61.1those prisoners who will be subject to statutory supervision on release;

61.2those prisoners who, irrespective of sentence length, fall within the scope of Schedule 1 to the Criminal Procedure (Scotland) Act 1995 (offences against children under the age of 17) and in respect of whom specific procedures apply - see Chapter 11; and

61.3those prisoners who, irrespective of sentence length, fall within one or more of the priority client groups referred to in paragraph 46.

62. Social work contact with convicted prisoners must focus on:

**Assessment**

62.1Assessment leading, where appropriate, to the development of individual action plans and the direct or indirect provision of programmes to meet these plans This will include assessment of both risk of re-offending and personal and social need, reflecting the twin concerns of "dangerousness" and "vulnerability". Any such plans should contribute to any plan drawn up under the SPS Sentence Planning Scheme.

62.2In relation to "dangerousness" assessment should focus on:

62.2.1the nature of offending behaviour;

62.2.2the risk of re-offending;

62.2.3the nature of any underlying problems associated with offending behaviour;

62.2.4the offender's understanding of his/her offending behaviour;

62.2.5the offender's ability or capacity to change his/her attitudes/behaviour; and

62.2.6the offender's motivation to change.

62.3In relation to "vulnerability" assessment should focus on:

62.3.1the offender's social circumstances and the availability of support networks;

62.3.2the offender's emotional state, including level of self-esteem and self-confidence;

62.3.3the prisoner's mental health and in particular, any history of self-injury;

62.3.4the prisoner's physical health and in particular, any physical disability or life threatening condition; and

62.3.5the degree of stress which the prisoner is experiencing within the prison system, which may be related to the stigma attached to particular types of offences.

**Action Plans**

62.4Where there is an identified need for direct social work intervention, social workers must draw up an action plan, in conjunction with the prisoner, which clearly identifies the issues to be addressed, the action to be taken by relevant parties, the timescale within which work will be carried out and the date when progress will be reviewed. Any such plans should contribute to any plan drawn up under the SPS Sentence Planning Scheme.

62.5Where action plans identify a continued need for service following release, early contact should be made, with the prisoner's consent with community-based services, in order to secure appropriate assistance on release.

**Programme Provision**

62.6In the light of the assessment of the needs of prisoners, social work units may be asked to provide a range of individual and group work programmes, appropriate to the assessed need within individual establishments. Activity must be targeted on those priority prisoners who are assessed as being most 'dangerous' or most 'vulnerable'.

62.7Groupwork programmes should, wherever appropriate and practicable, involve prison staff and other specialists.

62.8All programmes must incorporate evaluation of effectiveness.

**Programme Co-ordination**

62.9There may be circumstances where it is neither appropriate nor practical for a particular service to be offered by social work or other staff in prisons. In such cases, the Governor may ask the social work unit to facilitate access to programmes, services and interventions which may be provided by other agencies or providers, particularly those in the community.

62.10When services are being provided from more than one source, governors must ensure that effective co-ordination takes place and must identify who will undertake the role of co-ordinator for each prisoner. In the case of prisoners who will be subject to statutory supervision on release, Governors may nominate social workers to undertake this role. In other circumstances, Governors may ascribe this role to personal officers.

**Sentence Planning**

63. Social work activity must be integrated with the SPS Sentence Planning scheme.

64.Governors must ensure that social workers are directly involved in sentence planning at the initial assessment stage and, where on-going social work activity is planned, at subsequent sentence planning reviews.

65. Social workers should make full use of the opportunities presented by the Sentence Planning Scheme to attempt to engage with prisoners in consideration of their offending behaviour and any social and/or personal problems which may affect their long-term re-settlement.

66. Social workers should arrange a personal assessment interview which will focus on assessing the prisoner's level of dangerousness or vulnerability and assisting the prisoner to make realistic plans to address these issues.

67. At this stage, not all long-term prisoners may wish to accept social work contact, and in these circumstances, it is important that the social worker advises the prisoner of how he/she can gain access to social work services at a later date.

**WORK WITH PRISONERS SUBJECT TO SOCIAL WORK SUPERVISION ON RELEASE**

68. All prisoners subject to mandatory supervision on release must be interviewed by prison social work units as follows:

68.1those subject to supervised release orders: within 21 days of reception (see Chapter 12);

68.2those sentenced to at least 4 years custody: during the induction/preliminary sentence planning process, for the following basic purposes:

68.2.1to outline and encourage use of social work services available during the prison sentence;

68.2.2to inform the prisoner of the parole system and process;

68.2.3to inform the prisoner of his/her liability to mandatory supervision on release, irrespective of early release on parole.

68.3those subject to short-sentence licence or compassionate release licence: prior to release, for the purposes of explaining the nature and obligations of the relevant licence.

**COMPLAINTS PROCEDURES**

**Local Authority Complaints Procedures**

69. Formal complaints concerning social work practice or personnel in prisons must be dealt with under the complaints procedure of the relevant local authority.

Social work units in prisons must ensure that prisoners can readily access such procedures by ensuring the provision of relevant information concerning their operation, e.g. by use of leaflets and posters.

**Scottish Prison Service Complaints Procedure**

70. SPS Circular No 11/1996 describes the objectives and operation of the above system.

71. In order to assist the operation of the scheme, the following are regarded as appropriate functions for social work personnel in prisons:

71.1social workers may assist prisoners on request and where considered appropriate by the worker's line manager, in presenting information to the establishment's Internal Complaints Committee;

71.2social work personnel should offer witness testimony at the discretion of its chair, to the Internal Complaints Committee.

72. Social work personnel should not serve as members of Internal Complaints Committees.

73. Prisoners who make a written complaint about social work in prisons using the SPS complaints procedure will be advised to use the relevant local authority complaints procedure where the complaint refers to social work professional standards. Other complaints may be dealt with by the SPS procedures including referral to the Scottish Prisons Complaints Commission.

**CHAPTER 4: THE ROLE OF SOCIAL WORKERS IN PRISONS**

**INTRODUCTION**

74. Once a prisoner is due to be considered for discretionary release on parole or life licence a dossier of information to assist the decision-making process is compiled, including reports from prison staff and other professionals with a knowledge of the prisoner and his/her circumstances and (in cases of prisoners sentenced on or after 1 October 1993) a report from the trial judge. The social work department in the area in which the prisoner intends to reside on release is required to provide a Home Background Report offering information about a range of factors which may influence the resettlement prospects of the prisoner on his/her release to that area. The social work unit in the prison is required to provide a separate report.

**REPORT FROM SOCIAL WORKER IN THE PRISON (PAROLE/LIFE LICENCE)**

**Objectives**

75. To provide information to assist the Secretary of State and the Parole Board in decision-making about early and conditional release of life sentence and determinate sentence prisoners.

76.To identify and provide an assessment of the risk of further offending on release, taking account of the prisoner's experience of imprisonment, his/her future plans, and the social and family context to which the prisoner will return.

77. To provide an opportunity for discussion of achievable release plans and, wherever possible, to engage the prisoner in general preparation and planning for release.

**Process**

78. The Governor should ensure that no less than 6 weeks' notice be given to the social worker in prison for preparation and compilation of the report. He/she should have access from the prison to any social enquiry report, the list of previous convictions and a copy of the relevant indictment and the trial Judge's report, where applicable (see paragraph 31).

79. It is essential that social workers in prison consult and liaise with the relevant social work department in whose area the prisoner intends to reside on release. This should take place prior to the compilation of the report but after at least one home visit by the Home Background Report author and one interview by the social worker in prison.

80. The purpose of this consultation and liaison is:

80.1to ensure the accuracy and consistency of information and advice offered to the Secretary of State;

80.2to agree a joint assessment of risk of re-offending and levels of required supervision and support;

80.3to consider what specialist resources are available in the area where the prisoner plans to reside on release;

80.4from the above consultation, to agree a joint approach and provisional action plan, pre and post release; and

80.5to encourage a responsible sense of ownership by the prisoner for developing his/her sentence planning and post-release requirements, in conjunction with key support personnel.

**Basis of Report**

81. A parole report prepared by a social worker in the prison should normally be based on 2 interviews with the prisoner, specifically for the purpose of preparing the report. Where work is already being undertaken with the prisoner, one interview specifically for parole purposes may suffice.

82.n many cases information thus obtained will be supplemented by knowledge based on previous or continuing contact with the prisoner and his/her family and from joint work or consultation with other staff or agencies (e.g. addiction or employment) in the prison.

83. In every case the basis of the report must be stated clearly (e.g. the number of interviews, extent of previous knowledge, contact with the family or other agencies, contact with community-based worker etc.).

84. The source of any information contained within the report must be indicated clearly. Care must be taken to differentiate between fact and opinion.

**Content of Report**

85. Each report must indicate, assess and comment upon the following areas:

85.1personal circumstances:

85.1.1domestic arrangements;

85.1.2accommodation on release;

85.1.3any changes to these during sentence;

85.1.4any significant health issues.

85.2attitude to offence

85.3attitude to present sentence

85.4attitude to and plans for release

85.5response to imprisonment:

85.5.1efforts to address his/her offending behaviour and its causes;

85.5.2use of educational opportunities (any skills/qualifications obtained);

85.5.3prison work/training (especially any vocational training undertaken);

85.5.4contact with social work unit and involvement in any social work programmes (specify details);

85.5.5prisoner's perception of his/her relationships with staff/prisoners;

85.5.6any significant pattern of disciplinary reports.

85.6family/other significant relationships

85.6.1prisoner's account of the nature and frequency of contact during sentence (visits/letters): the frequency of visits can be checked against prison records;

85.6.2prisoner's views about his/her family/domestic situation (especially any recognition of possible difficulties) and his/her attitude on return.

85.7employment:

85.7.1employment record;

85.7.2intentions and attitudes to employment/training;

85.7.3recreation activities;

85.7.4associations/peer group (especially any co-accused).

85.9alcohol/drugs/gambling:

85.9.1prisoner's use of these;

85.9.2prisoner's attitudes to these;

85.9.3evidence of any problem in relation to these/action taken to address any such problem.

85.9supervision:

85.9.1attitude to and experience of supervision;

85.9.2previous response to supervision and social worker's comment on this.

85.10availability of specialist resources in community, e.g. alcohol/drug counselling projects; supported accommodation; pre-employment training etc., from voluntary and/or statutory sector as part of a potential release plan.

85.11assessment of risk of further offending.

86. Social workers should seek to provide a package of proposals intended to minimise the risk of the prisoner re-offending if the Secretary of State were to decide to release the prisoner on parole.

87. Social workers must ensure that factual information is provided in relation to each of the above areas. It is of particular importance that they should, wherever possible:

87.1comment on the information obtained;

87.2seek to identify pattern of behaviour;

87.3seek to identify changes in circumstances, behaviour etc.; and

87.4identify any particular needs and, where possible, suggest services to meet these.

88. The report should include a provisional Action Plan outlining:

88.1work to be undertaken with the prisoner prior to release; and

88.2where appropriate, the nature of work to be undertaken following release including any specialist services/requirements which may be needed.

**REPORTS FROM SOCIAL WORKERS IN THE PRISON (NON-PAROLE LICENCE)**

89. Prisoners sentenced to 4 or more years of custody on or after 1 October 1993, who are not released on parole supervision, will be discharged on mandatory supervision on reaching two-thirds of their sentence.

90. The Secretary of State is required to consult the Parole Board where he intends to impose a non-standard condition in the supervision licence.

91. Such consultation can take one of 2 forms:

91.1consultation based on previous Parole Dossiers in respect of the prisoner; or

91.2where a prisoner has refused to be considered for parole, reports obtained from prison staff.

92. Should the prison staff reports suggest the desirability of imposing any non-standard conditions, the Secretary of State, at his discretion, may request a Home Background Report (HBR) and a report from the social worker in the prison.

93. Although the requests for such reports from the Parole Board or Secretary of State for Scotland will be infrequent, the objectives remain the same as for parole and life licence reports. (See paragraphs 78 to 88)

94. Should such a social work report from prison be requested, it should be noted that there is no power to compel the prisoner to agree to be interviewed, if he/she is not willing to co-operate. Nevertheless, social work units in prisons should seek to engage with such prisoners and explain to them:

94.1the procedure and its purposes;

94.2the mandatory nature of social work supervision on release, together with the sanctions available for non-compliance; and

94.3the advantages and benefits available to the prisoner through co-operation with the process.

95. Where a prisoner is willing to co-operate, the full procedures outlined in relation to parole reports should be followed (see paragraphs 78 to 88 above).

**Process**

96. Social workers in prison must always confirm that the prisoner understands the process and ensure that he/she understands the nature of statutory supervision following release.

97. It is essential that social workers in prison consult and liaise with the relevant local authority social work department in whose area the prisoner plans to reside on release in order to ensure the accuracy and consistency of the information and advice offered to the Secretary of State.

**Basis and Content of Report**

98. The basis and content of any report should, as far as possible, reflect the arrangements for parole and life licences outlined at paragraphs 81 to 88 above.

99.If a prisoner decides not to co-operate in the preparation of a report, the social worker must compile a report based on any information already available to the social work unit (for example, on previous contact with the prisoner), and must advise the prisoner of this. The prisoner must also be advised that he/she will be given the opportunity to see and comment on this report.

100. The social worker should draw on information contained in the social work unit's own files where there has been previous contact with the prisoner, and on any relevant information contained in the prison file. The social worker may also seek the views of prison staff or other professionals with a knowledge of the prisoner, but must not contact the prisoner's family or friends for information.

101. In particular the social worker must try to identify any particular risks which the prisoner might pose on his/her release, and should offer a view as to the desirability of any specific condition in the licence which might reduce this risk.

102Social workers in prisons should, therefore, pay particular attention to any issues surrounding alcohol or drugs use by the prisoner; the prisoner's response to any specific counselling or intervention programmes during his/her sentence; and to any changes in the prisoner's own circumstances (or those of his/her family, if known) which might influence resettlement prospects.

103. The social worker must provide the prisoner with a copy of the report and should offer to discuss it with him/her. The prisoner must also be advised that he/she may write to SOHD if there are any aspects of the report with which he/she disagrees.

**Prisoner Access to Reports**

104. The social worker must discuss the content of any non-parole reports with the prisoner. Those prisoners who are involved in the parole process will, in any case, normally see the full Parole Dossier in due course. For those prisoners who opt out of the parole process, social workers must discuss the content, and provide a copy, of any social work report requested by the Secretary of State. Further information on prisoner access to reports is contained in Chapter 10 on Disclosure.

**PRE-RELEASE WORK: PAROLE AND STATUTORY SUPERVISION**

**Phase 1: Notification of Release Date**

105. Much of the task of the social worker in the prison is directed towards assisting prisoners to prepare themselves for release.

106. As part of this process, social workers in prisons must try to engage the prisoner in the development of a realistic and achievable release plan. The social worker must make it clear that this will involve the identification of problems and issues, and that the worker and the prisoner will need to agree how best to tackle these problems, involving community-based resources as necessary.

107. At least 4 weeks' notice of notification of the release date should be given by the Governor to the local authority in the area where the prisoner intends to reside on release. The appropriate local authority social work department must nominate a Supervising Officer within 7 days of receipt of notification of the date of a prisoner's release on parole or statutory licence.

108. When earlier notification of release is given in respect of long term or life licence prisoners, the local authority must also advise the Parole Board of the Supervising Officer within 7 days.

**Phase 2: Following Notification of Release Date**

109. Notification of a prisoner's release date will, in most cases, be the trigger for more detailed planning for release and should mark the start of more intensive involvement by the nominated Supervising Officer in the community.

110. The social worker in prison must liaise with the social work department team for the area in which the prisoner intends to reside. The purpose of this is to exchange information, review the provisional action plan outlined at paragraph 88 above, and to identify problems arising from the prisoner's release plans at this stage.

111. The principal task during this period is for the social worker in the prison, the Supervising Officer in the community and the prisoner to review the initial action plan outlined at paragraph 88 above, indicating pre and post release arrangements in respect of the prisoner. Detailed planning must begin not less than 7 days after notification of release. Where advance notice of release exceeds 3 months, this detailed planning must take place during the last 3 months in custody.

112.The Supervising Officer is required to visit the proposed release address prior to the prisoner's release; following this visit any potential problems which the release of the prisoner to that address may generate should be identified and necessary steps taken to resolve such problems.

113. During the early part of this period the Supervising Officer will continue to focus particularly on issues to be addressed in the community, whilst the focus of work in the prison will be the immediate needs of the prisoner. Close liaison between these 2 workers is clearly essential at this stage to ensure a co-ordinated approach to the prisoner's release.

114. In every case, the 2 strands of pre-release work must be brought together formally at a meeting to be convened by the social worker in the prison at least four weeks before the release date. This should be a meeting between the prisoner, the social worker in the prison and the Supervising Officer. Other interested parties (i.e. community-based addiction agencies, employment-related agencies, and relevant staff in the prison) may be invited, as appropriate.

115. The purpose of the meeting is to refine the prisoner's pre- and post-release plans, to agree the allocation of tasks and to indicate the likely level of contact with the Supervising Officer during the first 3 months after release. It must provide an overall assessment of needs and address any outstanding issues surrounding accommodation, finance, employment relations and personal or behavioural problems experienced by the prisoner. Social workers may need to encourage the prisoner to examine the mechanisms his/her family and friends may have evolved to deal with his/her absence, and to recognise the problems this may generate on return to the community. The meeting must also identify action still to be taken, must agree priorities, and must aim to ensure that all necessary contacts and arrangement with other agencies (e.g. DSS, Housing Departments) are effected before the prisoner's release.

116. A written note of agreements reached at the meeting must be prepared by the social worker in the prison and circulated to all participants.

117. It is essential that the prisoner is advised of progress in implementing actions, if necessary through additional meetings.

118. In many cases the social worker in the prison may be required to facilitate contact between the prisoner and relevant agencies in the community prior to release. Key staff in those agencies should be encouraged, wherever possible, to visit the prisoner prior to his/her release.

**PRE-RELEASE WORK: NON-PAROLE**

**Phase 1: Notification of Release Date**

119. Advance notice of the release date should be made by the prison Governor to both the social work unit in the prison and the local authority in which area the prisoner intends to reside, as soon as it becomes clear that a prisoner will be released on non-parole licence. In the case of a prisoner who opts out of the parole system, this must be at least 6 months prior to the release date.

**Phase 2: Following Notification of Release Date**

120. The pre-release process as outlined for parole (see paragraph 109) should be followed but the tasks outlined should be completed 4 months prior to release.

121. Where available, the initial action plan defined in the course of this process should be reviewed at a meeting of the prisoner, social worker in prison, community-based social worker and any specialist agency during the last month prior to release. The written record of this review must be forwarded to all relevant parties by the social work unit in prison within one week of the date of that review, but always prior to release.

122. In the event of prisoner non-co-operation, every effort shall be made by the social work unit in prison to encourage the prisoner to co-operate with the process.

123.In the event of partial co-operation, the process relating to drawing up pre-release and supervision plans, should nevertheless be undertaken as far as possible, notwithstanding the level of co-operation from the prisoner;

124. Where the prisoner declines to engage with the process, the pre-release planning meeting will not normally be required. Discussions should be conducted between social workers by means of telephone and letter. The prisoner must be advised of the outcome of all such discussions

125. The prisoner should also receive in writing an indication of:

125.1the nature and timescale of the release processes;

125.2the advantages and benefits to be accrued from co-operation;

125.3a reminder of the mandatory nature of social work supervision on release together with the sanctions for non-compliance; and

125.4an invitation to contact the social worker in prison or the community based Supervising Officer at any time regarding these or other matters.

**PRE-RELEASE WORK: SHORT SENTENCE LICENCE**

126. Prisoners are released on mandatory supervision on a short sentence licence where:

126.1they had previously been released from custody on mandatory supervision, and

126.2committed a new offence during that period of supervision; and

126.3for that offence and for breach of supervision, received a new custodial sentence of [between 6 months and 4 years](http://www.gov.scot/Publications/2004/12/20473/49323#3).

**Pre-Release Work**

127. As far as possible, the Standards in relation to non-parole licences should be followed (see paragraph 119).

**PRE-RELEASE WORK: OTHER CASES**

**Voluntary Assistance**

128. Some prisoners not subject to statutory supervision will seek voluntary assistance on release. Other prisoners may, because of their own vulnerability or the risk they constitute to others on release, be assessed as needing such assistance but unlikely to seek it. It will be an important element of the prison social work task to encourage these prisoners towards seeking voluntary assistance on release, and, where this is successful, to facilitate contact with the relevant local area team or voluntary agency prior to the prisoner's release, to build on work already undertaken in prison. (See paragraph 162)

129.Where a serving prisoner seeks voluntary assistance from the social work department or a voluntary sector agency, that agency should, or in the case of the social work department must make contact with the prisoner, either directly or indirectly as soon as possible but within one month of receipt of the request for assistance.

130. Some cases of voluntary assistance may require a statement which identifies and assesses the prisoner's needs. This will be a matter for the judgement of the relevant workers in each case.

**Objectives of Voluntary Assistance**

131. The objectives of voluntary assistance are:

131.1to provide and facilitate a range of services for prisoners and ex-prisoners and, where appropriate, their families, to assist them to deal with any problems they may face particularly following release;

131.2to assist offenders to reduce the risk of their re-offending through the provision of a range of services to meet identified needs;

131.3to seek to limit and redress the damaging consequences of imprisonment including the dislocation of family and community ties, the loss of personal choice, and the resultant stigma;

131.4to help prisoners and their families to develop their ability to tackle their own problems;

131.5to help prisoners and their families, on request, to prepare for release;

131.6to assist the families of released prisoners to adjust to the changed circumstances arising from the prisoner's return, where such a service is needed and requested; and

131.7to assist ex-prisoners to reintegrate successfully into the community and thus reduce the incidence of crime.

**WORK IN SPECIAL CASES**

**Compassionate Release**

132. A request for release on compassionate grounds in terms of section 3(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 may be made by any party acting on behalf of the prisoner, although in the majority of cases the Governor will be responsible for the initial notification to the Parole and Miscarriages Review Division of SOHD. The most likely circumstances in which compassionate release will be granted are where the life expectancy of the prisoner is short.

133. The primary information source will be a medical report commissioned by the Governor. A Home Background Report will also be requested, and should focus on the health care plan and willingness of family members, the health services and other agencies to provide an appropriate level of support.

134. The Governor of the prison will notify both the social work unit in the prison and the relevant local authority of the imminent release of a prisoner on compassionate grounds, as soon as possible so that a Supervising Officer can be appointed. Where the social work unit in the prison has relevant information or knowledge about a prisoner, they must liaise as appropriate with the community-based social worker.

**Temporary Release**

135. Under certain circumstances, prisoners may be released temporarily on home leave. Details of the procedures for preparation of home background reports to assess suitability for home leave, and the supervision of prisoners on home leave, are to be found in Annex A.

**Schedule 1 Offenders**

136. Special arrangements apply in respect of those convicted of offences against children (Schedule 1 offences). The specific requirements in respect of these offenders are detailed in Chapter 11.

**TRANSFER OF SOCIAL WORK RECORDS**

137.It is the responsibility of prison governors to ensure that social work units in prisons are notified, if possible in advance, failing which within 72 hours of any transfer to another prison, of a prisoner subject to mandatory supervision on release.

138. It is the responsibility of social work units in prisons to ensure that all social work records held in that unit, appertaining to a prisoner, should be sent to the prison social work unit to which a prisoner is subsequently transferred, within 2 weeks of that transfer.

**CHAPTER 5: THE ROLE OF THE SOCIAL WORKER IN THE COMMUNITY**

**INTRODUCTION**

139. Once a prisoner is due to be considered for discretionary release on parole or life licence a dossier of information to assist the decision-making process is compiled, including reports from prison staff and other professionals with a knowledge of the prisoner and his/her circumstances and (in cases of prisoners sentenced on or after 1 October 1993) a report from the trial judge. The social work department in the area in which the prisoner intends to reside on release is required to provide a Home Background Report offering information about a range of factors which may influence the resettlement prospects of the prisoner on his/her release to that area. The social work unit in the prison is required to provide a separate report.

**HOME BACKGROUND REPORTS FOR THE PAROLE BOARD**

140. The following Standards apply in every case where a Home Background Report is requested in connection with the review of a prisoner's suitability for release on parole or life licence. In addition there are special factors where the release of mandatory or discretionary life prisoners, the possible release of a prisoner on compassionate grounds, and the possible release of a transferred prisoner direct from a psychiatric hospital are under consideration, which are mentioned in paragraphs 151 to 156.

**Objectives of Report**

141. The report is intended to provide information to assist the Secretary of State and the Parole Board in decision-making about discretionary release for life sentence and determinate cases by:

141.1providing a description and assessment of:

141.1.1the social and family context to which the prisoner intends to return on release; and

141.2.1the extent to which this social and family context is likely to be supportive, or otherwise, in assisting the prisoner to re-settle successfully in the community;

141.2providing information about:

141.2.1the likely level and nature of supervision and support that will be provided to the prisoner, and his/her family, on release; and

141.2.2any special programmes, facilities or resources which might be offered to assist the successful reintegration of the prisoner into the community and to reduce the risk of re-offending;

141.3contributing to the assessment of risk of re-offending or social breakdown of the prisoner.

142. In addition, compilation of this report may provide an opportunity, where relevant and appropriate, for the local authority social work department to begin to engage the prisoner's family in planned preparation for the prisoner's future release.

**Preparation of Report**

143. The following Standards apply to the preparation of all Home Background Reports for the Parole Board. The report writer must:

143.1visit the proposed release accommodation and interview those living there where relevant and appropriate, on at least one occasion; and

143.2contact and liaise with the relevant social worker in the prison in the preparation of the report, in order to ensure the accuracy and consistency of information supplied to assist the decision-making process.

144.Prior to commencing any interview in relation to the preparation of a Home Background Report the report writer must always ensure that anyone interviewed for this purpose understands that any information supplied is likely to be made known to the prisoner, in accordance with the Parole Board (Scotland) Rules 1993 and 1995. (See Chapter 10 on Disclosure).

145. The report writer must indicate the grounds on which damaging information may be withheld from the prisoner, but must make clear the limitations on this.

146. The report writer must always explain to those being interviewed:

146.1the nature of the discretionary release process (if not already known);

146.2that consideration for release on parole or life licence does not mean or imply that the prisoner will actually be released on licence at this time. Release will depend in the first place, on a positive recommendation by the Parole Board;

146.3the nature and duration of statutory supervision following release; and

146.4that he/she will meet those being interviewed, if they wish it, to discuss the outcome of the parole review once this is known.

**Content of Report**

147. In accordance with the general principles of good report-writing practice, the report writer must always:

147.1indicate the source of any information; and

147.2differentiate clearly between fact and opinion or surmise.

148. Each report must provide information about the following range of factors. Any changes to the above factors since the prisoner's sentence, or since the last HBR was prepared, and the effects of such changes, must be considered particularly carefully.

148.1Basis of report:

148.1.1number of visits, and to whom;

148.1.2extent of previous knowledge of the prisoner; use of existing social work files;

148.1.3contact with external agencies or other parts of social work department.)

NB. Previous knowledge of the prisoner or family, and departmental records require to be interpreted in the light of changes of circumstance, motivation and subsequent developments.

148.2Family circumstances:

148.2.1address at which the prisoner intends to reside on release;

148.2.2family membership, quality of relationships, social functioning;

148.2.3accommodation;

148.2.4financial circumstances.

148.3Family attitudes:

148.3.1to the prisoner - including nature and frequency of contact during sentence (visits/letters, etc.);

148.3.2to the prisoner's return, and likely impact of this on the family including recognition of any difficulties;

148.3.3to criminal behaviour generally;

148.3.4to the prisoner's criminality.

Overall the report writer should seek to assess the level of support likely to be available from the family and others interviewed, and the extent to which this might assist resettlement and reduce the risk of re-offending.

In some circumstances prisoners will wish to set up home with a family or individual(s) to whom they are unrelated. The issues listed at paragraphs 148.2 and 148.3 above must also be explored in relation to those individuals, as well as in respect of the prisoners own family.

148.4Environment:

148.4.1employment prospects;

148.4.2peer contacts in the community, and their likely influence;

148.4.3other significant relationships and their influence;

148.4.4any anticipated resentment in local community to prisoner's return.

148.5Specialist resources, programmes or facilities which might be available to assist resettlement and reduce the risk of re-offending, e.g. specialist accommodation, counselling.

148.6Overall assessment of:

148.6.1risk factors in relation to re-offending or social or personal breakdown following release;

148.6.2level of support likely to be offered by family or friends.

148.7Provisional release plan:

148.7.1level of supervision which could be offered on release, including the availability of any specialist resources which could be made available to address the particular problems likely to be experienced by the prisoner.

The report writer must also ensure that the provisional release plans outlined in the report have the approval of his/her management. This is necessary in order to emphasise that the social work department as well as the report writer is committed to providing the time and resources required to fulfil the release plans. It is similarly necessary to obtain the agreement of voluntary or other agencies to their contribution towards the rehabilitation of the offender into the community as outlined in the report, and to specify any conditions or reservations on the part of that agency.

149. The report writer will be notified by the establishment of the outcome of the review. If the report writer is notified that a prisoner on whom a home background report has been compiled is not to be released early, the report writer must inform other agencies involved in the preparation of the provisional release plan.

150. In addition, if requested by the prisoner or by those interviewed, the report writer should visit those interviewed to explain the implications of the decision, and, where appropriate, to offer assistance towards preparing for the prisoner's eventual release on statutory supervision.

**SPECIAL CASES**

**Mandatory life prisoners**

151.Where the Secretary of State proposes to release a mandatory life prisoner, he will normally set a provisional release date to follow a pre-release programme which is likely to involve at least a further year in custody and usually longer. Because of the length of sentence involved, life prisoners may require to be accommodated initially in supported/supervised accommodation, and family links may be weak or non-existent. It is not unusual during a pre-release programme for there to be changes of plan regarding accommodation on release and occasionally a provisional release date may require to be reviewed by the Parole Board and the Secretary of State on this account. Accordingly the steps envisaged in paragraph 143 may require to be repeated in respect of a life prisoner with a provisional release date and updated information provided to SOHD from time to time.

152. About 4 months before release is due to take place, SOHD will routinely request a further Home Background Report. Where possible this should be prepared by the officer who will supervise the prisoner on release; if this is not possible, the report writer must consult that officer about it. The report should:

152.1explain any changes in the home situation, or accommodation, to which the prisoner will return;

152.2assess the effect of any changes on the prisoner's prospects of resettlement;

152.3indicate whether the prisoner has been taking home leaves to the proposed release address and how successful these have been;

152.4indicate the outcome of any counselling which the prisoner has undertaken in the home area in preparation for release;

152.5confirm that arrangements for ongoing counselling, support etc. are in place;

152.6comment on the prisoner's employment prospects or other constructive plans on release; and

152.7take account of any other special factors which may affect the prisoner's rehabilitation, such as the release of a co-accused to the same area.

**Discretionary life prisoners**

153.In preparing a Home Background Report on a discretionary life prisoner, the report writer must bear in mind that a discretionary lifer tribunal of the Parole Board will hold a hearing to review the prisoner's case, and that the report writer may be called to give oral evidence. These hearings will normally be held no less than 7 weeks after the date of the report.

154. The report writer should also bear in mind that the outcome of the discretionary lifer tribunal hearing may be a direction for the immediate release of the prisoner. In such circumstances the Secretary of State will have no option but to release the prisoner and any release plan contained in the Home Background Report will have to be put into immediate operation. Other individuals and agencies involved in developing the release package must also be advised of this possibility by the social worker.

**Compassionate release**

155. Where a prisoner is being considered for compassionate release (an exceptional measure) the emphasis of the Home Background Report is likely to be on the care plan that can be offered to the prisoner and the willingness of family members, the health services, and other agencies to provide an appropriate level of support. (See Annex A).

**Release from a psychiatric hospital**

156. In certain rare circumstances a person may be released on licence after having been transferred compulsorily from custody to a psychiatric hospital. Where a Home Background Report is requested in such a case, it will be for the report writer to ensure that the Report, in addition to the issues mentioned in paragraphs 148.2 and 148.3 above, also covers:

156.1the attitude of family members or others at the proposed release address to the person's mental condition and their willingness to participate in a care plan for the person; and

156.2any other specialist resources that can be made available to the person in view of the history of mental health problems.

157. The report should give due weight to the fact that, in addition to having a mental health problem, the person has also offended. The report must assess the risk of further offending and the need for special support both in the light of the mental health problem and in the light of any other risk factors (such as addictions) that may exist.

**CHAPTER 6: SUPERVISION IN THE COMMUNITY**

**OBJECTIVES**

158. The primary objectives of statutory supervision are focused on assisting former prisoners to reduce the risk of re-offending and are, in particular:

158.1to facilitate the discretionary early release of prisoners through the provision of accurate information and the formulation of realistic action plans;

158.2to seek to ensure that offenders released on statutory supervision adhere to the conditions of that supervision;

158.3to assist former prisoners to reintegrate successfully into the community;

158.4to provide a range of services to former prisoners and in particular services to build on offence related programmes begun in prison; and

158.5to work with other agencies where necessary in the provision of specialised services for particular needs such as counselling, supported accommodation or medical treatment.

159. Secondary objectives of statutory supervision seek to support prisoners as members of families and the wider community and in particular:

159.1to seek to limit and redress the damaging consequences of imprisonment for prisoners and their families, including the dislocation of family and community ties, the loss of personal choice, and the resultant stigma;

159.2to assist the families of prisoners to cope and to deal with the practical and emotional consequences of a member's offending and imprisonment;

159.3to help prisoners and their families to develop their ability to tackle their own problems;

159.4to assist the families of former prisoners to adjust to the changed circumstances arising from the prisoner's return; and

159.5to provide particular support to former prisoners, such as sex offenders, who may have lost their family base through their offending and imprisonment.

160. These objectives will be relevant in differing proportions depending on the type of supervision which is in prospect and the particular individual involved. In certain special cases, there may be a particular emphasis on a narrow area. For example where a prisoner is released on compassionate grounds objective 158.5 may be particularly relevant.

**OPERATIONAL PRINCIPLES**

161.Research suggests that to be effective throughcare services to serving and released prisoners must be well focused, consistent and adapted to both the characteristics of the offender and the type of offending. Further background is to be found in the Effective Practice Supplement to the National Standards. More specifically, throughcare services must be based upon:

161.1co-ordinated provision of appropriate services to offenders in custody and following release - involving, as necessary, services provided by staff in the prison and specialists, services provided by local authority staff based in the community and services from the voluntary sector;

161.2action to address offending behaviour and behaviour which is associated with offending. This must focus on:

161.2.1the nature, causes and consequences of the offender's offending behaviour;

161.2.2helping the offender to face up to his/her offence and its consequences for the victim, the offender and the offender's family and, where appropriate the community;

161.2.3helping motivate the offender to change and helping the offender to find ways of avoiding this offending behaviour in the future: problems of alcohol abuse, illegal drug misuse, violence and gambling may also be associated with offending and must also be tackled if the risk of the offending is to be reduced;

161.3Action to assist reintegration into the community, including action to address underlying problems experienced by the offender:

161.3.1helping the offender to obtain suitable accommodation where necessary;

161.3.2helping to gain employment, employment related skills or access to further training;

161.3.3facilitating access to, and management of, personal income and expenditure;

161.3.4tackling the problems associated with the breakdown of family relationships; and

161.3.5helping the offender towards managing time productively.

**VOLUNTARY ASSISTANCE**

162. In accordance with the general principles of throughcare, prisoners should be made aware of the availability of support of a voluntary nature, involving advice, guidance and assistance in terms of the 1968 Act (see paragraphs 26 and 128) prior to release.

163. The objectives of voluntary assistance are similar to those of statutory supervision, except that no element of compulsion can be brought to bear on the offender. These are:

163.1to provide and facilitate a range of services for prisoners and ex-prisoners and, where appropriate, their families, to assist them to deal with any problems they may face particularly following release;

163.2to assist prisoners and ex-prisoners to reduce the risk of re-offending through the provision of a range of services to meet identified needs;

163.3to seek to limit and redress the damaging consequences of imprisonment including the dislocation of family and community ties, the loss of personal choice, and the resultant stigma;

163.4to help prisoners and their families to develop their ability to tackle their own problems;

163.5to help prisoners and their families, on request, to prepare for release;

163.6to assist the families of released prisoners to adjust to the changed circumstances arising from the prisoner's return, where such a service is needed and requested; and

163.7to assist ex-prisoners to reintegrate successfully into the community.

**PAROLE AND LIFE LICENCE SUPERVISION**

164.The Standards set out in this section apply to the supervision of all determinate sentence prisoners released on parole licence (under the provisions of either the 1989 Act or the 1993 Act), and to the supervision of all life licences.

165.They also apply to the special cases of prisoners released on compassionate grounds, prisoners released on licence from a psychiatric hospital, young persons of 16 or over released on licence from detention under [section 208 of the Criminal Procedure (Scotland) Act 1995](http://www.gov.scot/Publications/2004/12/20473/49323#4), and residual cases of young offenders released on notice of supervision ("aftercare") on conclusion of a sentence of 2 or more years, under section 32 of the Prisons (Scotland) Act 1989.

166. Full details of these arrangements are set out in the section of these Standards which deals with the legislative basis of throughcare services (see Chapter 1).

167. The responsibility for supervising parole and life licences must be held by a professionally qualified social worker, as is the case with probation.

**Licence conditions**

168. All licences, whether issued under the 1989 Act or the 1993 Act, contain the following standard conditions. The licensee must:

168.1report forthwith to the officer in charge of the local social work office;

168.2be under the supervision of whichever officer is nominated for this purpose by the Director of Social Work / Chief Social Work Officer in the area in which the licensee resides; (All licences issued under the 1993 Act make clear that, where necessary, this condition may be exercised by the Probation Service in a petty sessions area in England or Wales);

168.3keep in touch with the Supervising Officer in accordance with that officer's instructions;

168.4inform the Supervising Officer if he/she changes his/her place of residence or gains employment or changes or loses his/her job;

168.5be of good behaviour and keep the peace; and

168.6not travel outside Great Britain without the prior permission of his/her Supervising Officer (see paragraph 196 for arrangements in respect of life licensees. The Supervising Officer should similarly refer to SOHD for the advice of the Parole Board in any case of non-life licence where the process of supervision would be in any way compromised by travel abroad or the offender's supervision is causing concern.)

169. The Secretary of State may impose additional conditions in any case, but may not do so without consulting the Parole Board. Additional conditions will reflect the risks seen as inherent in the case by the Parole Board and the Secretary of State, and will usually, but not always, reflect the action plan emerging from the Home Background Report and the report for the parole dossier from the social worker in the prison. The most common additional conditions are:

169.1a condition of alcohol or drugs counselling;

169.2a condition of "psychological counselling";

169.3a condition of residence;

169.4a condition banning contact with a specific individual or individuals; or

169.5a condition of attendance at psychiatric out-patient clinic.

170. These conditions may include the phrase "as directed by the Supervising Officer" or "at the discretion of the Supervising Officer".

171. The supervision of persons released on parole or life licence must be informed by the objectives and operational principles set out earlier in this document (paragraphs 158 and 161).The intensity of the supervision will at all times be determined in the light of assessed and changing levels of risk posed by the licensee, the framework of supervisory procedures and reviews set out below and the outcome of formal reviews, to be held at no less than the frequency set out in this document.

**Life licensees**

172. In the case of life licensees, SOHD will inform the Supervising Officer at the outset of the frequency at which progress reports are to be submitted to the Secretary of State. This will usually be 3-monthly, or, in high risk cases, monthly. That frequency will be reviewed from time to time, following consideration by the Parole Board of reports referred to it by the Secretary of State. The intensity of supervision and the frequency of contact with the life licensee will be determined by the Supervising Officer in the light of these Standards, and the reports to the Secretary of State should outline the progress that has been made over the specified interval. The particularly serious nature of the original offence and potential public interest must be borne in mind. The Supervising Officer is, therefore, expected to keep a close watch on the progress of the licensee with particular regard to his or her domestic situation, employment, social activities and contacts. If, at any time, it appears that the licensee's response to supervision is deteriorating, or that his or her behaviour seems likely to result in a serious incident, or, in particular, there is an alleged further offence, the Supervising Officer should immediately report the circumstances to SOHD IIC, together with a recommendation on the licensee's suitability to remain in the community under licence. In cases of urgency where the report reveals that the licensee represents an immediate risk to members of the public the Secretary of State may order the recall by the police of the licensee. In other cases SOHD IIC will refer the case to the Parole Board for its recommendation. The Parole Board will consider the appropriate action to be taken which may include the issue of a letter, warning the licensee of the implications for failing to comply with the conditions of his/her licence; the addition to/or amendment of licence conditions, or, in serious cases, recall to custody.

**Pre-release work**

173. At least 4 weeks' notice of notification of the release date should be given by the Governor to the local authority in the area where the prisoner intends to reside on release. The appropriate local authority social work department must nominate a Supervising Officer within 7 days of receipt of notification of the date of a prisoner's release on parole or statutory licence.

174. When earlier notification of release is given in respect of long-term or life licence prisoners, the local authority must also advise the Parole Board of the Supervising Officer within 7 days.

175. Notification of a prisoner's release date, and the nomination of a Supervising Officer, will normally be the trigger for starting more detailed planning for release.

176. Within 14 days of nomination, the Supervising Officer must write to the prisoner, to introduce him/herself. The Supervising Officer must also make contact with the social work unit in the prison, to begin the joint process of pre-release planning. Close liaison between the Supervising Officer and the social worker in the prison is essential during the period leading up to the prisoner's release.

177. At least one month before the release date, the social worker in the prison will convene a pre-release meeting, involving the prisoner, the Supervising Officer and the social worker in the prison. Other relevant parties (e.g. community-based substance misuse agencies, specialist service providers, and prison staff) may be invited to attend. The purpose of this meeting is to finalise a release plan, based on earlier proposals contained in the reports submitted to the Parole Board. In addition, the meeting should identify tasks to be undertaken by the various parties in the period leading up to release, and set provisional objectives for the initial stage of supervision.

178. The plan should include an overall assessment of the prisoner's needs, and must identify (and, where possible, address) any outstanding issues surrounding accommodation, finance, relationships and personal or behavioural problems.

179. A written note of agreements reached at the meeting must be prepared by the social worker in the prison, and must be circulated to all participants.

180. If timescales do not permit the pre-release meeting to be held within 4 weeks of the prisoner's release, steps must be taken to ensure that, wherever possible, such a meeting is convened by the social worker in the prison prior to release.

181. The prisoner must be advised of progress in implementing agreed tasks, as necessary through additional meetings.

**Initial Contact**

182. All licensees released on parole or life licence from prison or detention must be seen by their Supervising Officer, by prior arrangement, within one working day of the licensee's release from custody. If the Supervising Officer is subsequently unable to keep this appointment alternative arrangements must be made locally, to ensure that the licensee is interviewed by another social worker.

183. The purpose of this meeting is to:

183.1clarify for the licensee the conditions of the licence;

183.2confirm the licensee's address and check whether there have been any other changes to his/her immediate plans;

183.3discuss and offer assistance with any immediate needs, and advice on any tasks which may require attention during the first week;

183.4confirm the release plan agreed at the formal pre-release meeting;

183.5confirm the frequency of contact during the first 3 months; and

185.6arrange the time and location of the next meeting.

184. If the licensee fails to attend the meeting was arranged, the Supervising Officer must investigate this, by visiting the release address within 2 working days of the person's release. If contact is not established within this period, the Supervising Officer must immediately notify SOHD.

**Contact during the first 3 months**

185.The first 3 months following a person's release from prison may be particularly stressful; Supervising Officers must be alert to any indicators which may suggest that a licensee presents a greater risk to the community than was anticipated at the time of release, or that he/she is particularly vulnerable.

186.In all cases the Supervising Officer or his/her substitute must meet the licensee at least once a week during the first month following release, and at least fortnightly thereafter for the remainder of the quarter. At least one home visit each month must take place during this period.

187. At the conclusion of the first 3 months a formal review must take place, in which the licensee should participate. The Supervising Officer's line manager must also review the progress of each case regularly with the worker, and should attend formal reviews where this is desirable in the interests of good case management. The line manager should also seek to attend whenever requested to do so by the licensee. Other agencies or individuals with a relevant interest may participate in the review at the invitation of the Supervising Officer or the licensee.

188. The purpose of the review is to:

188.1examine progress since release;

188.2identify continuing or new tasks and allocate responsibility for these; and

188.3determine the level of contact until the next formal review.

189. The record of the review must be countersigned by the line manager and must be copied to all those taking part, for information.

**Contact over subsequent months**

190. During months 4 - 6 the frequency of contact must be at least monthly, and will be determined by the Supervising Officer, in the light of assessment of the level of risk presented by a licensee at that particular point. Thereafter the level and frequency of supervision is a matter for the professional judgement of the Supervising Officer, and may be changed by the officer at any time if he/she judges that to be necessary. Judgements about the level of supervision will be informed by a range of factors, including the progress made by the licensee towards resettlement and the attainment of a stable lifestyle, changes in the licensee's circumstances and his/her response to these.

191. The next formal review must take place after a further 3 months (i.e. at the 6 months stage), and thereafter they should take place at 6 monthly intervals for the first 3 years. After 3 years reviews should take place on an annual basis. All reviews must be recorded and the record distributed as above.

192. The 6 monthly reviews must examine progress towards agreed targets and should, where appropriate, set new objectives, targets and tasks for the next 6 months. The annual reviews thereafter should, amongst the other tasks, determine the nature and content of supervision until the next review.

193. For those on parole licence, a final review must be held prior to the end of the supervisory period, to review progress since release, to offer advice and guidance to the licensee which may be helpful in the future, and act as a debriefing session for the benefit of the offender and Supervising Officer. This review must be recorded and distributed as with previous reviews.

194.In all cases where a licence has included a special condition or conditions (e.g. alcohol or drugs counselling, attendance at a special programme etc.), a Final Report must be sent to the Parole Board, recording satisfactory completion of the licence period, and commenting specifically on the following points:

194.1how helpful the condition or conditions have been in relation to the supervision and management of the parolee; and

194.2to what extent the condition or conditions have assisted the reintegration of the parolee into the community (having particular regard to any areas of concern which may have been identified by the Board in their Minute on the case).

195. For life licensees, circular SOHHD 10/1992 (dated 22 June 1992), and the amending letter which was sent on 16 April 1993 set out the arrangements whereby Supervising Officers may apply to the Secretary of State for the termination of the supervision conditions in the licence after the licensee has spent 10 years in the community without any incidence of recall except one in respect of which the Parole Board has subsequently directed the prisoner's re-release. See Chapter 8 on Variation for the detailed procedures which apply to such applications.

**Travel abroad by life licensees**

196. If a life licensee wishes, for any reason, to travel outside Great Britain, the Supervising Officer must refer the matter to SOHD immediately, to seek the views of the Parole Board. The report to SOHD must contain the following information:

196.1details of the proposed trip, including the country or countries to be visited;

196.2duration of proposed visit;

196.3the purpose of visit; and

196.4the Supervising Officer's views on the proposed visit.

197. The Parole Board will express a view as to whether the proposed visit should be authorised, and whether any special conditions should apply in relation to the visit. If there are no objections to the proposal, SOHD will issue a 'letter of authority' to the Supervising Officer, for his/her endorsement and for onward transmission to the licensee. The Supervising Officer must explain to the licensee that he/she should carry this letter of authority throughout the period of foreign travel, to show to officials as necessary.

198. If a life licensee proposes to reside outside Great Britain indefinitely, the Supervising Officer must report this to SOHD as soon as possible. The report must follow the format set out in Chapter 8 on Variation. In addition, the report should provide as much information as possible about the licensee's circumstances in the new country of residence, including domestic situation and employment, and a contact address for the licensee. The Parole Board will consider the case and decide whether the supervision requirement can be revoked. The licensee and the Supervising Officer will be advised of the outcome of the Board's deliberations.

**Compassionate release**

199. Where the licensee has been released on compassionate grounds the content of supervision will depend on the medical condition and mobility of the licensee. A person who is hospitalised with no hope of future recovery, may require counselling and support (as may his/her family) rather than supervision in accordance with the above Standards. In such circumstances regular telephone liaison with the medical authorities will be sufficient to ensure that the Supervising Officer is alerted to any change in circumstances. In all cases, the Supervising Officer must reach a judgement about what is appropriate in the light of the actual circumstances and, in particular, the possibility of the person presenting a risk to any member of the public.

**Persons sentenced as children**

200.Where a child who was sentenced to be detained under [section 208 of the Criminal Procedure (Scotland) Act 1995](http://www.gov.scot/Publications/2004/12/20473/49323#5) is aged 16 or over when released on licence, he/she should be supervised in accordance with these Standards, taking proper account of the particular personal and social needs of the young person. (See circular SOHHD 26/1993 for a full account of the procedures relating to children sentenced under section 206.)

**NON-PAROLE LICENCE SUPERVISION**

201.The Standards set out in this section apply to the supervision of all determinate sentence prisoners serving sentences of 4 years or more (imposed on or after 1 October 1993) who are not otherwise released on parole licence, and to the supervision of persons subject to a short sentence licence.

202. The Standards also apply to the supervision of certain persons released from psychiatric hospital following transfer from prison to such a hospital under the Mental Health (Scotland) Act 1984. Under section 74 of the 1984 Act, as substituted by section 4(3) of the 1993 Act, a person who would otherwise have been in custody and who reaches the date on which he/she would have been released from prison on non-parole licence, will be released from hospital on non-parole licence unless the responsible medical officer seeks authority for the person's continued detention in hospital.

203. Persons released on non-parole licence under section 1(2) of the 1993 Act will normally either have been refused parole or will have "self-rejected" from the process. Persons released under section 16(7) of the 1993 Act will have re-offended whilst on licence. It is important that the Supervising Officer is clear about which of these 3 circumstances has been involved in a case, since the 'route' to release on non-parole licence may have a bearing on assessment of risk.

204. Those who have been rejected from parole will have been rejected either because they were felt by the Parole Board to constitute too great a risk of re-offending, or because they were thought to be unlikely to comply with supervision. Supervising Officers must therefore consider all such cases as being likely to present a high risk in terms of response to supervision. This view must inform the Supervising Officer's approach to supervision. Similar concerns must apply in relation to the second "route", involving those persons released on licence under section 16(7) of the 1993 Act.

205.By contrast, those who have self-rejected from the parole process may have done so for a variety of reasons (such as a reluctance to face the disappointment of rejection or a belief that they were wrongly convicted) and may or may not be considered to constitute a significant risk on that basis. An important task for Supervising Officers will be to clarify with the licensee his/her reasons for self-rejecting from the parole system. This should be done as early as possible in the Supervising Officer's contact with the licensee, preferably prior to his/her release, in order to inform decisions about the process of supervision.

206. Supervising Officers must be alert to the special problems associated with non-consensual work, in particular the possible reluctance of licensees to co-operate fully during the period of supervision. Supervising Officers must try to engage positively with these offenders, in order to maximise the potential to reduce the risk of re-offending and to assist resettlement and reintegration into the community during the licence period. Effective engagement may be assisted by early and continuing contact, either in person or by letter, during the period prior to the person's release, and by the provision of assistance to deal with the practical problems (e.g. accommodation, income, employment or employment training) which will face many licensees on their release.

207. The responsibility for supervising a non-parole licence must be held by a professionally qualified social worker, as is the case with probation.

**Licence conditions**

208. All non-parole licences contain the same standard conditions as other licences issued under the 1993 Act (see paragraph 168). As with other licences, the Secretary of State may also impose additional conditions which take account of particular risk associated with the case (see paragraph 169).

**Pre-release work**

209. The Governor of the prison will notify the relevant social work department of the intended release of a prisoner on non-parole licence as soon as possible. In the cases of those who have not been granted parole this will be once a prisoner has been rejected for parole at the final review and is due for conditional release; for those who have self-rejected from the parole process this will be immediately after the deadline for final consideration by the Parole Board (i.e. slightly earlier than for those involved in the parole process); and, in the case of those persons to be released on a short-sentence licence, as soon as possible following admission.

210. Where the prisoner refuses to give a release address the fall-back procedures which apply in relation to supervised release orders will be implemented, i.e. the Governor will designate as the supervising authority the local authority in whose area the release prison is located. Supervising Officers nominated by an authority on this basis must be particularly alert to the possibility of the licensee failing to comply with the terms of his/her licence, especially at the initial reporting stage.

211. The social work department must nominate a Supervising Officer and advise the Governor of the officer's name within 7 days of notification of the intended release date. The Supervising Officer must write to the prisoner, within 7 days of his/her nomination, to introduce him/herself and to begin the process of engagement of the prisoner. Wherever possible, the Supervising Officer should visit the prisoner at least once prior to the formal 3-way pre-release meeting (see paragraph 213 below), and on a more regular basis where circumstances permit this, in order to try to establish positive contact with the prisoner which can form a firm basis for effective supervision on release. Where circumstances do not permit regular visits by the Supervising Officer, he/she must maintain contact with the prisoner by letter during the period leading up to the pre-release meeting.

212. The Secretary of State will not normally seek additional information about the prisoner and his/her circumstances before releasing a person on non-parole licence. However, on occasions such information may be requested (for example, where the Secretary of State wishes consideration to be given to the inclusion of additional conditions in a licence). Where a Home Background Report is requested in these circumstances, the social worker must undertake this work in accordance with the Standards set out at paragraph 140 above.

213. in all cases a pre-release meeting, involving the social worker in the prison, the Supervising Officer and, if he/she consents, the prisoner, will be convened by the social worker in the prison at least 4 weeks prior to the person's release. The meeting should be used to agree a provisional release plan and to identify any issues or areas of concern to be addressed in the course of the supervision period. Where such issues are identified and appear to warrant the inclusion of a particular additional condition in the licence, the Supervising Officer must advise SOHD of this immediately.

214. The outcome of the meeting, including the response of the prisoner, will in part determine the nature and extent of any further work to be undertaken by the Supervising Officer prior to the prisoner's release. Supervising Officers must remain alert to any opportunities to work with the prisoner or his/her family during this period, and should respond positively to requests for assistance during this pre-release period.

**Initial contact following release**

215. All persons released on non-parole licence must be seen by their Supervising Officer, by prior arrangement, within one working day of the licensee's release from custody. If the Supervising Officer is unable to keep this appointment alternative arrangements must be made locally, to ensure that the licensee is interviewed by another social worker.

216. The purpose of this meeting is to

216.1clarify for the licensee the conditions of the licence;

216.2confirm the licensee's address and explore his/her immediate plans (particularly insofar as they fit the provisional release plan);

216.3discuss and offer assistance with any immediate needs, and advice on any tasks which may require attention during the first week;

216.4confirm or amend (as necessary) the release plan developed at the formal pre-release meeting;

216.5confirm the frequency of contact during the first 3 months;

216.6arrange the time and location of the next meeting.

217. Immediately before the prisoner is released on licence, he/she will be asked by prison staff to sign the licence. Refusal to do so may be an indicator of future non-compliance following release, and in all such cases the Governor of the releasing establishment will advise the Supervising Officer of this forthwith.

218. If the licensee fails to attend the meeting was arranged, the Supervising Officer must take such steps as seem appropriate to make contact with the licensee during the next 2 working days. If contact is not established during this period, the Supervising Officer must notify SOHD immediately.

219.Where contact is re-established with the licensee in the course of such an investigation, the Supervising Officer must consider carefully the licensee's explanation for his/her failure to attend as arranged. In particular the Supervising Officer must decide, in consultation with line manager, whether the explanation is acceptable or not, and must reach a judgement about the level of risk currently presented by the offender. This judgement must be made in the light of the licensee's behaviour and other available information, including the licensee's level of co-operation and engagement with social workers prior to release.

220. In all cases where the explanation is judged to be unacceptable, the Supervising Officer must advise SOHD of the licensee's failure to report and the licensee's explanation of this. The Supervising Officer must comment on the acceptability of this explanation and should offer a view about the need for recall or any disciplinary action, based on public safety concerns. The Supervising Officer must always remind the licensee of his/her licence conditions, and of the possible consequences of any breach of these conditions.

**Contact during the first 3 months**

221. Persons released on non-parole licence may be at particular risk of re-offending during the first few months following release from custody. Supervision of a non-parole licensee must always be informed by public safety concerns, which must take priority over the interests of the individual offender.

222. Supervising Officers must at all times be alert to any indicators which may suggest that a non-parole licensee is likely to re-offend, or presents an increased risk to the community. They must always advise SOHD immediately if they believe that the licensee constitutes a risk to the Supervising Officer or to any another person or persons.

223. The frequency of contact in non-parole licence cases should normally be the same as for parole cases. However, where the Supervising Officer assesses that the licensee poses a higher than normal risk, the frequency of contact must be increased accordingly, at the Supervising Officer's discretion In all cases the Supervising Officer or his/her nominee must meet the licensee at least once a week during the first month following release, and at least fortnightly thereafter. The Supervising Officer must visit the licensee at home at least once each month throughout this period. In exceptional circumstances, where the Supervising Officer or his/her line manager have reason to believe that a home visit would present a danger to the Supervising Officer, this standard need not be met. The decision to waive this standard, and the reasons leading to that decision, must be recorded in the casefile, and a report detailing the circumstances must be submitted to SOHD immediately.

224. At the end of the first 3 months the Supervising Officer must formally review the case with the licensee. Other agencies or individuals with a relevant interest may be invited to attend by the Supervising Officer or the licensee.

The purpose of the review is to:

224.1examine progress since release;

224.2identify continuing or new tasks and allocate responsibility for these;

224.3determine the level of contact until the next formal review.

The record of the review must be countersigned by the line manager and must be copied to all those taking part, for information.

225. The Supervising Officer's line manager must also review the progress of the case with the Supervising Officer at least once each month during this period, and should attend the formal review where this is desirable in the interests of good case management.

**Contact over subsequent months**

226. During months 4 - 6 the frequency of contact must be at least monthly. The precise level of contact will be determined by the Supervising Officer, in the light of assessment of the level of risk presented by the licensee at that particular time. Factors which will assist in determining risk will include progress made by the licensee towards resettlement and the attainment of a stable lifestyle, changes in the licensee's circumstances and his/her response to these.

227.A further formal review must take place at the 6 months stage and thereafter reviews must be held at 6 monthly intervals for the first 3 years of any licence period and thereafter annually for the duration of the licence period. All reviews must be recorded and the record distributed as above. All reviews must examine progress towards agreed targets and identify new or continuing objectives, targets and tasks for the next 6 months.

228. After 6 months the frequency of contact will be a matter for the professional judgement of the Supervising Officer, but he/she must always ensure that an appropriate level of contact with the licensee is maintained.

229. The level and frequency of supervision of non-parole licences may be increased at any time by the Supervising Officer, if he/she judges that to be necessary. As with other forms of licence, judgements about the appropriate level of supervision will be informed by a range of factors, including response to supervision, achievement of agreed objectives, progress towards resettlement, changes in circumstances and the licensee's response to these.

230. The Supervising Officer may apply at any time for the variation or cancellation of any licence condition, following the procedures set out at paragraph 256 of the Chapter on Variation. The Supervising Officer must obtain his/her line manager's agreement before applying to SOHD for the cancellation of all, or all remaining, supervision requirements. Once such agreement is secured, the Supervising Officer must carry out the procedures set out at paragraph 259 of the Chapter on Variation.

**SCHEDULE 1 OFFENDERS**

231. Special arrangements apply in respect of those convicted of offences against children (Schedule 1 offences). The specific requirements in respect of these offenders are detailed in Chapter 11.

**CHAPTER 7: ENFORCEMENT IN THE EVENT OF NON-COMPLIANCE**

**INTRODUCTION**

232. A key task in statutory supervision of people released from custody on licence is to supervise compliance with the conditions of the licence. Supervising Officers have a responsibility to take all reasonable steps to advise and assist an offender to comply with the conditions of the licence.

233. A distinction needs to be drawn between actions to be taken by the Supervising Officer when a licensee is charged with a further offence during the period of the licence, and actions to be taken following failure to comply with any other requirement of the licence. The officer must notify SOHD immediately if he/she becomes aware that a licensee has been charged with a further offence during the period of supervision of the licence. There is no discretion in this matter.

234. It is a matter for the professional judgement of the Supervising Officer to determine at what point it is appropriate to report to SOHD any failure to an offender to comply with any other condition of the licence.

235. However, officers must remember that they act as Supervising Officers on behalf of the Secretary of State, to help to protect the community against social harm, and must therefore ensure that unacceptable and/or repeated failure to comply with the conditions of a licence is not condoned.

236. On notification of any failure on the part of an offender to comply with any condition of a licence, the Secretary of State may revoke a licence without reference to the Parole Board if it is considered that immediate recall is expedient in the public interest. However, SOHD will normally refer the matter to the Parole Board for a recommendation for action. There are several options open to the Board:

236.1recommendation for revocation of the licence and recall to custody;

236.2issue of a warning letter to the licence holder; or

236.3no action (e.g. if the person has incurred a further custodial sentence which subsumes the licence period).

237. The Supervising Officer will be informed of the outcome as soon as possible after a decision is reached. All persons recalled to custody will be informed of the reasons for recall. They will also be advised that they are entitled to make representations to the Secretary of State in that regard, at which point their case will be resubmitted to the Parole Board. Should they make such representations they will be given a copy of the Supervising Officer's report to SOHD which has led to the recall, in accordance with the principles of open reporting (see Chapter 10 on Disclosure).

**NON-COMPLIANCE WITH CONDITIONS OF LICENCE (OTHER THAN CHARGE FOR A FURTHER OFFENCE)**

238. Any apparent failure to comply with the conditions of a licence must be followed up and investigated by the Supervising Officer and an explanation sought from the offender. Where the explanation for the failure to comply is unsatisfactory, the Supervising Officer will require to determine what action to take. In determining what the appropriate action to take is, the Supervising Officer will wish to consider:

238.1the seriousness of the failure to comply;

238.2the stage in the licence at which failure to comply occurred;

(NB. Failures to comply during the first 3 months of a licence should be regarded particularly seriously)

238.3the general degree of compliance to date;

238.4the offender's general level of co-operation to date;

238.5how well is the offender resettling into the community; and

238.6what action has been taken on any previous failure to comply with the licence requirements.

**Cases of non-compliance with the conditions of licence which do not constitute a risk to the community or to the offender him/herself**

239. In less serious cases of failure to comply with the conditions of licence, the Supervising Officer must re-emphasise the conditions of the licence and the likely consequences of repeated non-compliance.

240. Where unacceptable non-compliance continues:

240.1The Supervising Officer must issue a formal warning to the offender. If the offender is present, he/she will receive this warning verbally before signing a written record of the warning. In cases where contact with the offender has been lost, the warning must be issued in a recorded delivery letter. In all cases the warning must be noted on the case file.

240.2Continued unacceptable non-compliance must result in the Supervising Officer issuing a second and final warning to the offender following the same procedures as above. The second warning must also be noted on the case file and must specify that any further non-compliance will be notified to SOHD, which might result in the recall of the offender to custody.

241. Any unacceptable non-compliance thereafter must result in the Supervising Officer giving formal notification to SOHD. (NB the Supervising Officer must obtain the endorsement of his/her line manager prior to instituting any formal notification to SOHD.)

242.SOHD must always be informed, in writing, whenever contact with a licensee is not re-established within one month of his/her failure to keep an appointment.

**Cases of non-compliance with the conditions of licence which also constitute a risk to the community or to the offender him/herself**

243. SOHD must be notified in writing, without delay, of conduct and behaviour by the offender which is in breach of any of the conditions of a licence and constitutes a risk to the community or to the offender him/herself.

244. Where it is decided to report formally to SOHD any failure to comply with the conditions of licence, the notification must be made in writing by the Supervising Officer. In cases of urgency, Supervising Officers should notify SOHD by telephone and forward the written details and report as soon as possible thereafter.

245. The notification must be accompanied by a brief progress report. The progress report must record:

245.1the date of release from prison, the form of licence and the designated length of the period of licence;

245.2the nature of the failure to comply with the conditions of licence;

245.3the level of contact with the offender;

245.4the level of response from the offender;

245.5an assessment of the offender's adjustment to release and the degree of his/her resettlement in the community;

245.6any relevant personal/family factors; and

245.7any recommendation for action.

**RECALL OF LICENCE BY SECRETARY OF STATE "IN THE INTERESTS OF JUSTICE"**

246. Under section 17 of the Prisoners & Criminal Proceedings (Scotland) Act 1993, the Secretary of State has the power to revoke the licence of any long-term or life prisoner if recommended by the Parole Board or where it appears to him to be expedient in the public interest and circumstances do not allow a Parole Board opinion to be obtained. Recall in this way need not be as a result of the commission of a further offence or breach of licence conditions. Where the Secretary of State acts without a Parole Board recommendation or the prisoner makes written representations, the case must be referred to the Parole Board for review. The power of the Secretary of State to act without a Parole Board recommendation should only be invoked in cases where the circumstances demand swift action.

247. The same procedures also apply for short- and long-term prisoners released on licence on compassionate grounds.

248. F it appears to be necessary to invoke these procedures, the Supervising Officer should notify SOHD by telephone and forward the written details and report as soon as possible thereafter.

**CHARGE BY THE POLICE WITH A FURTHER OFFENCE**

249. Where the Supervising Officer becomes aware, before SOHD does, that the offender has been charged by the police with any further offence (which has occurred during the period of licence), the Supervising Officer must notify SOHD of the charge by telephone and confirm this notification in writing. The Supervising Officer must also provide a progress report on the offender's behaviour up to that point.

250. Where SOHD is the first to become aware of the charge, it must inform the Supervising Officer of the charge prior to seeking the above progress report from him/her.

251. The progress report must contain the information outlined in paragraph 245 above. (NB: instead of details of the failure to comply with licence conditions (paragraph 245.2) details must be given of; the nature of the further offence, date and name of court diet if known and the sentence imposed if known.)

252.Where it is known with sufficient notice that an offender on current licence is involved in further court proceedings, a report should be forwarded to court for that diet for submission to the Bench in the event of a finding or acceptance of guilt. The report forwarded to court should record the information outlined in paragraph 245 above.

**CHAPTER 8: VARIATION OF LICENCE CONDITIONS**

**INTRODUCTION**

253. The Supervising Officer or the licensee may apply at any time to the Secretary of State for the variation, cancellation or insertion of a licence condition. The Secretary of State must normally consult the Parole Board about such an application, and will usually follow the Board's recommendations.

254. It is possible to apply for the cancellation of all those conditions relating to supervision, for example when it is proposed to allow a licensee to live abroad, effectively cancelling the supervision requirement in any licence. Under these circumstances the offender will continue to be subject to any remaining licence conditions (which, in most cases, will simply be the general requirement to "be of good behaviour and keep the peace"), and will. Therefore, remain a "licensee", subject to recall in the event of any breach of the remaining requirement(s).

255. It is technically possible for the Secretary of State to cancel all the conditions in a licence issued under the 1993 Act, including the general requirement to be of good behaviour. This is, however, extremely unlikely. If it were to occur the individual would cease to be a licensee, but would remain liable, under the "at risk" provisions in section 16 of that Act, to be returned to prison by order of the court, to serve some or all of the unexpired portion of his/her sentence in the event of a further conviction during that period.

**APPLICATION FOR VARIATION (ALL LICENCES)**

256. Application for any variation of a licence condition, for whatever reason, must be made in writing to SOHD. The application, which must include a progress report and must clearly set out the variation which is sought (amendment or deletion of an existing condition, or inclusion of, or substitution by, an additional condition), and the reasons for this proposal.

257. The progress report must set out:

257.1the level of contact with the licensee;

257.2his/her current circumstances, including any significant changes since release;

257.3the response of the licensee to supervision; and

257.4an assessment of his/her adjustment to release and resettlement into the community;

And must include any recommendation for action by the Parole Board or the Secretary of State.

258. Occasionally a licence may contain a condition which was not suggested in the Home Background Report, and which cannot be met, for example because the resource is not available. In such circumstances the Supervising Officer must inform SOHD immediately, and must include a recommendation as to whether the condition should be deleted or amended. Wherever possible, the Supervising Officer should offer alternative proposals to try to meet the intention behind the original condition.

**CANCELLATION OF SUPERVISION REQUIREMENTS (PAROLE AND NON-PAROLE LICENCES)**

259. A formal review, involving the licensee and the Supervising Officer, must be held before the decision is taken to apply for the deletion of all (or all remaining) requirements relating to supervision. This decision must take account of the licensee's response to supervision, the extent to which he/she has resettled into the community and, critically, an assessment of the degree of continuing risk posed by the individual.

260. Where it is decided to seek cancellation of the supervision requirements, the Supervising Officer must explain to the individual that, in the event of the application being granted, he/she will remain a "licensee", subject to recall in the event of a breach of the remaining licence condition(s). The Supervising Officer should also advise the licensee that he/she may seek advice, guidance or assistance from the social work department at any time.

261. The application must be made in writing to SOHD, in the format set out at paragraph 256.

**CANCELLATION OF SUPERVISION REQUIREMENTS (LIFE LICENCE)**

262. Supervising Officers may apply to the Secretary of State for the termination of the supervision requirement(s) in respect of a life licensee who has spent 10 years in the community without any incidence of recall, except one in respect of which the Parole Board has subsequently directed the prisoner's re-release.

263.As with determinate sentence licences, the Supervising Officer must convene a formal review, involving his/her line manager and the life licensee, before taking any decision to apply for the cancellation of the supervision requirement in a life licence. All 3 parties must agree to such an application being made.

264. The Supervising Officer must advise the licensee that cancellation of the supervision requirement will not be granted automatically, and may be refused on consideration of the individual case.

265. The Supervising Officer must also explain to the licensee that, in the event of the application being granted, he/she will continue to be subject to the remaining conditions of the licence. The licensee could thus be recalled in the event of a breach of the remaining licence condition(s), which could result in restoration of the supervision element in the life licence. The licensee must also be advised that the supervision requirement could be reinstated by the Secretary of State at a future date, if the licensee came to the attention of the police or other authorities.

266. When application is made for the cancellation of the supervision requirement in a life licence, the report to the Parole Board must contain the following information, in addition to that set out at paragraph 257 above:

266.1details of any adverse developments which have occurred during the licence period, whether or not these have resulted in a recall to custody;

266.2a signed statement from the licensee, confirming his/her support for the application; and

266.3a signed statement from the Supervising Officer's line manager, endorsing the application.

267. The licensee should also be advised that if the supervision requirement is cancelled, he/she may seek advice, guidance or assistance from the social work department at any time.

268. If the application for termination is approved by the Secretary of State, SOHD will send the Supervising Officer an amending order, revoking the supervision conditions. A copy of this order must be placed in the file (which must be retained for 20 years following termination of supervision), and the original must be sent immediately to the licensee. SOHD will also issue a letter to the licensee, copied to the former Supervising Officer, setting out the licensee's position

269. If the application is not accepted, supervision must be re-established, at a level to be determined by the Supervising Officer, taking due account of the possible negative impact of such a decision on the licensee.

**CHAPTER 9: TRANSFER ARRANGEMENTS**

**TRANSFER WITHIN SCOTLAND**

270. The arrangements set out below must be followed whenever a licensee moves or indicates his/her intention to move on a permanent basis, to an address in a different area from that served by the Supervising Officer. This may involve a move to another local authority, or to another part of the local authority named in the licence. Where the licensee moves to another authority SOHD will issue a replacement licence naming the new authority (or in the case of life licensees, the new Supervising Officer) in condition 1. (See paragraph 168.)

**Licences with standard conditions**

271. When the Supervising Officer is advised by the licensee that he/she has moved to an address in another area, the Supervising Officer must immediately contact the social work office in that area and request that they interview the licensee, confirm his/her new address and satisfy themselves both that it is suitable and that the licensee intends this to be a long-term or permanent move. If the Supervising Officer is informed of an intended move by the licensee, the Supervising Officer must contact the 'new' social work office and request that the proposed new address is investigated to assess its suitability. In either case, the Supervising Officer must also provide the 'new' social work office with basic information about the licensee, including nature of offence, length of licence, response to supervision, and any particular concerns there may be about the case.

272. The social work office in the 'new' area must initiate these enquiries within 5 working days of receiving such a request.

273. Once their investigations are completed they must advise the Supervising Officer of the outcome of these enquiries. If the new address is considered to be suitable and it is agreed that the move appears long-term, the new office must nominate a new Supervising Officer, who must write to the current Supervising Officer, formally accepting transfer of the licence. If the address is considered unsuitable, the procedures set out at paragraph 276 must be followed.

274. On receipt of this letter, the Supervising Officer in the 'old' area must immediately send the new Supervising Officer the following:

274.1a copy of the licence;

274.2a copy of the case notes;

274.3any other relevant material from the case file; and

274.4a copy of the dossier or summary originally supplied by SOHD.

275. The 'old' Supervising Officer must also send a copy of the existing licence to SOHD, and a written progress report containing the following information:

275.1the date of transfer and reasons for transfer;

275.2the licensee's new address;

275.3confirmation that the licensee has been interviewed by the new Supervising Officer, that he/she has confirmed the new address and that the new office has accepted transfer of supervisory responsibility; and

275.4the name, office address and telephone number of the new Supervising Officer.

276. If the enquiries made by the 'new' social work office suggest that the proposed address is unsuitable, or if there are other reasons to suggest that transfer will lead to an increase in the level of risk posed by the licensee, the existing Supervising Officer, or his/her nominee, must advise the licensee of these concerns, and inform the licensee that the circumstances will be reported to SOHD. The licensee must also be advised that he/she should, in the meantime, maintain contact with the Supervising Officer, by telephone if necessary.

277. The report to SOHD must set out the licensee's proposed or actual new living circumstances, and the reasons why they are considered unsatisfactory. The report must also record:

277.1the level of contact with the licensee to date;

277.2his/her response to supervision;

277.3an assessment of the licensee's adjustment to release and the extent to which he/she has settled into the community;

277.4an assessment of the risk posed by the licensee; and

277.5a recommendation for action, which might include:

277.1.1acceptance of the new arrangements, with a recommendation of "careful monitoring" by the new supervising authority;

277.1.2imposition of a residence condition, prohibiting this unsatisfactory address; or

277.1.3recall.

278. SOHD will reply as soon as possible, setting out the Parole Board's recommendations/instructions in relation to the case.

**Licences with Special Conditions - Residential Conditions**

279. A licensee who is subject to a licence with a condition of residence may only change address with the agreement of the Supervising Officer. A condition of residence may specify a particular address, or it may require the licensee to reside "as directed by the Supervising Officer". Where a particular address is specified, a change will require a change of licence condition, which may only be effected by SOHD with the agreement of the Parole Board. Where the licence specifies that the person must reside "as directed by the Supervising Officer", that officer's authority is sufficient for a change of residence.

280. Where a specific address is mentioned in the licence, the Supervising Officer must explain to the licensee that he/she may not move unless the Parole Board has approved either the deletion of the residence condition or the specific change of address. The Supervising Officer must make his/her own assessment as to whether it is necessary for the licensee to remain at the address specified in the licence. If the conclusion is that it is unnecessary, the Supervising Officer must contact the proposed new office and request that they visit the proposed new address to assess its suitability. The Supervising Officer must, however, make it clear to the new office that the proposed move is subject to the agreement of the Parole Board. The new office must then investigate and report back, in accordance with the steps set out at paragraphs 271 and 276.

281. If the report from the new office is positive, the Supervising Officer must send a report to SOHD containing the following information:

281.1the level of contact with the licensee to date;

281.2the licensee's response to supervision;

281.3an assessment of the licensee's adjustment to release, and the extent to which he/she has settled into the community;

281.4an assessment of the risk posed by the licensee;

281.5an assessment of the influence of the specified address on the licensee's progress, and an explanation of why residence at this address is considered no longer necessary;

281.6the proposed new address and proposed transfer date;

281.7confirmation that the new address has been assessed as suitable and that the new office has accepted transfer of supervisory responsibility in principle; and

281.8a recommendation for action, either:

281.8.1deletion of the residence condition; or

281.8.2substitution of a condition of residence, either at the specific address in the new area, or as directed by the new Supervising Officer.

282. If the Parole Board approves this application, the Supervising Officer must arrange the transfer in accordance with paragraph 274 above.

283. If the enquiries under paragraphs 271 and 276 above indicate that there is no suitable accommodation in the area to which the licensee proposes to move, the Supervising Officer may, nonetheless, apply to SOHD for deletion of the residence condition under the procedures set out in Chapter 8 on Variation.

284. If the Supervising Officer considers that the specific condition is still necessary, he/she must advise the licensee of this and undertake to review the situation again within 3 months. The Supervising Officer must also advise the licensee that failure to comply with the condition would constitute a breach of licence, which would be reported to SOHD.

285. Where the original licence condition is general, and the Supervising Officer does not oppose the proposed move, the Supervising Officer must initiate the procedures set out at paragraphs 271 to 278.

286. If, however, the Supervising Officer does oppose the proposed move, he/she must inform the licensee of this, instruct the licensee to remain at his/her present address, and send a report, without delay, to SOHD, containing the information set out at paragraph 277 above. In this situation it is also open to the Supervising Officer to recommend that the Parole Board re-confirm the existing residential condition.

**Licences with Special Conditions Other**

287. Where a licensee is subject to other additional special conditions, the Supervising Officer must first assess whether there is a need for the additional condition to continue in the event of a transfer, and must advise the 'new' social work office accordingly, when requesting that they investigate the situation.

288. The officer conducting the enquiries in the 'new' area must investigate the availability, in that area, of appropriate resources to meet the condition, and must advise the Supervising Officer accordingly.

289. Where the Supervising Officer concludes that it is no longer necessary for the additional condition to be continued after transfer, he/she must apply to SOHD for the amendment or deletion of the condition, using the procedures set out in Chapter 8 on Variation.

290. Where the Supervising Officer concludes that the condition should continue, he/she must, following receipt of the relevant information from the 'new' area, provide a report to SOHD, commenting on the availability of facilities to fulfil the additional condition(s) in the new area and offering a view on the advisability of transfer, in the light of these circumstances.

291. If a licensee intends to move to an area without the resources to meet additional conditions deemed by the Supervising Officer still to be necessary, the Supervising Officer must advise the licensee that he/she does not support transfer, and that a report will be submitted to SOHD advising of this. The licensee must also be advised that to proceed with the move under these circumstances will render him/her unable to meet the licence conditions. The Supervising Officer must also advise that this will be reported to the Parole Board, who will decide what action should be taken, which could include recall.

**CROSS BORDER TRANSFER**

**Transfer from Scotland to England or Wales**

292. Offenders subject to supervision on licence may have their supervision transferred from Scotland to England or Wales. The procedures outlined in paragraphs 271 to 291 above apply equally to those offenders transferred within Scotland and between Scotland and England or Wales. References to 'Supervising Officer' and 'social work office' should be construed as references to 'probation officer' and 'probation service' as appropriate.

293. Statutory provision for transfer of licences is to be found in sections 12 and 15 of the Prisoners & Criminal Proceedings (Scotland) Act 1993.

294. Where an offender is released on licence in Scotland, the Parole Board for Scotland, SOHD and the Scottish courts retain jurisdiction over that offender notwithstanding any number of transfers to or from different locations.

**Transfer from England or Wales to Scotland**

295. Under section 33 of the Criminal Justice Act 1991, offenders sentenced in England & Wales to at least 12 months imprisonment (or detention) are released from custody on licence.

296. Offenders sentenced to at least 12 months and less than 4 years are automatically released at half sentence on Automatic Conditional Release (ACR) licence. Enforcement of licence conditions is carried out by the magistrates' courts. As the jurisdiction of these courts does not extend to Scotland, it is not possible to enforce conditions of such licences in Scotland. Any requests for formal transfer of such licences must therefore be refused.

297.However, social work departments may offer to provide advice, guidance and assistance for such offenders within 12 months of release under section 27(1)(c) of the Social Work (Scotland) Act 1968, on the understanding that no enforcement of licence conditions may carried out.

298. Offenders sentenced to 4 years or over are released at between half and two-thirds sentence, at the discretion of the Parole Board, on Discretionary Conditional Release (DCR) licence. Direct release to Scotland is not possible and neither is formal transfer of the licence. It is possible for these licences to be supervised in Scotland, and arrangements for inward transfer of supervision must be made as described at paragraph 270 above but without any actual modification of the licence. Breaches cannot be dealt with in Scotland. However, the Parole Board for England & Wales and the Home Secretary retain the power under section 39 of the 1991 Act to revoke licences even where the offender has moved to Scotland. Any action which would constitute a breach of the licence conditions must be notified to the Parole Board for England & Wales or, in cases of urgency, direct to the Home Office (see contact addresses).

**Transfer to and from Northern Ireland**

299.Transfers to and from Northern Ireland are not permitted, but voluntary arrangements as described at paragraph 297 above may be negotiated between staff if appropriate.

**CHAPTER 10: DISCLOSURE OF SOCIAL WORK RECORDS**

300. The Secretary of State intends, as a matter of policy, that all reports prepared in connection with parole and life prisoner reviews, should be disclosed to the prisoner. The detailed requirements are set out in Statutory Instruments made under the Prisons (Scotland) Act 1989 and the Prisoners and Criminal Proceedings (Scotland) Act 1993.

**RULES**

301. The Parole Board (Scotland) Rules 1993 and 1995 (SI 1993 No. 2225 (S.235) and 1995 No. 1273 (S.99)) require the Secretary of State to send a copy of the dossier to the prisoner at the same time as it is sent to the Parole Board. In effect the Rules institute a system of 'open reporting' in relation to parole.

302.Rule 6(1) applies where the Secretary of State consider that any written information or document contained in a dossier referred to the Board should not be disclosed to the prisoner because its disclosure would be likely to be damaging on one of a number of grounds. These grounds are that the information:

302.1would be likely adversely to affect the health, welfare or safety of the prisoner or any other person;

302.2would be likely to result in the commission of an offence;

302.3would be likely to facilitate the escape from legal custody or prejudice the safekeeping of persons in legal custody;

302.4would be likely to impede the prevention or detection of offences or the apprehension or prosecution of suspected offenders; or

302.5would be likely otherwise to damage the public interest.

All such information is referred to in the rules as "damaging information".

303. Where Rule 6(1) is applied in any case the Secretary of State is not required to send a copy of the damaging information to the prisoner although this information may still be taken into account by the Parole Board. The Secretary of State must, however, inform the prisoner, in writing, that certain information supplied to the Parole Board has not been made available to the prisoner, and must indicate to the prisoner the nature of this information, " **only so far as is practicable without prejudicing the purposes for which the information is not disclosed**". The Secretary of State must also advise the prisoner (in accordance with Rule 6(2)(c)(iii)) that he/she may make representation to the Secretary of State and to the Parole Board about his/her case, including the non-disclosure of information.

304. There are no powers to withhold 'damaging information' in respect of any case involving a discretionary life sentence.

**IMPLICATIONS FOR SOCIAL WORK PRACTICE**

305. The Parole Board (Scotland) Rules establish a presumption in favour of disclosing information to prisoners in all parole and life prisoner review cases including recall. The Secretary of State has a discretion to withhold from the prisoner information but as can be seen from paragraph 303 above, if he does so, the prisoner will become aware that information has been withheld from him/her and may become aware of the gist of that information.

306.Social workers must bear this in mind when preparing reports for parole reviews and in relation to possible recalls, and must always make clear to third parties that any information they supply to assist the social worker to prepare a report for the purpose of parole or life licence review is likely to be made known to the prisoner.

307. If a social worker preparing a report for a parole review obtains information which he/she believes could be 'damaging information' in terms of Rule 6(1), the matter must be discussed with the worker's line manager. The social worker or line manager may also contact the Parole Lifer Review Branch of SOHD to discuss the matter informally.

308. It is expected that the relevant procedures in relation to damaging information will be invoked only in exceptional circumstances. If, however, following discussion, it is considered that the information is damaging in terms of Rule 6(1), the worker must complete Form PR3 (supplied with the original request for a report), and attach a note of the damaging information, both of which must be placed in a sealed envelope marked "For the attention of the Parole and Lifer Review Branch: Not for disclosure to the prisoner".

309. In order to ensure that the establishment can provide a complete dossier on the prisoner, the report writer should also prepare a report as requested by the establishment containing all relevant disc losable information. This should be provided to the establishment which requested the report, and a copy should be sent to the Parole and Lifer Review Branch of SOHD with the sealed envelope containing form PR3 and the non-disc losable information.

310. On receipt of information covered by a form PR3, along with the copy of the disc losable report, SOHD may contact the report writer to discuss the handling of the non-disc losable information. This discussion may involve attempting to identify an agreed way in which the use of Rule 6 may be avoided. If the conclusion is that the use of Rule 6 is unavoidable, then SOHD will be obliged to prepare a notice as described in paragraph 303 above.

311. On receipt of a notice from SOHD as described at paragraph 303 above, it is likely that the prisoner may seek to discuss the matter with the social worker. Under these circumstances the social worker must advise the prisoner that he/she cannot discuss the contents of the damaging information since to do so could prejudice the reason for non-disclosure. The social worker should always remind the prisoner of his/her right to make representations to the Secretary of State and the Parole Board, under the terms of Rule 6(2) (c) (iii).

312. In such circumstances, non-disclosure may itself become a focus of work between the social worker and prisoner or between the social worker and the third party, or, indeed between all three.

**Note:**

The guidance which currently applies to the ownership, confidentially and disclosure of prison social work records is set out in Chapter 8 of "Continuity through Co-operation". This has been reproduced in Annex E to these Standards, for each of reference.

**CHAPTER 11: SCHEDULE 1 OFFENDERS - SPECIFIC PROCEDURES**

**INTRODUCTION**

313. This Chapter provides details of the responsibilities placed on local authorities in respect of the imprisonment and preparation for release of offenders convicted of offences against children. It replicates SWSG Circular 11/1994, which replaced SWSG Circular 4/1979. A corresponding Scottish Prison Service Circular, 60/1994, addressed to governors of all penal establishments, advises governors of actions to be taken by prison staff and managers in respect of these prisoners.

314. This Chapter sets out the procedures to be followed to ensure that social work departments are notified when prisoners convicted of offences against children are to be released from custody. It outlines the key principles and issues surrounding the engagement of such offenders in programmes to assess and address their offending behaviour and sets out the range of circumstances under which the release of these prisoners can take place. It identifies tasks for social workers in prisons during an offender's sentence and leading up to his/her release and specifies complementary action to be taken by social work staff in the community during this period.

315. This Chapter takes account of developments in national policy, standards, and practice guidance. It is informed by increasing knowledge about the prevalence of some types of offences against children and the types of behaviour involved. The policy and procedures are set within the context of local authority and other agency responsibilities for child protection, as outlined in The Scottish Office document "Effective Intervention".

316. The procedures set out here focus on the particular contribution which local authority throughcare services must make to child protection, and fulfil part of the Secretary of State's Action Programme on Child Abuse, set out in Circular SW9/1988. They are intended to promote child protection by:

316.1ensuring early follow-up, by social workers in prisons, of prisoners identified by court staff as having been convicted of a relevant offence against a child;

316.2ensuring that such prisoners are subject to an assessment of the extent and seriousness of the risk they will constitute to children on their eventual release;

316.3ensuring that such prisoners are offered access to programmes to help them reduce the risk they pose to children on release (see paragraph 333 below);

316.4ensuring local authorities consider any implications for the protection of children arising from the future release of an offender and ensuring that this information is also available to the Parole Board or others involved in consideration of such prisoners for discretionary release; and

316.5assisting the development of a co-ordinated and collaborative approach to the release of offenders convicted of offences against children by the sharing of information amongst relevant agencies, both in the prison setting and in the community.

317. This Chapter sets out actions to be taken in respect of the release of prisoners whose current custodial sentence is for a relevant offence against a child. It provides directions which apply to adult prisoners and young offenders, whether they are to be released unconditionally at their normal release date or are being considered for discretionary or conditional release under any of the following arrangements:

317.1home leave;

317.2the Training for Freedom Scheme;

317.3parole, non-parole licence, life licence or statutory after-care;

317.4supervised release order; or

317.5any other form of supervision

**Definitions**

318. In the context of this document, child means person under the age of 16 (see fuller definitions at end of Chapter); prisoner means, as appropriate, a convicted adult prisoner aged 21 years or more, or a convicted young offender under 21 years of age (but see paragraph 345.2 and 345.3 for specific directions in relation to work with remand prisoners). Relevant offence means any offence set out in Schedule 1 to the Criminal Procedure (Scotland) Act 1995, i.e.

318.1any sexual offence committed against a child

318.2any offence under the relevant sections of the Children and Young Persons (Scotland) Act 1937, or

318.3any assault on a person under 17 years of age leading to that individual's bodily injury (subject to the comments in paragraphs 321 and 322 below).

319. An explanatory list of relevant offences and further definitions is to be found at the end of this Chapter. The appropriate social work department may be any one or more of the following local authorities, depending on the circumstances of the case:

319.1the area in which the prisoner's own children are living;

319.2the area in which the child or children previously offended against is/are living;

319.3the area to which the prisoner is to be released and where there are children in the household or hostel which he/she is to join; or

319.4the area to which the prisoner is to be released even when it seems that there are apparently no children involved.

**ADMINISTRATIVE ARRANGEMENTS AT COURT TO IDENTIFY RELEVANT CASES AND NOTIFY RECEIVING ESTABLISHMENTS**

320.Arrangements have been made for procurators fiscal to include the victim's age on the complaint or indictment in all relevant offences involving a victim aged under 16 years (and to draw the attention of Sheriff Clerks to other cases) and for Sheriff Clerks to mark the warrant of committal in all such cases which result in a custodial sentence. Local arrangements will be put in place immediately, in each prison, to ensure that the social work unit in the prison is advised, within one working day, of the reception of every such case and is supplied with a copy of any social enquiry prepared for the court appearance (see SPS Circular 60/1994). Additional information (including, in every case, a copy of the relevant parts of the complaint or indictment, and, where available, psychiatric or other reports) will be forwarded by Sheriff Clerks or the Clerk of Justifier to the receiving establishment within 5 working days of the sentence, and marked for the attention of the social work unit. These arrangements should ensure that social worker in the prison can make initial contact with a convicted offender on the basis of the fullest information available about the precise nature of the offences and, where appropriate, the offender's own circumstances. It must be emphasised that this information is necessary to inform judgements about risk, and should only be shared with others on a 'need to know' basis.

321. The full procedures set out in here may not necessarily require to be implemented in every Schedule 1 case, but cases which do not require full implementation are likely to be infrequent.

322. The full procedures must always be implemented in cases involving a sexual offence, in cases where the offender will be subject to a supervised release order and in cases where the circumstances of the offence are such as to suggest that the offender is likely to constitute a risk to children generally, or to a specific child or children. The procedures may not, however, require to be implemented in full where these conditions do not apply. As an example, they may not require to be implemented where a Schedule 1(3) offence, involving physical assault, has occurred in the course of violence between young people of a similar age. Decisions not to implement the procedures can only be made when full information about the nature and circumstances of the offence, and the offender's characteristics has been obtained and has been assessed in respect of future risk to children. In completing these tasks the social worker in the prison must consult with relevant community-based colleagues about the nature and circumstances of the offence, particularly any risk to a child (see paragraph 329). The decision not to implement the procedures must be approved by the social worker's line manager; the decision, and the reason for the decision, must be recorded in the case file.

**THE ROLE OF THE SOCIAL WORKER IN THE PRISON**

323. The main task of social work staff in prisons in respect of prisoners convicted of offences against children are:

323.1assessment of indicators of future risk to children including any risk which may arise during the period of imprisonment and from the eventual release of the offender. Assessment of the prisoner's readiness to address the offending behaviour;

323.2to assist in the development and delivery of some elements of intervention programmes within the prison setting, in conjunction with other staff and specialists in the prison. It is the responsibility of the Governor to ensure co- ordination of all these contributions;

323.3to assist prison management in the co-ordination of a range of interventions from specialists and from prison staff, designed to modify, contain or control the offender's behaviour;

323.4liaison and co-ordination in respect of the development of appropriate release plans for offenders convicted of offences against children; and

323.5preparation of prisoners for release.

**Informing the Prisoner**

324.Within 2 working days of receipt of the information from the court, the social worker in the prison must advise the prisoner of the range of consultations and administrative arrangements surrounding his/her eventual release, as set out in this section. The social worker must explain the purpose and implications of these arrangements, the role of the social worker and the limits of confidentiality, and must advise the offender of his/her rights and obligations. These include the right to refuse to participate in any treatment programme which may be offered during imprisonment, the right to decline to participate in the parole process, and obligations in respect of release subject to statutory supervision. The social worker must also give an indication of the services available in prison to assist the prisoner to address the offending behaviour. (Where prisoners subsequently choose not to engage with any intervention programme in the prison, the social worker in the prison must remind them of the arrangements set out in this section whenever consideration is being given to any form of discretionary release, and prior to normal release.) Prisoners must also be advised that they may make representations to the relevant Directors of Social Work / Chief Social Work Officers (see paragraph 319) and to the Parole Board or Governors who are considering discretionary release. Such representations are likely to include concerns which prisoners may have about unreasonable constraints on their liberty following release, particularly regarding access to children.

**Assessment and Planning**

325. Within one month of the prisoner's admission, the social worker in the prison must complete a preliminary assessment of the extent to which the prisoner seems likely to present a continuing risk to children during imprisonment or following release. As part of this process, the social worker must assess the prisoner's willingness to co-operate with any course of action and engage in any intervention programme available within the prison setting, designed to reduce that risk. Social workers must have accurate information about the charges proved or admitted in court, and any other relevant information made available to the court, in order to carry out their assessment function effectively. There will be occasions when contact must either be delayed or may only be of a relatively superficial nature, whilst further enquiries are undertaken by the social worker in the prison to secure the required information.

326. In all Schedule 1 cases, judgements about the future risk posed to children should be based on the following factors: the circumstances and nature of the offence; the prisoner's attitude to the offence; frequency and severity of previous offending (if known); any history of substance misuse; willingness and motivation to address offending behaviour.

327. In cases involving sexual offences, the following additional factors must also be considered when forming judgements about future risk:

327.1Nature of offence - degree of sexual intrusiveness (intercourse may indicate greater risk):

327.1.1duration or frequency of abuse, as stated in indictment or complaint (the longer the duration and more frequent the abuse in the current offence, the greater the future risk);

327.1.2use of physical violence or aggressive coercion; and

327.1.3intra-familial or extra-familial abuse (extra-familial abuse may be indicative of more generalised risk to children).

327.2Victims - age of victims (the younger the victim, the greater the risk):

327.2.1whether the victim was known or unknown to the offender (selection of unknown victims is indicative of greater risk);

327.3Previous convictions - previous convictions for sexual offences;

327.3.1previous convictions for non-sexual offences (the greater the number and variety of convictions, the greater the risk);

327.4The extent of the prisoner's denial or minimisation of the offence;

327.5The extent to which the prisoner accepts responsibility for his/her behaviour;

327.6The prisoner's views about the impact of the offence on the victim(s) (the less the understanding of its impact, the greater the future risk); and

327.7The prisoner's willingness and motivation to engage in programmes to address his/her offending behaviour.

328. It is essential that social work staff in prisons recognise, and make appropriate use of, the contribution which prison officers and specialist staff, primarily psychologists and psychiatrists, may make to the process of reaching judgements about future risk assessment.

329. It must be borne in mind, however, when assessing the general indicators of future risk that in many such cases previous offences may have been undetected. Any analysis of frequency of offending must, therefore, be approached with caution.

330. Social workers in prisons must be responsive to the needs of the child (Ren) in their work with prisoners, including initial assessment, especially where there is the possibility of ongoing contact between the child (Ren) and the prisoner (see paragraphs 345.4 and 345.5). They must therefore liaise with their colleagues in the community who may have been involved with the case at an earlier stage, or may currently be working with the victims(s) and/or the prisoner's family. It can be anticipated that offenders may seek to deny or minimise the harm done, and staff must always strive to encourage them to be realistic about their offending, the risk they pose to others, and about the steps they should take to reduce that risk. Assessment of likely risk, and assessment of the offender's motivation to change are closely interlinked. Where an offender is willing to work towards change these assessments should lead to the formulation of a planned programme of action to achieve change, to prepare for release and to reduce future risk.

331. Risk assessment is a task which must be conducted at regular intervals throughout the sentence, irrespective of a prisoner's participation in intervention programmes. It should always be informed by the factors set out in paragraph 326 above. Whenever possible, a prisoner who has declined to participate in such a programme should be offered further opportunities to engage in work to address his/her offending.

332. Whenever a prisoner is transferred, the Governor of the receiving prison must ensure that the social work unit is advised immediately of the prisoner's admission. The social work unit in the prison must contact the prisoner within 5 working days of that notification, to advise the prisoner of available opportunities to tackle his/her offending, and to update the most recent assessment of risk.

**Intervention Programmes**

333. The Scottish Prison Service is committed to the provision of opportunities for prisoners to take responsibility for their offending behaviour and take steps to reduce re-offending following release. Governors are required to develop appropriate regimes to assist this. Social work units in prisons and other professional staff have a key role in developing and delivering intervention programmes designed to address particular forms of offending behaviour, and in assisting governors to provide these opportunities for prisoners. These programmes frequently involve contributions from a range of specialists and disciplines within the prison or based in the community, such as psychologists, psychiatrists, medical staff, education staff, etc. An important task for social work in prisons is to contribute to the co- ordination, by prison management, of these various specialist contributions as part of the regime plan of each prison.

334. Offenders convicted of offences against children may require access to a range of specialist programmes, depending on the nature of the offence, including specialist programmes for the perpetrators of sexual abuse, programmes focusing on violence and anger management, and programmes to teach relaxation techniques. In common with other prisoners they may also require access to a range of other services and resources, to address other problems they may face, e.g. accommodation, alcohol misuse, etc.

335. The development, consolidation, and maintenance of intervention programmes for offenders convicted of child abuse should be a feature of regime plans and social work unit plans in all establishments containing such prisoners. The highest possible priority should be given to this group within competing demands on social work resources; where existing resources are judged to be insufficient to allow the implementation of intervention programmes, SPS management must be consulted about whether additional resources on a permanent, temporary, or sessional basis, can be secured.

336. The timing of such intervention programmes will be a matter for careful consideration and must take account of a range of factors; key issues affecting the timing of an individual's inclusion in any programme might include sentence length and date of release (if known), likely length of stay in the establishment, nature of programme as well as the individual offence circumstances. In the case of indeterminate sentence prisoners, the timing of intervention must be realistic in relation to the individual's prospects of release on licence.

337. In each case the main purpose should be to seek to maximise the impact of the programme and to try to influence behaviour following release (for example, by assisting an offender to maintain contact with the social work department on a voluntary basis, following release). It is critically important that, where prisoners have commenced a programme of intervention, they are allowed to complete the programme prior to transfer to another prison. Prison management must take all steps necessary to ensure that this occurs.

338. It should be noted that at present there has been little systematic evaluation of the long-term effectiveness of any such programmes. Local authorities should seek to provide their staff with regular updates on practice development elsewhere and on any research into programme effectiveness. SWSI will assist this task through the exercise of its responsibility to provide and disseminate knowledge about good practice.

339. Monitoring and evaluation of the performance and outcomes of any such programme is a complex but essential task for both social work and prison management. In order to facilitate effective evaluation, programme goals must be realistic, achievable, clearly defined and consistently applied. Whilst there is opportunity to effect change, the scope for change my be limited and this should be recognised in order to avoid unrealistic expectations. Achievable goals might be to increase an individual's understanding of his/her offending behaviour or to achieve some understanding of the effect of such behaviour on victims.

**Planning and Preparation for Release**

340Social work departments must give particular attention to providing adequate protection to previous and potential victims, and to the value of involving offenders in community-based programmes to control their offending behaviour following release. An enhanced level of contact between workers in prisons and their colleagues in the community must be a feature of the pre-release period. It is also essential that effective liaison at both management and service delivery levels take place between child protection staff and local authority staff with responsibility for social work services in the criminal justice system.

341. In advance of any form of release, including temporary release under the home leave schemes, the social work unit in the prison must take all reasonable steps in the time available, to ensure that the appropriate local authority has all relevant information to enable decisions to be taken about any action required to protect children.

342. Where at least 5 working days advance notice is given, this information must be provided in writing by the social worker in the prison, following consultations with other staff who may have been involved with the prisoner. Where less notice is given the information must be conveyed by telephone. This must include any new and relevant information about the prisoner's circumstances since conviction (including details about any ongoing contact with the child), any involvement in intervention programmes during imprisonment, response to such contact/involvement, availability of community-based support for the prisoner, the prisoner's own views about his/her offence and future plans, and a preliminary assessment of risk.

343. Where a prisoner is due for normal release, at the end of his/her sentence, and is homeless, the social worker in the prison should follow the action set out at paragraph 364.

**THE ROLE OF THE SOCIAL WORK DEPARTMENT IN THE COMMUNITY**

344. Those responsible for protecting a child at risk in the community must review both the assessment of that risk and any resulting protection plan, to take account of changing circumstances. These include changes in the family situation and those of the offender at each stage of the criminal justice process: the investigation; trial; outcome and disposal; the offender's return to the community.

345. In responding to cases which have both child protection and criminal justice dimensions, the social work department must ensure that plans to protect the child (Ren) and intervention and management plans for known abusers are complementary. The development of a more specialised, functional approach to the organisation of social work departments will require a high level of co-ordination and co-operation between child protection staff and their managers and staff and managers involved in criminal justice work. Key tasks for these workers are outlined below.

345.1In all cases the child protection worker must, wherever possible, establish the circumstances of an alleged offence, in order to assess the extent of the current and future risk to the victim and to other children including those with whom the alleged offender has had contact.

345.2The social worker who has responsibility for investigating a child abuse referral must notify the relevant social work unit in the prison when he/she knows that an alleged abuser has been remanded in custody. Where such information comes to the attention of senior social work department management (for example, from the police) managers must also ensure this is communicated to relevant social workers in the prison. Whenever possible, the social worker in the prison should make contact with the prisoner to offer assistance with any problems arising from remand. Contact at this stage may form the basis for continuing work, either in prison or in the community, in the event of a finding of guilt.

345.3Where the offender has been convicted and remanded for reports, the worker preparing the social enquiry report must liaise with the social worker in the prison and incorporate into that report any relevant information from this source or from third parties: the SER must provide an initial assessment of the risk posed by the offender to current victims and to other children.

345.4Where an offender is imprisoned for offences against a child, and that child is the subject of child protection procedures, the social worker responsible for the child must ensure that the social worker in the prison is fully informed about the circumstances of the child and the family so that the realities of the situation, from the perspective of the child and other family members, can be taken into account in direct work with the prisoner (see also the National Standards Supplement on Effective Intervention). The child's social worker must also ensure that the social worker in the prison is invited to contribute, either in person or in writing, to all child protection case conferences and to other statutory review mechanisms.

345.5In cases of intra-familial abuse it is the responsibility of the child's social worker to explore the child's wishes with regard to ongoing contact between the prisoner and the child, and to assess what might be in the child's best interests. Where there is continuing contact between a prisoner and his/her children, the worker must seek to ensure that such contact, particularly access visits, is consistent with the child protection plan and does not jeopardise the child's welfare. Where necessary the local authority may seek to limit or control access, using the appropriate legal channels. If the child is subject to a supervision requirement any alteration to access arrangements should be sought through the Children's Hearing System.

345.6When a pre-release notification is received (see Annex C, Form T/C CP 1) the local authority must decide whether any further steps, including registration, require to be taken, in order to protect children. It may be appropriate to convene a case conference for this purpose. The local authority's decision and the information on which this is based, must be included in the local authority response to the social worker in the prison (see Annex C, Form T/C CP 2).

345.7Where an offender is to return to the community subject to some form of statutory supervision, the Supervising Officer must liaise closely with child protection colleagues, and must participate in at least one pre-release meeting (involving the prisoner, the social worker in the prison and any other relevant staff or workers) to be convened by the social worker in the prison.

**CHILDREN'S HEARINGS SYSTEM**

346.Where the child or children are not already subject to a supervision requirement, local authorities are reminded of the provision in [section 37(1A) of the Social Work (Scotland) Act 1968 (as amended by section 83 of the Children Act 1975)](http://www.gov.scot/Publications/2004/12/20473/49323#6). This states that on receipt of information suggesting that a child may be in need of compulsory measures of care local authorities should cause enquiries to be made and, if it appears that the child may be in need of compulsory measures of care, give to the Reporter such information as they may have been able to discover.

347. Where the child or children are subject to a supervision requirement a review hearing may be appropriate. If the decision is made to refer a case to the Rep order or to initiate a review hearing, it is the responsibility of the child's social worker to inform a prisoner who is the parent of a child so referred, and to advise the social worker in the prison. When the child has not already been the subject of child protection procedures, the local authority must consider the need to invoke such procedures.

**TRAINING**

348. It is essential that staff involved in work with prisoners convicted of offences against children are equipped with the necessary skills and knowledge to enable them to engage effectively with such offenders. All staff involved in work with child abusers must also be familiar with the relevant procedures and legal framework; these should be included within the induction training and refresher programmes undertaken by these staff. Local authority Strategic Plans for social work services in the criminal justice system and for child protection services should take due account of the training needs of social work staff involved in this particular area of work (see SWSI Circular No SW2/1993, "Specific Grant for Social Work Training: Financial Year 1993/94", paragraphs 3 and 8).

349. Managers responsible for staff involved in this work need to be sensitive to these extra demands on their staff and May, themselves, require additional training to help their staff to deal with the pressures and problems generated by this area of work.

350. It is the policy of SPS to provide funding, whenever possible, for task-related training undertaken by social work staff in prisons, where such training is approved by social work department management. Training in working with child abusers would, in most cases, be deemed to be task-related. Where training opportunities are deemed to be developmental (i.e. not specific to the worker's setting), the funding of such training would, in the case of staff both in the prison and the community, fall to the local authority budget.

**PRE-RELEASE PROCEDURES**

**Conditional and Temporary Release**

351. Conditional release refers to the release of prisoners on:

351.1.1parole;

351.1.2non-parole licence;

351.1.3life licence;

351.1.4supervised release order; or

351.1.5any other form of licence or supervision (including statutory aftercare for young offenders)

351.2and to temporary release under:

351.2.1interim liberation;

351.2.1a home leave scheme;

351.2.3the Training for Freedom scheme; or

351.2.4any other scheme of temporary release (including escorted leave).

352.Arrangements will be established immediately by prison management to ensure that the social work unit in the prison receives advance notification of any prisoner convicted of offences against children who is due to be considered for conditional or temporary release under any of the arrangements set out at paragraph 351 above (see SPS Circular 60/1994). Whenever possible this notification will be provided 4 months in advance of a prisoner being considered for conditional release on parole. Prison management will ensure that the social work unit in the prison is advised immediately it becomes known that a prisoner convicted of an offence against a child is due to be considered for any other form of release, e.g. home leave or on outside work or educational programme (see paragraphs 341 and 342). Separate arrangements will be established to ensure that the social work unit in the prison is advised immediately of the release of any prisoner on interim liberation pending an appeal and of the return to custody of any such prisoner. On receipt of such notification the social work unit in the prison must contact the relevant local authority as a matter of urgency, to advice of the situation.

**NB**: Where prisoners convicted of offences against children are to be considered for transfer to open, or semi-open conditions, the arrangements set out in paragraph 353 below must be used by the transferring prison at the same time as considering transfer, to ensure that appropriate enquiries are completed in advance of a prisoner's eligibility for home leave.

353.In **every** case involving a determinate or life sentence prisoner convicted of offences against children, the social work unit in the prison must notify the relevant social work departments using Form T/C CP 1 (see Annex C) immediately on receipt of notification from prison management that the prisoner is due to be considered for discretionary release. The social work unit in the prison must also send:

353.1details of the offender (Form T/C CP 1B);

353.2a report by the social worker in the prison, incorporating a preliminary assessment of risk;

353.3a copy of the SER (if available) and any other reports prepared for the court; and

353.4a standard form for local authority response (form T/C CP 2).

354. The social work departments which receive such notification must respond, using the standard response form (Form T/C CP 2), by the date specified by prison management on Form T/C CP 1. Whenever possible the local authority should be allowed a minimum of 4 weeks within which to prepare its response. It is for each local authority to nominate a staff member to complete Form T/C CP 2.

**Decision to Release All Cases**

355. If a decision is taken to release the prisoner, the social worker in the prison must notify the relevant local authority/authorities using Form T/C CP 3, and must include the following additional information:

355.1a copy of the release notification, including conditions;

355.2a supplementary report from the social worker in the prison, if any relevant information has come to light since the last report was prepared (including information from the prison psychologist, psychiatrists or medical staff); and

355.3any comments which the decision-making body has asked to be conveyed.

356. The social worker in the prison must also ensure that a copy of the release notification (Form T/C CP 3) is sent, for information, to the relevant Reporter for each local authority so notified.

357. The social worker in the prison must notify the relevant social work departments of the decision immediately. This notification should normally take place at least one month before the date on which the prisoner will be released.

**Decision to Release Parole, Non-Parole and Life Licence**

358. Following notification of the release date, the social worker in the prison and the Supervising Officer in the community must take the required steps to pursue detailed planning for the prisoner's release; in particular the social worker in the prison must convene a meeting between the prisoner, the Supervising Officer, and other relevant staff, to refine the pre- and post-release plans of the prisoner (see paragraphs 177 and 213). However, in the course of a pre-release programme for an indeterminate sentence prisoner there must be a similar meeting and SOHD must be informed if it is thought necessary to attach any special conditions to the life licence, so that these can be considered by the Parole Board (if this has not already been done prior to the granting of a provisional release date).

**Decision Not to Release - All Cases**

359. Where the decision is not to release the prisoner, the social work department(s) must be advised of that decision immediately.

360. Social work departments must be advised immediately of any changes to the information previously supplied, particularly any change in the address at which the offender intends to reside on release.

361. If it becomes known that the children previously offended against are moving, or have moved, to the area of another local authority, the new local authority must be given all relevant information and documentation currently available in order to pursue its own enquiries. In these circumstances the social work unit in the prison must advise the local authority from whose area the children are believed to have moved; that local authority must investigate the information, and if it is confirmed, must supply the necessary documentation to the new authority. The new local authority must make such enquiries as are deemed necessary to determine the extent of continuing risk to that victim from a particular offender. These procedures should be implemented in all cases of intra-familial abuse, and in cases of extra-familial abuse which there are grounds to believe that the prisoner may try to make contact with the victim following release.

**NORMAL RELEASE**

362. When a prisoner's normal release date is in prospect, the social work unit in the prison must advise the relevant social work departments 4 months before the normal release date, or as soon as possible. The notification should be conveyed in a standard format (see Form T/C CP 4), and should include the following additional information:

362.1a report prepared by the social worker in the prison, including an assessment of risk, information about the offender's release place and any additional information from other sources (e.g. prison psychologist, psychiatrist, medical staff, etc.);

362.2a copy of the SER and any other information provided to the court (if available); and

362.3details of related previous convictions.

363. The social worker in the prison must also ensure that a copy of the release notification (Form T/C CP 4) is sent, for information, to the relevant Reporter for each local authority so notified.

364. Where a prisoner is due for release at the end of his/her sentence, is not subject to statutory supervision and is homeless, the social work unit in the prison must alert the local authority for the area in which the prisoner's offence was committed, and any other local authority to which the social worker in the prison believes the prisoner may return on release (e.g. on the basis of previous known addresses, or other contacts).

365. On receipt of such notification, the local authority should make such enquiries as are necessary to ascertain whether any identifiable children are at risk from the prisoner's release. Where it can be identified that a specific child or children is/are at risk, a case conference may require to be convened, and all necessary steps taken to reduce the risk to the child(ren).

366. Where the normal release of a young offender subject to statutory after-care is imminent, the social worker in the prison and Supervising Officer in the community, must take the required steps to pursue detailed planning for the prisoner's release. In particular, the social worker in the prison must convene a pre-release meeting (see paragraphs 177 and 213).

367. In all cases involving the unconditional release of prisoners, the social work unit in the prison should encourage such prisoners to seek voluntary assistance from the social work department prior to, or immediately after release. Such ex-prisoners should be high priority for voluntary assistance.

**APPENDIX TO CHAPTER 11: OFFENCES WITHIN THE AMBIT OF SCHEDULE 1 OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995**

1. **Any Offence under Part I of the Criminal Law (Consolidation) (Scotland) Act 1995**

Procuring (unlawful sexual intercourse or for the purpose of prostitution (section 7(1)).

Procuring by threats etc. (section 7(2), (3)).

Incest (section 1).

Intercourse with step-child (section 2).

Intercourse of person in position of trust with child under 16 (section 3).

Unlawful sexual intercourse (or attempted intercourse) with a girl under the age of 16 years (section 5).

Indecent behaviour towards a girl aged between 12 years and 16 years (section 6).

Abduction of girl, or unlawful detention with intent to have sexual intercourse (section 8).

Permitting a girl under the age of (a) 13 and (b) 16 to use premises for sexual intercourse (section 9).

Causing or encouraging the seduction or prostitution etc., of a girl under the age of 16 years (section 10).

Allowing a child (aged between 4 years and 15 years) to be in a brothel (section 12).

Procuring, or being a party to the commission of a homosexual act in certain circumstances (section 13).\*

\*Action to implement specific procedures in respect of offences under this section must only be taken where the victim is aged under 16 years.

2. Any offence under sections 12, 15, 22 or 33 of the Children and Young Persons (Scotland) Act 1937 (as amended by the Sexual Offences (Scotland) Act 1976).

Cruelty to a child or young person under the age of 16 years (section 12)

Causing or allowing persons under 16 years of age to be used for begging (section 15).

Exposing children under 7 years of age to risk of burning or scalding (section 22)

Prohibition of persons under 16 years of age taking part in performances endangering life or limb (section 33).

3. Any other offence involving bodily injury to a child under the age of 17 years.

4. Any offence involving the use of lewd, indecent or libidinous practices or behaviour towards a child under the age of 17 years.

In addition section 52 of the Civic Government (Scotland) Act 1982 provides that references to Schedule 1 offences in the Social Work (Scotland) Act 1968 are to include the offences the 1982 Act creates in relation to the taking, distribution, possession or publication of indecent photographs of children under the age of 16 years.

DEFINITIONS: with reference to paragraph 318

“Child" means a person of various ages (according to the relevant offence) under the age of 16 except in 3 specific cases. These are:-

Abduction (or unlawful detention) of girl with intent to have sexual intercourse; this clause refers to girls up to **18 years.**

Any other offence involving bodily injury to a child under the age of **17 years**.

Any offence involving the use of lewd, indecent or libidinous practices or behaviour towards a child under the age of **17 years**.

For the purposes of this guidance all victims of these 3 offences are included in the definition of "child". However, for no other offence does the definition of "child" extend beyond 16 years.

**CHAPTER 12: SUPERVISED RELEASE ORDERS**

**INTRODUCTION**

368. This chapter provides guidance in relation to supervised release orders (SROs). It sets out the statutory provisions governing the disposal, examines the purpose of the order and provides practice guidelines for managers and practitioners in relation to the preparation of social enquiry reports. Guidelines are provided in respect of the specific role of social workers in prisons, pre-release work with persons subject to supervised release orders, and the supervision of such orders in the community. This material should be read along with Circular HHD 24/1993 (including Appendix) which was issued to provide guidance at the time of commencement of the Prisoners and Criminal Proceedings (Scotland) Act 1993.

**LEGISLATIVE BACKGROUND**

369. The legislative basis for the imposition of the supervised release order is set out in [section 209 of the Criminal Procedure (Scotland) Act 1995](http://www.gov.scot/Publications/2004/12/20473/49323#7). The actions which must, or may be taken by courts, the Secretary of State and local authorities, following the imposition of such an order, are set out in sections 14, 15, 18 and 19 of the 1993 Act.

**Conditions of the Order**

370. Section 209 of the 1995 Act provides for the court, in passing a sentence of imprisonment or detention in a young offender’s institution, of between 12 months and 4 years, to make an order that the offender shall be supervised by a social worker in order to protect the public from serious harm from the offender on his release. Such an order:

370.1places the offender under the supervision of a relevant officer of the local authority (or, in respect of an offender who will be released to England or Wales, of a probation officer for the petty sessions area); and

370.2requires the offender to comply with:

370.2.1standard requirements specified in the order, namely

To report to the Supervising Officer in a manner and at intervals specified by such officer; and

To notify such officer without delay of any change of address.

370.2.2such other requirements as are specified in the order; and

370.2.3such requirements as that officer may reasonably specify;

For the purposes of "securing the good conduct of the person, or preventing, or lessening the possibility of, his committing a further offence." (This is a more specific purpose than that intended for a probation order where the requirements need only be "conducive" to the prevention of re-offending.)

371. A copy of the form of supervised release order is contained in Annex C.

372. All adult prisoners and young offenders released subject to an SRO are also subject to the provisions of section 16 of the 1993 Act. Under these provisions, if a person is convicted of an imprison able offence which was committed during the "unexpired portion" of a determinate sentence, a court may order that person to be returned to prison, regardless of any disposal which it makes in respect of the new offence. The person may be so returned to prison for a period equivalent to that between the date on which the offence was committed and the expiry date of the full sentence. (Similar provision is made in respect of children sentenced under [section 208 of the 1995 Act](http://www.gov.scot/Publications/2004/12/20473/49323#8).)

**Length of the Order**

373. The legislation does not set a minimum period for the duration of SRO but it must not exceed 12 months after the date of the person's release or half of the sentence, whichever is shorter. Rules made under section 39 of the Prisons (Scotland) Act 1989, as amended by section 24 of the 1993 Act, empower Governors to "award" additional day’s imprisonment when a prisoner is found guilty of disciplinary offences. These additional days awarded (ADAs) must not exceed one sixth of the prisoner's sentence. In view of this provision it cannot be assumed that a short-term prisoner will necessarily be released at the halfway point of the sentence. An SRO cannot extend beyond the expiry date of the sentence, irrespective of the date of release.

**Court's Duty to Explain the Order**

374. Prior to making an SRO the court must explain to the accused, in as straightforward a way as is practicable, the effect of the order and the possible consequences for him/her of any breach of that order. The court is required to obtain a [social enquiry report](http://www.gov.scot/Publications/2004/12/20473/49323#9) before making an SRO, but is not required to obtain the accused's consent.

**Transmission of Information from Court**

375. The Clerk of the Court which makes an SRO must immediately send a copy of that order to the individual and to the Secretary of State. The warrant of committal issued to the prison will be accompanied by two copies of the SRO. One copy will be issued to the social work unit in the prison within 5 working days of receipt. Within 7 days of the order being made, the Clerk of the Court must also send to the Secretary of State such documents and information relating to the case and to the offender as are likely to be of assistance to the Supervising Officer. When a prisoner is transferred, the sending establishment will transfer these documents to the receiving establishment, which will ensure that copies of the documents are issued to its social work unit to assist the throughcare task.

376. The Governor of the establishment to which the order and associated court papers are sent, must formally 'serve' the order on the prisoner within 14 days of the order being made. The Governor must explain the requirements of the SRO and must check that the prisoner understands these requirements. The prisoner must sign and date a written statement on the back of the order to the effect that he/she understands the terms of the order. This statement must then be countersigned by the Governor. A copy of the countersigned order should be retained by the Governor, for transmission to the designated supervising authority prior to the prisoner's release.

377. In the event that a prisoner refuses to sign the order, the Governor should write a statement to this effect on the back of the order and should sign his statement. The original order and statement should then be retained for transmission to the designated supervising authority, as above.

**Designation of Supervising Authority**

378. The Secretary of State is obliged to designate the appropriate authority in respect of supervision of the SRO. This must take place no later than 30 days before the prisoner's date of release. The Secretary of State may designate:

378.1the local authority for the area where the prisoner proposes to reside after release;

378.2the local authority for the area where the place from which the prisoner is to be released is situated; or

378.3the justices for the petty session’s area where the prisoner proposes to reside after release (for those returning to England or Wales).

379.In practice the Governor must ascertain the prisoner's proposed release address not less than 4 months prior to the prisoner's earliest date of liberation, and must make arrangements with the relevant local authority or probation service for supervision of the order. In particular, the supervising authority must provide the Governor with written instructions in respect of the prisoner's first contact with his/her supervisor following release.

380. Under section 15(1) to (3) of the 1993 Act the Secretary of State may, on application of the person released subject to the order or his/her Supervising Officer, vary the designated authority or justices for the purposes of the order. If the Secretary of State agrees to change the designation he will determine the date from which the new designation is to take effect. The Secretary of State is also obliged to inform the person subject to the order, the authority first designated in respect of that order and the authority subsequently designated, of the change and the date of the change. A copy of the SRO must be sent by the Secretary of State to the second designated authority. (Where the prisoner is still in custody when the need to designate a different authority is identified, provided there are still 30 days to run before the date of release, the Governor may substitute a new designation in place of the original. Otherwise, a new designation may be made only in pursuance of an application under section 15(1) following the prisoner's release.) Applications under section 15(1) should be sent to The Scottish Office Home Department, Parole & Miscarriages Review Division.

**Variation of Terms of Order**

381. Under section 15(4) to (6) the court which imposed the SRO has power to vary the terms of that order. The court which made the SRO may:

381.1amend, vary or cancel any requirements specified in or by virtue of the order; or

381.2insert in the order any additional requirement which is considered necessary for the purposes of the order.

This provision makes it possible to take into account any changed circumstances which render it desirable to delete existing requirements or insert new requirements subsequent to the making of the order. Such circumstances may emerge through contact between the prisoner and the establishment's social work unit or through contact between the prisoner and the Supervising Officer. A variation of the order might also be necessary if an additional requirement imposed by the court, is not available in the area to which the prisoner is to be released.

382. An application to vary the order may be made by either the offender or the Supervising Officer, either before or after the release of the offender. Where the application is made by the Supervising Officer alone, the court must cite the offender to appear before the court and must explain to the offender the effect of any proposed amendment, variation, cancellation or insertion.

383. Where any variation is made to an SRO, the Clerk of the Court must send a copy of the resulting order to the offender and to the Supervising Officer and to Parole and Miscarriages Review Division

**Breach**

384. Section 18 allows the court which made the SRO to deal with failure by the person to comply with its requirements. Only the court which made the SRO may deal with such alleged breaches. Alleged breaches cannot be dealt with by a court in England or Wales or by a different court in Scotland.

385. Once an officer of the local authority has [informed the court](http://www.gov.scot/Publications/2004/12/20473/49323#10) of the grounds of the alleged breach, the court may either issue a warrant for the arrest of the offender or issue a citation requiring the offender to appear before the court at a specified time. The evidence of one witness will be sufficient evidence in breach cases.

386. Where an alleged breach of an SRO is proved the court may:

386.1order the offender to be returned to prison for the whole or any part of the period which:

386.1.1begins with the date of the order for his/her return; and

386.1.2is equal in length to the period between the date of the first proven failure referred to in the statement made by the appropriate officer, and the date on which supervision under the SRO would have ceased; or

386.2amend, vary or cancel any requirements specified in the SRO or insert an additional requirement into the SRO (i.e. amend or vary in accordance with Section 15(4) of the 1993 Act).

**Example**

387. A person is sentenced to 2 years imprisonment with a 12 months SRO. He is released after 1 year (i.e. at the half way stage of his sentence) subject to the SRO. After 3 months he fails to comply with a requirement of his order and his supervisor institutes breach proceedings. The breach case is heard 6 months after his release, the alleged breach is proved, and the Sheriff orders his return to custody, with immediate effect.

388. In this example, the Sheriff may order the prisoner's return to custody for a specified period which can be no longer than 9 months (i.e. the period of time from the commission of the first proved breach to the expiry of the SRO), commencing from the date the breach was proved.

389.Under section 18(5) of the Act, a person returned to prison for breach of an SRO will not then be subject to the early release arrangements set out in Part 1 of the Act, and will serve the full period ordered by the court.

**Right of Appeal**

390. An offender may appeal against the imposition of an SRO and against any decision taken by the court in respect of either an application under section 15(4) or a breach of the SRO.

THE PURPOSE AND NATURE OF THE SUPERVISED RELEASE ORDER

391. The supervised release order is unique in that it enables sentences to combine a custodial sentence (of between 12 months and 4 years) with a period of supervision in the community where they consider that supervision is necessary to protect the public from the risk of serious harm when the offender is released. The legislation does not define what constitutes serious harm and does not specify particular offences for which an SRO is suited. The aim of the legislation as set out in the Government's response to the Kincaid Report is to "protect the public from certain offenders, particularly those convicted of violent offences or offences against children who may, because of the nature of their offence, be regarded as constituting a more serious risk to the community on release". These offenders should therefore be assumed to be the most likely candidates for SROs until evidence from sentencing practice becomes available.

392. The SRO does not require the consent of the offender. In this respect it is similar to the statutory aftercare licence for young offenders (effectively abolished from 1 October 1993) and to the provisions contained in the Prisoners and Criminal Proceedings (Scotland) Act 1993 for the supervision of all prisoners released from custody following a sentence of 4 or more years.

393. The aim of securing the good conduct of the offender and in this way reducing the risk of harm to the public is most likely to be achieved if supervision combines oversight with support and assistance. The mandatory nature of the order and the emphasis on public protection mean that supervision will be intensive and require supervisors to be alert to the issues of risk.

**The Need for Local Consultation**

394. Courts have been able to make SROs since 1 October 1993. There should be ongoing consultation between local authorities and sentences about the use of SROs, and in particular the circumstances in which sentences envisage that SROs will be used and the ways in which social work departments can assist the courts in decision-making. They may also wish to discuss issues around the length of SROs. The main way in which departments currently assist decision-making, particularly where a disposal involving social work resources is concerned, is by preparing a social enquiry report (SER). Departments may want to explore whether sentencers would be prepared, when requesting an SER or a Supplementary Report, to indicate whether they were considering making an SRO.

**Preparing Social Enquiry Reports**

395. SERs provide information and advice to sentencers to assist sentencing generally. They also make a specific contribution to assessing the offender's suitability for a community-based disposal, particularly where the alternative may be custody. Fuller guidance on the preparation of SERs is contained in the National Standards for Court Services. The main differences between the SRO and other disposals are that it combines supervision in the community with a period of custody in a single sentence and that it concentrates exclusively on offenders who may constitute a significant risk to the community on release. This has implications for SER writers who will have to consider whether a custodial sentence is likely and whether they have any information to suggest that the offender will constitute a risk on release. In this they may be assisted to a greater or lesser extent by:

395.1the amount of information available to the writer about the circumstances of the offence and previous offending history;

395.2the extent of the information available to the writer about the seriousness of the harm done;

395.3any indications which the court may give when requesting an SER about whether an SRO is under consideration.

**Assessing the Risk of Custody**

396. Social workers preparing SERs already assess the risk of custody, particularly where they propose Community Service orders and intensive probation programmes to the courts. The National Standards for Court Services provides guidance on this subject, and additional information can be found in the Supplement on Effective Practice. Dundee University has developed a statistical approach to assessing the risk of custody ("Dunscore"). Assessment systems such as this are among the tools available to practitioners and managers. Whilst acknowledging that sentencing practice is never wholly predictable, these tools and the professional experience and judgement of report writers should enable reasonably accurate assessments to be made of the likelihood of a custodial sentence. Social workers cannot, however, be expected to assess or comment on the length of a custodial sentence. This has implications for the way in which report writers may address the option of an SRO in their reports.

**Assessing the Risk of Serious Harm in the Form of Further Offending**

397. Again the National Standards provide some guidance on this subject (see National Standards for Court Services etc. paragraph 43 and Effective Practice Supplement). It must be emphasised, however, that the factors listed in the National Standards are general indicators only and are drawn from a wide range of offending behaviour and not from the specific fields of violent offending and offending against children. The Effective Practice Supplement also points out that these factors must be taken in conjunction with "the range and intensity of social, family and personal problems experienced by individual offenders, and the extent of their association, either actual or potential, with the offender's offending behaviour".

398. In addition to these factors, there are a number of other factors which will inform the judgement of report writers in individual cases. With regard to all violent offences and offences against children, report writers will need to consider:

398.1the extent of the harm done and the violence/intrusiveness of the offence;

398.2the extent of the offender's denial or minimisation of the offence;

398.3the offender's views about the impact of the offence on the victim (the less the understanding, the greater the future risk);

398.4the likelihood of contact between the offender and the victim following release;

398.5with regard to offences of child sexual abuse, the age of the victim is also important (the younger the victim the greater the risk). In general, social workers' assessment of risk should be based on what they find in the here and now and its implications for the future;

398.6the risk to the community at large; and

398.7the extent to which report writers will be able to comment in their reports on the risk of serious harm will depend to a very considerable extent on the amount of information available to them. The main sources of information currently available are the indictment, any previous offences libelled by the procurator fiscal, the offender's criminal record and discussions with the offender and offender's family. This information may not reflect all the evidence about the degree of harm caused which is revealed at court. Report writers may also have information available from their department's own records about the offender or his/her family which is relevant to the court's assessment of risk. Social workers will have to take all these factors into account in considering how to approach the question of risk in their reports.

**Reaching Conclusions**

399. It is the court's responsibility, in the light of all the available information, to decide whether a custodial sentence is appropriate, to assess the risk of serious harm on release and to decide whether an SRO should be made. If the report writer does not consider that he/she is in a position to contribute to this assessment of risk on release this should be clearly stated in the report.

400. The court can only make an SRO when it has decided that a custodial sentence of between 12 months and 4 years is appropriate. Report writers are not expected to make any comments in their conclusions about the length of a custodial sentence although the National Standards for Court Services do suggest that it is appropriate to acknowledge in some cases that a custodial sentence is virtually inevitable. Where the report writer considers that an SRO may be appropriate because of the risk of serious harm he/she should make it clear that this advice is based on the assumption that the court is considering a custodial sentence of at least 12 months.

401. If the report writer has reached the conclusion that a community-based option is not feasible and that custody is inevitable, he/she should consider whether there is a risk of serious harm to the community in general or to an identifiable individual when the offender is released, which could be prevented or reduced by making an SRO. It should be remembered that the most important factor to be considered is the extent of the potential risk to the public and not the offender's willingness and motivation to be placed under supervision. Indeed a lack of motivation may be associated with a continuing risk.

402. When putting or commenting on the option of an SRO to the court, report writers should also consider whether there are specific issues or problems which should be addressed to secure the good conduct of the offender, to prepare him/her for release and to reduce the risk of offending on discharge. Because there will be a substantial period between the making of the order and the offender's discharge, and because it may not be known where the offender will live on release, any suggested additional requirements are likely to be general in nature; for example, an additional requirement "to reside where instructed by the Supervising Officer" could be useful in cases where risk may be reduced by having the powers to direct where the offender lives on discharge. An additional requirement could also reinforce the need for an offender to receive assistance with identified problems which, if not addressed, will precipitate offending behaviour, e.g. alcohol and other substance misuse. The court will then decide, on the basis of the recommendation, whether any requirements should be inserted in the order. Any conditions imposed should be clearly expressed and realistic.

**THE ROLE OF SOCIAL WORK DEPARTMENTS DURING IMPRISONMENT**

**Phase 1. The Beginning of the Sentence**

403.Offenders subject to SROs should be seen as a priority for post-sentence interviewing by court-based social work staff, to further explain the court's decision, identify any problems requiring immediate action and advise of the social work services available in prison (see National Standards for Court Services, paragraphs 127-130).

404. Prisoners subject to an SRO must be considered a priority for social work services in prisons. Following receipt of all the relevant documentation from prison management, the social worker in the prison must initiate contact with any prisoner subject to an SRO. This should occur within 21 days of the prisoner's admission to any establishment, whether at first admission or subsequent transfer to another establishment. The purpose of this contact is to:

404.1explain the role of the social worker in the prison;

404.2advise the prisoner of the range of social work and related services available within the establishment;

404.3confirm that the prisoner has been served with the SRO and understands the implications of the order, particularly that he/she will be subject to supervision on release, even if he/she refuses to work with the social worker in the prison;

404.4where necessary, explore the prisoner's reasons for refusing to sign the SRO;

404.5discuss the preparation of a joint action plan;

404.6begin a preliminary assessment of the prisoner's social needs and offending behaviour, and of the risk of re-offending on release;

404.7address any difficulties identified by local management; and

404.8explore the prisoner's willingness to engage with the social work unit in the prison.

405. In common with all other prisoners, those subject to SROs have the right to refuse social work assistance during their period of imprisonment. Many may be reluctant to engage with social workers during their sentences. A key task for social workers in prisons will be to encourage these prisoners to make use of the services available and, where prisoners exercise their right to refuse assistance during their period of imprisonment, to offer them regular opportunities to reconsider their position. Any such refusal should be recorded on the prisoner's file.

406. It is anticipated that many prisoners subject to an SRO will have been convicted of offences against children, and will therefore also be subject to the special provisions for Schedule 1 offenders which are contained in Chapter 11. Social workers in prisons must ensure that such prisoners understand the special requirements and must continue to implement the relevant procedures in respect of these cases.

407. In all cases involving an SRO the social work unit in the prison must gather information from all available sources to inform the initial and subsequent assessments of the prisoner and the risk associated with his/her eventual release (including the risk of non-compliance with the conditions of the SRO). Social workers in prisons should base their assessments on their contact with the prisoner, available court documentation, liaison with the author of the SER, particularly about any previous convictions which the SER writer is aware of which were not libelled by the procurator fiscal, and other relevant contacts in the community (e.g. the prisoner's family, helping agencies with whom the prisoner may have had contact in the past) and liaison with prison staff and management.

408. Where a prisoner subject to an SRO is willing to engage and work with a social worker in the prison during the period of imprisonment, the worker should develop a joint action plan with the prisoner, which focuses on the offending behaviour and on the prisoner's social needs, and is geared towards reducing the risk of re-offending on release. Where there is no doubt about the designation of the supervising authority, or where such an authority has been designated, the social worker in the prison may wish to consider the desirability of establishing early contact with the relevant local authority.

**Phase 2. During Sentence**

409. The court which made the SRO is empowered to insert subsequently any requirement "for the purpose of securing the good conduct of the person or preventing, or lessening the possibility of, his committing a further offence (whether or not an offence of the kind for which he was sentenced)". The objective of any such specific requirement must, therefore, be clearly directed toward positively influencing behaviour and/or reduction of the risk of re-offending.

410. When working with a prisoner subject to an SRO, social work staff in the prison must be alert to the possibility of identifying the need for an additional specific requirement in an order. Work with such prisoners may well lead to the identification of previously unrecognised issues which will require to be addressed following release. Where it is judged that the prisoner is likely to co-operate with supervision on release and, therefore, with requirements reasonably specified by the supervisor (see [section 209 (3) (b) of the Criminal Procedure (Scotland) Act 1995](http://www.gov.scot/Publications/2004/12/20473/49323#11)), a specific requirement may not be necessary. However, where it is judged that a greater degree of control may be needed to ensure the person's compliance, a specific additional requirement may be deemed necessary. Such specific requirements might include alcohol or other specialist counselling, attendance at a particular day programme, or a residential condition (either at a specific resource or "as directed or approved by the supervisor"), etc.

411. Where the need for an additional requirement is identified (or where it becomes clear that an existing requirement in the order requires amendment, variation or cancellation) the social worker in the prison must communicate this view to the designated supervising social worker or to the designated supervising authority, if the supervisor has yet to be identified. The designated supervisor or supervising authority may then apply to the court which made the order for the amendment or insertion of a condition. The social worker in the prison cannot apply to the original court for any variation in the SRO although such an application may be made by the prisoner. The prisoner does not have to agree to a proposed amendment.

412. Throughout the period of imprisonment, social workers in prisons should regularly update their assessment of prisoners subject to an SRO. This assessment must include an assessment of the risk of non-compliance with the SRO following release. Likely indicators of non-compliance on release will include a prisoner's refusal to sign the order, his/her refusal to engage with social work services during the period in custody, his/her refusal to offer an address on release, his/her refusal to participate in a pre-release meeting with the designated supervising social worker. Any such behaviour should be recorded in the case paper and forwarded to other receiving establishments and to the designated supervising authority on release. (See also Circular HHD 24/1993, Appendix A, paragraph 12, for guidance on the endorsement of the order by the prisoner.)

413. Many prisoners subject to SROs will be transferred between establishments during the course of their prison sentence. It is vital that all relevant information is provided to the social work unit at the receiving establishment whenever a prisoner subject to an SRO is transferred. Social work units in receiving and transferring establishments must liaise closely to ensure that this is achieved within 2 weeks of the transfer.

**Phase 3. Pre-Release**

414. Governors are required to commence enquiries in relation to the designation of the appropriate supervising authority not less than 4 months before the prisoner's earliest date of liberation (EDL) (see paragraph 420 below for details of the role of social workers in the community in checking the suitability of the proposed release address). In some cases where there is no doubt about the prisoner's release address and where the sentence is relatively short, it may be possible to designate the supervising authority at an earlier stage. When such cases come to the attention of social workers in prisons they should offer advice to Governor on the desirability of early designation to assist the throughcare task. The tasks attributed here to the Governor will in most establishments be delegated to an Early Release Liaison Officer (ERLO).

415. Designation of the supervising authority must, by law, be completed not less than 30 days before the EDL. In many instances the prisoner may, by virtue of his/her offence or sentence, be unable to return to his/her previous home. In such instances the social work unit in the prison may already be working with the prisoner to resolve his/her accommodation difficulties on release. Where a prisoner subject to an SRO is unable to provide a release address, and is not already working with the social work unit in the prison to resolve this, the Governor will refer the case to the social work unit in the prison for advice.

416. When such cases are referred to the social work unit in the prison, the social worker should try to work with the prisoner to explore all possible accommodation options (including supported accommodation if available).

417. Where an address cannot be identified for a prisoner prior to his release, the Governor should designate as the supervising authority the local authority area the prisoner has indicated he intends to reside on release. Where a prisoner refuses to co-operate with the social work unit in the prison on this task, the Unit should advise the Governor accordingly and should note this in the social work case papers. In such circumstances the Governor may designate as the supervising authority either the social work authority in whose area the prisoner was most recently resident or, in the last resort, the social work authority in whose area the prison of release is located. The social work unit in the prison may be able to offer advice on suitability, based on available information and knowledge of the prisoner's circumstances.

418. Once the appropriate supervising social work authority has been designated, the social worker in the prison should liaise with the supervisor and must convene a pre-release meeting, as set out in paragraphs 177 and 213. Because of the timescales involved in the designation process, it may not always be possible to convene this meeting one month in advance of release. In all instances, however, the meeting should be convened as soon as possible following designation of the supervising authority. If the prisoner declines to attend a pre-release meeting the social worker in the prison and the Supervising Officer must jointly consider the way forward and, in particular, the implications of such a refusal for the management of the order.

**SUPERVISION IN THE COMMUNITY**

**Introduction**

419. In most cases involving SROs, social workers in the community will commence an active role in respect of the prisoner only following the formal designation of the supervising authority. There will, however, be some occasions when a social worker has been working with the prisoner prior to his/her sentence and it is the prisoner's clear intention to return to the same area on release. In such circumstances there is scope for the worker to maintain contact with the prisoner and with the social work unit in the prison throughout the sentence, in keeping with the principles on effective throughcare. Supervision of persons subject to SROs requires a wide range of professional knowledge and skills. Supervision of such cases must, therefore, be undertaken by professionally qualified and experienced social workers.

**Phase 1. Pre-Release**

420.Once the Governor, or an officer acting on his/her behalf, has ascertained the proposed release address of a prisoner subject to an SRO, he/she must contact the local authority in whose area the address is located and request that the social work department check whether the prisoner can return to the proposed release address.

421. A representative of the social work department must visit the proposed release address within 7 days of notification by the Governor, and must ascertain whether the accommodation is available to the prisoner. Where appropriate (e.g. where the prisoner's partner or other family members reside at the address) the social worker should explain the implications of the SRO. The social work department must notify the Governor, in writing, of the outcome of its enquiries into the release address immediately.

422. If the outcome of these enquiries is that the accommodation is not available to the prisoner, the Governor must contact the prisoner to seek an alternative address which must, in turn, be investigated by the social work department. In the last resort the Governor will designate as the supervising authority the social work department for the area in which the prison of release is located.

423. Once a release address has been confirmed, the Governor will formally advise the authority that it has been designated as a supervising authority using Form a (see Annex C). The supervising authority must designate a Supervising Officer within 7 days of receipt of Form A (the designating form) from a Governor. The Supervising Officer must return Form B (the initial reporting instructions) to the Governor as soon as possible, but no less than 14 days before the prisoner's release. A copy of this form should also be sent to the social worker in the prison. The initial reporting instruction should require the prisoner to report on the day of his/her release, whenever possible, or on the next working day if logistics require this. Once a Supervising Officer has been nominated he/she must initiate contact with the prisoner as soon as possible, and must liaise closely with the social work unit in the prison with a view to gaining as much information as possible to inform the development of an appropriate supervision plan.

424. The Supervising Officer should attend a pre-release meeting, which will be convened by the social worker in the prison, to discuss the action plan for the period of supervision and explore the range of issues addressed in paragraphs 177 and 213. The Supervising Officer must explain the existing supervision requirements, and his/her power to specify additional requirements or to seek the insertion of additional requirements by the court. The Supervising Officer must also advise the offender at the pre-release meeting that he/she will be required to inform the supervisor immediately of any change of address, and that failure to comply with the requirements of the order may result in the offender being returned to custody. These statements should be confirmed in writing to the prisoner.

425. In the event that a prisoner refuses to attend the pre-release meeting, the social workers should carry out as many of the tasks as can be undertaken in the prisoner's absence. The prisoner's refusal to attend should be seen as a likely indicator of future non-compliance, and must be taken into consideration by the Supervising Officer when finalising plans for the initial post-release contact (see paragraph 430 below).

426.Throughout the period following the designation of a Supervising Officer the supervisor, in collaboration with the social worker in the prison, must be alert to any possible need to vary the SRO, including the inclusion of additional conditions (see paragraphs 410 and 411). Where the need for additional conditions is identified, the supervisor must apply in writing to the court which made the order (see section 15(4), (5) and (6) of the 1993 Act). The supervisor should also be alert to any possible indicators of non-compliance and subsequent enforcement issues.

428. The Supervising Officer should also bear in mind the authority to specify reasonable requirements to the offender in the course of supervision. This authority should be exercised when, in the supervisor's view, a formal additional requirement to the order is not necessary to secure compliance. When such a 'reasonable requirement' is specified by the supervisor, it must be confirmed to the offender in writing, and must be recorded in the case file.

**Principles of Supervision**

428. The Supervising Officer must bear in mind that the primary purpose of an SRO is to protect the public from the risk of serious harm arising from the offender's release. Supervision must, therefore, be intensive and rigorous. The Supervising Officer must be particularly alert to issues of risk and must consider how best to facilitate the good conduct of the offender in order to reduce risk. Motivational counselling, which seeks to evoke reasons for offenders to adopt socially-acceptable behaviour, will be a key element in this task. Key elements of motivational counselling include the provision of advice, helping to remove practical barriers to change, providing (where possible) choices about courses of action open to the offender, decreasing the desirability of behaviour which may harm the offender or others (for example by increasing the offender's awareness and recognition of the negative consequences of such behaviour), helping to set attainable goals and providing opportunities to examine progress towards these goals.

429. Research indicates that reduction of re-offending is best achieved by combining practical assistance in relation to underlying problems such as employment, accommodation, substance misuse etc. with a clear focus on the nature, causes and consequences of offending behaviour, and an appropriate level of oversight and control. These principles must inform the supervision of all SROs. Offenders' families can play an important role in supporting work to reduce the risk of re-offending, and supervisors should explore opportunities for working with family members to achieve this whenever appropriate. Supervisors must also examine the scope for linking offenders with existing support systems and agencies in the community. Further guidance on effective intervention is offered in the Supplement to the National Standards entitled "Social Work Supervision towards Effective Policy and Practice".

**Initial Meeting Following Release**

430. The initial post-release meeting between the offender and the Supervising Officer will normally take place on the day of the offender's release, except when logistics render this impossible. In all circumstances this meeting must be scheduled to take place within one working day of the offender's release. The meeting must focus on those tasks set out in paragraphs 183 and 216 (clarifying the respective responsibilities of the offender and the supervisor). In addition the supervisor must clarify with the offender the action plan for the supervision period, based on available information and on the discussions and decisions taken at the pre-release meeting. If, for any reason, (e.g. sickness), the Supervising Officer is unable to attend the initial meeting, the designated supervising authority must ensure that another worker is available to carry out the tasks required at the initial meeting.

**Frequency of Contact**

431. The Supervising Officer and offender must meet at least once each week during the first month and at least fortnightly thereafter. There must be at least one home visit each month. The Supervising Officer must consider increasing the frequency of contact whenever there are concerns about the possible level of risk posed by the offender.

432. After the first 3 months of the supervision period the frequency and content of the contact must be determined by the supervisor in the light of:

432.1assessed and changing levels of risk of re-offending;

432.2the continuing focus on problems relating to offending behaviour; and

432.3expectations expressed by the court about the extent of oversight and control to be exercised in respect of the offender.

433. In all cases, however, there should be a minimum of 2 contacts with the offender each month throughout the order.

434. Formal reviews of progress, involving the offender, the Supervising Officer and, normally, his/her line manager, must take place every 3 months. These reviews must examine progress with the action plan, identify tasks for the next 3 months and determine the frequency of contact during that period. The outcome must be recorded and the record signed by the offender and the Supervising Officer.

435. A final report on the outcome of the SRO must be prepared and should be sent to the clerk of the court which made the order. The report should be sent within 2 weeks of termination of the order and should briefly summarise progress during the supervision period including information about the offender's conduct during the course of the SRO.

436.At the end of the order the supervisor should explain to the offender the implications of the Rehabilitation of Offenders Act, and should remind the offender that, where the SRO has terminated within 12 months of his/her release date, the offender is entitled to seek help from the social work department on a voluntary basis.

**Enforcement and Breach**

437. The focus of the SRO on reducing the risk of harm to the community means that the order must be enforced rigorously. Failure to comply with the requirements specified in the order or "reasonably specified" by the Supervising Officer constitutes a breach of the SRO.

438. The commission of a further offence does not of itself constitute a breach of the SRO (which in this respect is similar to a Community Service order) but the sentencing court may order the offender to be returned to prison to serve some or all of the unexpired portion of the original custodial sentence, instead of, or in addition to, dealing with the new offence (see section 16 of the 1993 Act).

439. Where a prisoner is released subject to an SRO but without a specific release address, the supervisor must be particularly rigorous in enforcement of the initial reporting instructions. Breach proceedings must be initiated within one working day if the offender fails to attend the initial meeting as instructed. Enforcement of these cases at all subsequent stages of supervision should be informed by the principles and practice as set out in paragraphs 441 to 445 below.

440. In all other cases where there is a known release address, the Supervising Officer must visit that address within one working day of an offender's failure to attend the initial meeting or any subsequent meeting, to investigate the reasons for the failure to report. In all cases the Supervising Officer must similarly investigate any other failure to comply with a written or verbal requirement of the SRO (e.g. to attend the specified programme, to notify a change of address etc.).

441. The Supervising Officer must decide whether the reason offered by the offender for his/her failure to comply with the requirement is acceptable or not. Where the reason is unacceptable, the Supervising Officer must consider whether to initiate breach proceedings, either with a view to terminating the order (see 1993 Act, section 18(2)(a)) or amending the order (see 1993 Act, section 18(2)(b)). This decision must be informed by the following factors:

441.1seriousness of the failure to comply. (Any failure to comply which places either the offender or the community at serious risk must be viewed as a grave breach of the SRO);

441.2previous indicators of non-compliance (both before and after release);

441.3progress to date with implementing the action plan; and

441.4the extent of the offender's co-operation with supervision to date.

442. When the decision is taken not to initiate breach proceedings, the Supervising Officer must issue a formal verbal warning, confirmed in a recorded delivery letter and noted in the case file. Following the issue of a formal warning, any further failure to comply with any requirement should normally result in the initiation of breach proceedings. Where the decision is taken not to breach, this decision must be endorsed by the line manager.

443. The court has the power to return the offender to custody for a period equivalent to that beginning on the date of the first proven breach. The offender should be made aware that, although the decision has been taken not to initiate breach proceedings on this occasion, the court may count this as the "first proven breach" in any later proceedings and that a return to custody may be for a consequently longer period.

444. When it is decided to initiate breach proceedings, the Supervising Officer must also decide whether the desired outcome of such proceedings is the termination of the order and the offender's consequent return to custody, or an amendment of the order to include, if required, the insertion of additional requirements. Where it is judged that the offender is at significant risk of re-offending, and that his/her compliance is unlikely to be achieved by the amendment of the order, the Supervising Officer's presumption should be in favour of termination. Where, in the Supervising Officer's judgement, there is a likelihood that compliance, and therefore a reduction of the risk of re-offending and of risk to the community, may be secured by the insertion of an additional requirement or, indeed, the amendment of the order, then this may be pursued as the desired outcome of the breach proceedings.

445. Breach proceedings should be initiated by the Supervising Officer using the arrangements which apply in the area of the court which made the order in respect of breach of probation, and which reflect the steps set out in the National Standards for Probation, paragraphs 94 and 95. A Supervising Officer should note that, in common with probation and Community Service orders, the evidence of one witness may be sufficient to prove the alleged breach of an SRO.

446. Offenders returned to custody under section 18(2) (a) of the 1993 Act will be released unconditionally (i.e. no longer subject to an SRO) once the period ordered by the court has been served.

**TRANSFER**

447. The offender or Supervising Officer may apply to the Secretary of State at any time during the currency the SRO for the designation of another local authority or probation area as the supervising authority.

448. When a Supervising Officer makes such an application on behalf of an offender, or where the supervisor is aware that the offender is making an application, the supervisor must liaise with the new area to confirm that the address to which the offender intends to move does exist and that he/she can be accommodated there. The supervisor must also check with the prospective new area whether specific requirements in the order can be met by the new authority. Information about both of these issues must be made available to the current supervisor within 14 days or his/her request. A social work authority cannot refuse, in principle, to accept an incoming transfer, unless the move is likely to be only temporary or there are particular, exceptional circumstances (e.g. an outstanding warrant in respect of the offender).

449. If a specific requirement of the order cannot be met in the proposed new area, the Supervising Officer must consider whether to apply to the court for variation or cancellation of that requirement. A key factor influencing his decision will be the perceived degree of risk arising from such an action.

450. If it is concluded that accommodation is available and the transfer can proceed, the supervisor should apply to the Secretary of State using Form C (see Annex C) which should be sent to the address on the form.

451. The Secretary of State will consider the application and where he agrees he will:

451.1determine the date from which the designation is to take effect;

451.2arrange for the offender, the first designee (i.e. the existing supervising authority), and the second designee (i.e. the new designated authority) to receive copies of the new designation, using Form E (see Annex C); and

451.3arrange for a copy of the SRO to be sent to the second designee.

452. Where an offender applies to the Secretary of State for the designation of another supervising authority without the knowledge of the Supervising Officer, SOHD officials will contact the supervisor to advise of the application, and to seek information as set out at paragraphs 448 and 449 above.

453. Where a new authority has been designated, the previous Supervising Officer must liaise closely with the new supervising authority and send all relevant information, including a copy of the case file and any documentation supplied by the prison.

454. Where an offender proposes to move to England or Wales, the supervisor should determine the petty sessions and probation area within which the offender will reside and make enquiries with the probation service accordingly. If acceptable, application should be made to the Secretary of State in the same way as for a transfer within Scotland. The justices for the petty sessions area will then be substituted as the "appropriate authority" for the purposes of the order, and a probation officer for or assigned to that area will be nominated as the Supervising Officer. Liaison should then be with the probation officer. It should be noted that breach of the order can only be dealt with by the court making the order.

**VARIATION OF TERMS OF ORDER**

455. The offender or Supervising Officer may apply at any time during the currency of the SRO to the court which made the order for that court to vary the terms of that order. The court may:

455.1amend, vary or cancel any requirements specified in or by virtue of the order;

455.2insert in the order any additional requirement which is considered necessary for the purposes of the order.

456. This makes it possible to take into account any changed circumstances which render it desirable to delete existing requirements or insert new requirements subsequent to the making of the order. Variation may be desirable in light of any change in the offender's circumstances since the making of the order. A variation of the order might also be necessary if an additional requirement imposed by the court is not available in an area to which the prisoner is to move. Where the application is made by the offender alone, the Supervising Officer should investigate the appropriateness of any variation and consider the scope and need for any alternative conditions.

457. In many cases, application for variation will coincide with an application for transfer to another area. As the applications are made to different bodies (Secretary of State for transfer, sentencing court for variation) careful co-ordination will be necessary to ensure that the applications are made in tandem and that consequential effects of one application being accepted or rejected are fully recognised.

458. When an application for variation has been made, the Supervising Officer should write to the court setting out the current conditions and indicating what change is sought, the reasons for the application, and the suitability of the proposed variation. If the offender agrees with the application, this should be clearly stated, and the offender should sign a statement to that effect.

459. Where the application is made by the Supervising Officer alone, the court must cite the offender to appear before the court and must explain to the offender the effect of any proposed amendment, variation, cancellation or insertion.

460. Where any variation is made to an SRO, the Clerk of the Court must send a copy of the resulting order to the offender and to the Supervising Officer.

**ANNEX A: TEMPORARY RELEASE**

**HOME BACKGROUND REPORTS**

461.Determinate sentence prisoners serving sentences of more than 12 month and life sentence prisoners who have been allocated to Security Category 'D', are eligible for periods of unescorted home leave. In addition, certain Category 'C' prisoners are eligible for escorted leave, accompanied by a prison officer. Broadly speaking, these schemes are all intended to assist prisoners to maintain links with their families or friends and, for those approaching the end of their sentences, to help them to readjust to life in the community.

462. It is for the Governor to decide whether a prisoner should be temporarily released under one of the leave schemes, based on an informed judgement about the level of risk involved. Information supplied by a community-based social worker about the situation at the home leave address is an important element in his/her decision, and is required to fulfil the requirements of the Direction under Rule 126 of the Prisons and Young Offenders Institutions (Scotland) Rules 1994.

463. Where a Home Background Report for parole purposes has been prepared within 3 months of a prisoner being considered for temporary release on home leave or escorted leave, that report will also be used to inform the Governor's decision. In all other circumstances (i.e. where no previous HBR has been prepared, or where an existing HBR is more than 3 months old, or where there has been a significant change in the home circumstances) a report will be requested by the Governor, specifically for the purpose of assisting his/her decision on home leave.

464. A Home Background Report for the purpose of home leave or special escorted leave is likely to be a less extensive document than that for release on parole or life licence, but must always be based on a visit to the address.

465. The report must provide:

465.1information about the proposed accommodation;

465.2information about those residing at the address, including the nature and quality of relationship with the prisoner;

465.3any available information about the attitudes of the victim(s) (if local to the proposed leave address) to the prisoner, or of the local community to the prisoner; social workers must be particularly alert to any issues or concerns arising in relation to violent or sexual offences. Where the prisoner is a Schedule 1 offender, social workers must ensure that the procedures set out in Chapter 11 are implemented.

466. In cases involving consideration for escorted leave, the same broad areas must be addressed. In addition, the social worker must take account of the fact that the prisoner, if temporarily released, will be escorted by prison staff who will be given a copy of the Home Background Report. In these circumstance the report writer must ensure that the report alerts the prison officer to any significant factor which might influence the family's attitude to either the prisoner or his/her escort, in order to minimise risk to any party.

467. SPS has decided that HBRs requested specifically for the purpose of assessing suitability for home leave will not be automatically disclosed to prisoners as a matter of course. If a prisoner requests access to an HBR in these circumstances, the Governor must consider whether disclosure could cause concern to the subject or to third parties, and, where there is any doubt about the advisability of disclosure, must discuss the matter in the first instance with the social worker in the prison.

468. Social workers preparing HBRs for the purpose of home leave must, therefore, always indicate in a covering note whether or not they believe the report could be disclosed, in the event of such a request from the prisoner, without risk to the subject or third party. Where the report writer believes that the HBR should not be disclosed, he/she should indicate the reasons for this judgement.

**SOCIAL WORK SUPERVISION OF HOME LEAVE**

**Short Term Prisoners**

469. The social work department in the area to which a short term prisoner returns during periods of temporary release on home leave, is not normally required to make any contact with the prisoner during those periods.

470. However, the temporary release or home leave of a prisoner who will be subject to an SRO on discharge, provides a useful opportunity for early contact with the future supervising authority. Where the home leave address is likely to be the prisoner's address on final release, the social work department should make contact with the prisoner in the community, during a home leave, at least once prior to the prisoner's final release.

**Long Term Prisoners**

471.Similar considerations apply in relation to home leave for long term prisoners, (i.e. those serving 4 years or more) all of whom will eventually be released subject to supervision. In such circumstances social work departments should ensure that there is at least one contact with the prisoner in the community prior to his/her final release.

##### ANNEX B: PLANNING, TRAINING AND CONTRACTURAL ARRANGEMENTS FOR SOCIAL WORK IN PRISONS

**PLANNING**

**Introduction**

472. The provision of social work services in prisons represents a joint commitment by SPS and the local authority towards common objectives and service outcomes. The planning arrangements for these services must, therefore, reflect that joint commitment and, as far as is possible, should reflect the objectives of the planning systems operating within SPS and the local authority in respect of social work services to the criminal justice system.

**Purpose of the Planning System**

473. The purpose of the planning system is to set out those services to be provided by the social work unit in the prison, for the benefit of the following target groups;

473.1prisoners and their families;

473.2the prison; and

473.3local authority social work departments

474. The work of social work units in prisons and the planning system itself is necessary to underpin the wider throughcare process for prisoners and ex-offenders

475. The planning system reflects the position of SPS as purchaser and local authority social work departments as the provider of core social work services in prisons. In addition, social work departments may offer advice as appropriate on the provision of related support services by other agencies.

476. Increasingly SPS will be moving towards individual service level agreements between establishments and providing local authorities (or other agencies for support work). These standards describe existing procedures.

**Annual Planning Process**

477. Each establishment and relevant local authority social work department must produce and review an annual social work unit management plan. These plans will largely be operational in focus and will comprise certain common key components as outlined below.

478. The process of planning at establishment / social work unit level will be informed by an annual liaison meeting involving SPS, SWSG and COSLA. This meeting will provide the opportunity to share and discuss wider strategic issues which may impact on the provision of social work services in prison. The meeting will normally take place in June/July to facilitate completion of unit management plans by November each year. The planning timescale therefore will mirror as closely as possible that for other social work services to the criminal justice system

479. Plans will be subject to joint review by the prison and relevant social work department at the 6 month stage, in addition to the annual planning process, to create a rolling programme of joint service planning with in-built formal review to pre-arranged performance criteria.

480.Unit social work plans will generally be developed by the unit social work manager/ senior social worker together with the relevant prison manager (contracts and services manager / deputy governor), subject to the views of more senior managers in both agencies. Finalised plans will be agreed and signed by the Governor-in-Charge and the relevant Area Director for SPS and the Director of Social Work / Chief Social Work Officer for the relevant local authority.

481. Agreed plans, including social work unit budget and staffing levels, will not normally be subject to variation by either agency without 12 months prior notification.

**Key Components**

482. The annual unit management plans should include the following key components:

482.1 **Objectives**. A statement of shared objectives including the fulfilment of all relevant National Standards, between the prison and the local authority in respect of the social work unit in the prison

482.2 **Priorities**. A statement of priorities for the work of the unit, to be derived from those listed at paragraph 46, tailored to meet the needs of the prisoner population and the function of the particular establishment.

482.3 **Service Estimates**. An estimate of service output must be provided in relation to tasks associated with these priorities e.g. numbers of parole reports, numbers of group work programmes to be designed / delivered, numbers of prisoners in each group, extent of social work involvement / input to induction, sentence planning. Where possible, each estimate of work to be carried out by the social work unit should be shadowed by an indication of specific expectations of prison staff to enable the work to be undertaken, e.g. provision of accommodation, escorting of prisoners, co-working group work programmes.

482.4For social work units in relevant establishments, unit plans should contain a discrete section for pre-release work, to include anticipated levels of contact with community-based social work staff, levels of contact with community-based agencies, and number of pre-release planning meetings to be convened and administered.

482.5Plans for social work units in relevant establishments should take account of anticipated transfer of prisoners between establishments, to ensure continuity and effectiveness in work undertaken throughout the sentence.

482.6 **Unit Budget/Staffing**. An itemised budget for the social work unit, together with numbers and grades of relevant professional and administrative staff should be prepared. Where the social work unit has no establishment for administrative staff, plans should clearly state the level of administrative support to be provided by the prison.

482.7 **Training**. This section should describe the jointly agreed strategy to meet the job-related and developmental needs of staff within the social work unit. This strategy should be based on an annual training needs analysis undertaken by the social work unit manager/ senior social worker and include the source of training opportunities to be accessed during the planned period and, where necessary, funding bids for this purpose. Bids should be included in the section for an additional budget. There should also be joint agreement as to the range and volume of training to be offered by the social work unit staff to prison staff (or other agency personnel). This section should be quantified in time, costed and given a priority rating in relation to established priorities or service provision.

482.8 **Other Support Services**. Plans should anticipate and where possible specify the service input to be made by other agencies in support of social work services, e.g. in relation to work with partners and families, addictions and HIV/AIDS. Care should be taken to ensure that the use of such services complement the core input from social work and prison staff towards commonly agreed objectives. To this end, proposed use of such services should be discussed in advance between the prison and local authority as an integral part of the planning system, with a view to securing the best use of appropriate support services.

482.9Additional Budget / Staffing Bids. Where the social work department considers a bid for additional staffing or increased budget for the social work unit may be necessary, this should be pursued within the planning arrangements. Such bids should be derived from agreed service priorities and demonstrate the anticipated gain in service level outputs / advantages to the establishment.

482.10 **Review**. Plans should specify the frequency of joint management review (minimum 6 monthly) to monitor and evaluate progress in relation to planned service output. The plan must also detail who will undertake the review, e.g. contracts/service manager, deputy governor and unit manager / senior social worker and external social work managers. In addition, the agreed performance review criteria, as applied to the individual establishment, should be noted together with the method by which they will be applied.

**TRAINING**

**Training for Social Workers in Prisons**

483. Social workers based in prisons require access to appropriate training opportunities, like their community-based colleagues, in order to meet the evolving requirements of the Secretary of State, SPS and the local authorities for the custodial component of throughcare services.

484. Local authorities which manage social work units in prisons and SPS share responsibility for ensuring that social workers in prisoners can access appropriate training opportunities. Appropriate training may be provided by the local authorities or SPS directly, or may be delivered by other providers. Prison management locally must be alert to the desirability of including social work staff in training programmes for new initiatives within SPS (e.g. sentence planning).

485. Training for social workers in prisons may be funded by either SPS (for job-related training) or the local authority (for developmental training), through the following mechanisms:

485.1the training budget allocated by SPS to each social work unit for this purpose;

485.2the Governor's staff training budget;

485.3the central budget held at SPS College (for national initiatives);

485.4the local authority's training budget; and

485.5funding (for training relating to general criminal justice social work issues).

486. An induction programme for all new social work unit staff must be developed locally, by prison management in conjunction with the manager of the social work unit. This induction programme should be based on those provided for all new civilian staff in the prison and aim to provide a basic orientation to that prison. It must address the following issues:

486.1the role of SPS;

486.2the role of the particular establishment;

486.3SPS management structures and functional responsibilities within the establishment;

486.4umber and nature of prison population locally;

486.5security issues;

486.6familiarisation with the layout of the prison; and

486.7prison procedures and regime components.

487. Social work management must ensure that information is given about the role of the social work unit and about all relevant local administrative arrangements and procedures.

488. A local training strategy for social work unit staff must be developed jointly between prison and social work management locally, to reflect local service needs and to take account of changes in either the prison or local authority systems which impact on the work of the unit. The strategy must take account of both job-related training needs and developmental training needs. This strategy must be included in the annual management plan for the social work unit and must be reviewed by prison and social work management at least once each year.

489. To assist the development of such a strategy, social work unit managers must undertake a training needs analysis in respect of their staff, on an annual basis.

490. All training accessed by social workers in prisons should be evaluated. In particular, all training with a practical application must be jointly evaluated by the worker and his/her line manager after 3 months, to establish the impact of such training on practice.

**Training Provided by Social Workers in Prisons**

491. Social work units in prisons may be asked to assist in the provision of training to prison officers (for example, in relation to the provision of programmes for, or services to, prisoners). Such assistance must be planned in advance and, wherever possible, should be built into the management plan for the social work unit.

492. Training to be provided by social workers in prisons to other prison staff must be quantified in terms of time and local prison and social work management must agree the priority to be afforded such work and the implications for delivery of other social work unit tasks.

**CONTRACTUAL ARRANGEMENTS FOR SOCIAL WORK SERVICES IN PRISONS**

**Social Work Unit Staff Complement**

493. The social work unit staff complement will be set by the Governor and the Director of Social Work / Chief Social Work Officer as part of the annual planning process, and will be based on the tasks and targets set out in the social work unit's annual management plan. Once agreed, the staffing complement should be reviewed annually, although both SPS and the local authority will normally give each other a minimum of 12 months' notice of any proposed change to the agreed complement, in order to minimise any adverse effects on either party.

494. Where a social work unit is staffed by one social worker alone ("a singleton post"), the special circumstances of such posts should be reflected by enhancement of salary scale, to encompass the first point above the normal social worker salary scale.

**Management and Accountability**

495. Social work units in prisons are managed through the line management structure of the social work department, and are accountable to the Director of Social Work / Chief Social Work Officer for all matters relating to professional policy and practice.

496. In addition, social work units are accountable to the Governor for all matters relating to security and discipline, and for issues arising from the day-to-day provision of service, including meeting commitments set out in the annual management plan.

497. This accountability will normally be exercised through the Head of Functional Block in the prison, within which the social work unit is located for administrative purposes.

**Conditions of Service**

498. Social work unit staff employed by the local authority will be subject to the conditions of service of that authority in all respects. In addition, all such employees will be entitled to payment of the relevant environmental allowance at the current rate.

**Health & Safety**

499. The Governor will provide a safe and healthy working environment for social work staff and will ensure that the requirements of Health and Safety at Work legislation are observed in respect of the social work unit.

**Accommodation**

500. The Governor will ensure that the social work unit is provided with suitable offices and equipment to carry out its function, including the provision of appropriate and adequate interview facilities and rooms in which to undertake group work.

**Financial Arrangements**

501. Detailed funding arrangements for service delivery will increasingly be the subject of individual service level agreements between establishments and providing local authorities (or other agencies for support work). Negotiation of service level agreements with local authority’s need, at minimum, to cover the following financial and staffing issues.

501.1provision of stationery, heating, lighting, telephones etc.

501.2salary costs (including NI contributions, superannuation, environmental allowances etc.) of local authority staff based in prisons. All costs relating to staffing will attract VAT, and this must be taken into account when calculating budget requirements for social work units.

501.3travel and subsistence costs necessarily incurred by social work staff in prison.

501.4the costs arising from absence or sick leave

501.5salary and associated costs for any period of maternity leave taken by local authority staff based in prisons

501.6the advertising costs for staff recruitment, removal/relocation costs, in accordance with local authority conditions of service for local authority staff appointed from outwit the authority to a social work post in a prison.

501.7payment of a 5% management levy (based on total costs before VAT) to the local authority (egg management and administrative costs).

502. Local authorities will then be expected to provide and manage the services with the agreed annual budget and in accord with the service level agreement specific to that establishment.

503. Where no service level agreement is yet in place SPS will be expected to meet the costs set out in paragraph 500 in accord with existing financial procedures.

**Staffing Arrangements**

504.The local authority will be responsible for ensuring that sufficient social work staff are available at all times, to deliver the levels of service agreed with the Governor. This means that the local authority must make available replacement staff to cover for extended periods of staff sickness, or in the event of maternity leave. Costs associated with deployment of replacement staff in these circumstances will be borne by the local authority. 100% funding monies cannot be used for this purpose. However, if any savings have accrued to the prison's social work budget (e.g. because of delays in recruiting staff), such savings should normally be contributed towards the cost of any temporary replacement.

##### ANNEX C: FORMS

This Annex contains various forms used in the making and amendment of supervised release orders and in the procedures for Schedule 1 offenders.

Form Title

**Supervised Release Orders**

##### FORM 96 FORM OF SUPERVISED RELEASE ORDER



##### FORM A

**PRISONERS AND CRIMINAL PROCEEDINGS (SCOTLAND) ACT 1993
DESIGNATION UNDER SECTION 14(4) OF LOCAL AUTHORITY OR
JUSTICES FOR THE PURPOSES OF A SUPERVISED RELEASE ORDER**

**A supervised release order having been made under section 209 of the Criminal Procedure (Scotland) Act 1995 in respect of**

(Name of prisoner/detainee)

**Who is at present detained in?**

(Name and address of establishment)

**And is due to be released on**

(Proposed date of release)

**The Secretary of State hereby designates**

(Name of local authority, or Justices)

**As the appropriate authority/justices for the purposes of the order.**

................................Governor

................................Date

##### FORM B

**PRISONERS AND CRIMINAL PROCEEDINGS (SCOTLAND) ACT 1993**

**NOTIFICATION TO PERSON SUBJECT TO SUPERVISED RELEASE ORDER**

When you were sentenced, the court made an order to the effect that you are on release to be under the supervision of a social worker or probation officer, and that you must comply with such requirements as are specified in the order and such requirements as the Supervising Officer may reasonably specify.

You should have in your possession -

- A copy of the supervised release order made by the court; and

-a copy of the written designation of the appropriate authority or justices for the

-purposes of the order.

Your Supervising Officer is

(Name and address of Supervising Officer)

He/she requires that you report to him/her at

..................................on..................................
(time) (date)

At the above address.

If you are unable to report to your Supervising Officer at the stated time, you must contact him/her by telephone on (telephone number) to make alternative arrangements.

Failure to report to your Supervising Officer or to comply with other requirements will be reported to the court, which is empowered, on receiving such a report, to issue a warrant for your arrest and, on proof of such failure, to order your return to custody.

(Signed)...Date.
Governor

(Signed)Date
Person subject to supervised release order

**FORM C**

**PRISONERS AND CRIMINAL PROCEEDINGS (SCOTLAND) ACT 1993
(SUPERVISED RELEASE ORDERS)
APPLICATION UNDER SECTION 15(1) BY SUPERVISING OFFICER FOR DESIGNATION OF DIFFERENT LOCAL AUTHORITY OR JUSTICES**

To: The Secretary of State for Scotland
Room 114
Colton House
5 Redheughs Rigg
South Gyle
EDINBURGH
EH12 9HW

I

(Name of Supervising Officer)

**being the Supervising Officer appointed by**

(name of currently designated local authority or justices)

**for the purposes of the supervised release order made in respect of**

(name of person subject to supervised release order)

**hereby request that**

(name of proposed second designee local authority or justices)

**be designated as the appropriate local authority/justices for the purposes of the order in place of the first mentioned local authority/justices.**

**The reason for this application is**

(Give brief statement of reason for application including in particular any new address of the person subject to the supervised release order and the date on which that person moved or intends to move to that address.)

Signed ............................Date...............................

**FORM D**

**PRISONERS AND CRIMINAL PROCEEDINGS (SCOTLAND) ACT 1993
(SUPERVISED RELEASE ORDERS)**

**APPLICATION UNDER SECTION 15(1) BY PERSON SUBJECT TO SUPERVISED RELEASE ORDER FOR DESIGNATION OF DIFFERENT LOCAL AUTHORITY OR JUSTICES**

To: The Secretary of State for Scotland
Room 114
Calton House
5 Redheughs Rigg
South Gyle
EDINBURGH
EH12 9HW

I

(name of person subject to supervised release order)

**being subject to a supervised release order for the purposes of which**

(name of currently designated local authority or justices)

**have been designated as the appropriate authority/justices,
hereby request that**

(name of different local authority or justices proposed to be designated)

**be designated in place of the former.**

**The reason for this application is**

(Give brief statement of reason for application including in particular full details of any new address to which you have moved or intend to move and the date on which the move was/is to be made.)

Signed .............................Date ...............................

**FORM E**

**PRISONERS AND CRIMINAL PROCEEDINGS (SCOTLAND) ACT 1993
(SUPERVISED RELEASE ORDERS)

DESIGNATION UNDER SECTION 15(1) OF A DIFFERENT LOCAL AUTHORITY OR JUSTICES FOR THE PURPOSES OF A SUPERVISED RELEASE ORDER**

**A local authority or justices, namely**

(name of first designated local authority or justices)

**having been designated by the Secretary of State under section 14(4) of the Act for the purposes of a supervised release order made in respect of**

(name of person subject to supervised release order)

**AND**

**a request having been made under section 15(1) of the Act that a different local authority or different justices be designated under that section,**

**the Secretary of State hereby designates**

(name of second designee local authority or justices)

**as the appropriate local authority/justices for the purposes of the order.**

**This designation has effect from ..........................................**

(Date)

Signed........................................

Date........................................

##### ANNEX D: CONTACT POINTS

Reports to SOHD relating to parole, non-parole and other forms of licence.

Parole and Miscarriages Review Division
Room Y1/17
Saughton House
Broomhouse Drive
EDINBURGH
EH11 3XD

0131-244-8537 (Tel.)
0131-244-8794 (Fax)

Additional contact points

Mr H Boyle
Secretary
Parole Board for Scotland
Room Y1/13
Saughton House
Broomhouse Drive
EDINBURGH
EH11 3XD
0131-244-8755/8687 (Tel.)
0131-244-8794(Fax)

Mr J Kirby
Social Work Services Group
Room 27A
James Craig Walk
EDINBURGH
EN1 3BA
0131-244-5438 (Tel.)
0131-224-3548 (Fax)

Mrs J Bonelle
Probation Unit
Home Office
50 Queen Anne's Gate
LONDON
SW1H 9AT
0171-273-2498 (Tel.)
0171-273-3944 (Fax)

##### ANNEX E EXTRACT FROM COMMUNITY THROUGH COOPERATION

CHAPTER 8: THE MANAGEMENT OF INFORMATION

This extract relates to the footnote to paragraph 312 of these standards.

**8.1Records - Ownership, Confidentiality and Disclosure**

8.1.1Prison social work records are the property of the Secretary of State and therefore do not fall within the terms of the Access to Personal Files Act 1987 or Central Government's Code on Confidentiality of Social Work Records (1989). The Secretary of State has decided, however, that practice and procedures relating to prison-based social work records will reflect as closely as possible the policies and procedures relating to social work records held and maintained for social work functions as defined in the Social Work (Scotland) Act 1968. He has, therefore, decided that prisoners should have access to their prison-based social work records subject to the standard restrictions imposed by the 1987 Act. No prisoner shall be given access to information which affects, or may affect the security, good order and discipline within an establishment. Any record or part of a record disclosed to a prisoner must not contain information about any other prisoner, member of staff, or other aspect of prison life. No information should be released without the joint approval of the social work unit manager and the governor. The possibility that a prisoner may be upset by the contents of the record is not sufficient reason to refuse access. Preparation of individuals for disclosure is addressed in the guidance to the 1987 Act. These arrangements do not apply at present to prison social work reports prepared for the Parole Board (for the purpose of reviewing an inmate's suitability for release on parole or life licence) however it is good social work practice to discuss the contents of such reports with the prisoner.

8.1.2Although prison-based social work records belong to the Secretary of State, they will be subject to joint control by Prisons Group and local authority social work departments in accordance with the principles outlined at paragraph 8.1.1 above. Agreed local arrangements for dealing with issues of access and confidentiality or disputes concerning the operation of arrangements should be submitted to Prisons Group and SWSG for approval. Prison-based staff will need time to participate in local authority training on issues related to access. In recognition of this, the Secretary of State has decided that this arrangement for prison social work records will be implemented from a date to be agreed.

8.1.3In general all personal information held on social work records will be confidential, unless exceptional circumstances apply. It is intended that central government's guidance, as detailed in the Code on Confidentiality of Social Work Records (SWSG Circular SW 1/1989), should apply to personal information held in prison-based social work records where such an application is not inconsistent with the requirements of security and control and collaborative working practices. Staff should refer to the Code on Confidentiality for more detailed guidance.

8.1.4Corporate involvement places a clear responsibility on social work staff, as part of their contribution to the management of the establishment, to share with prison management information they may obtain about potential or actual disorder within an establishment. This should not be seen to prejudice the confidentiality of any work with an individual which may focus on illicit behaviour whilst in prison, for example drug use. Social work staff do, however, have a responsibility to share with prison management any information they may obtain about organised illicit or criminal activities in prison; for example, about entry routes of drugs into an establishment, distribution networks, or associated "protection rackets". Prison-based social workers must ensure that prisoners with whom they are working are aware of this responsibility.

8 1.5It is essential that social workers in prisons must, as a matter of urgency, inform appropriate prison staff and managers if they have any reason to believe that a prisoner may be at risk of either deliberate self-injury or injury by others

**8.2Record-Keeping Transfer and Storage**

8.2.1Social work units must keep a case record of all work undertaken with a prisoner and his/her family. The standards of good practice in record keeping are equally applicable in all social work settings. The essential characteristics of good practice in record-keeping are that records should be

a.brief

b.relevant and accurate

c.up to date

d.readable

e.constructed to allow for easy retrieval of information, and to take account of recent legislation

fclear about goals and about progress towards these.

**8.2.2Onward Transmission of Records**

A variety of practices have been adopted in respect of the onward transmission of prison social work records when inmates are transferred to another establishment. In order to assist with the provision of continuity of service, the full social work record, including a transfer summary which indicates work carried out and work still to be undertaken, should be transferred to the social work unit in the receiving establishment, within one week of the prisoner's transfer. The regular inter-establishment van service provides a secure and confidential system for the rapid transfer of records. Transfer summaries should also be used to allow for the transmission of relevant information about prisoners due for conditional release to those responsible for their supervision on release, and also in cases of voluntary aftercare.

**8.2.3Storage of Records**

Prison social work records are to be stored centrally at Prisons Group HQ within 12 months of a prisoner's release from custody. It is the intention that rapid retrieval system will be devised by SHHD to facilitate effective working. Local conditions, such as available storage space, prisoner turnover etc., will dictate the length of time that records are stored locally during the 12 months timescale suggested above. Access to information thus stored (for any reason other than the further reception into custody of a former client) will be authorised only after consultations between Scottish Office officials and the relevant Director(s) of Social Work, which will be informed by central government's guidance in the code on confidentiality

**Footnotes**

Before 1/4/96, all offenders returned to custody under section 16 were released on licence, and the minimum period of 6 months did not apply

Until 1/4/96, under section 212A of the Criminal Procedure (Scotland) Act 1975, as inserted by section 14 of the 1993 Act.

Until 1/4/96, under section 206 of the 1975 Act

Until 1/4/96, any sentence under 4 years

Until 1/4/96, under section 206 of the 1975 Act

Until 1/4/96, under section 206 of the 1975 Act

This will be replaced by section 53 of the Children (Scotland) Act 1995

Before 1/4/96 by the Criminal Procedure (Scotland) Act 1975, Section 212A, as inserted by Section 14 of the Prisoners and Criminal Proceedings (Scotland) Act 1993

Before 1/4/96 by sections 206 or 413 of the 1975 Act

Before 1/4/96, obtaining a Social Enquiry Report was optional

Before 1/4/96, evidence had to be given on oath

Before 1/4/96, section 212A (2) (b) of the 1975 Act