

# RISK MANAGEMENT, PROGRESSION AND TEMPORARY RELEASE GUIDANCE

**This document outlines the Scottish Prison Service  
Guidance in relation to Risk Management, Progression and  
Temporary Release**

Offender Case Management, Strategy & Innovation Directorate

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**Unlocking Potential - Transforming Lives**



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## 1.0 Introduction

The Risk Management Team (RMT) is an integral component of the Integrated Case Management (ICM) process operating in all establishments. The RMT is a multi-disciplinary team of professionals representing a range of agencies involved in the management of offenders. Its primary purpose is to consider the assessment, intervention and management needs of those offenders referred via the ICM process or where local management have a particular concern about an offender's behaviour or on-going management that requires immediate intervention. It is also the decision making body that considers offenders for progression to less secure conditions and/or community access. In considering whether it is appropriate to grant temporary release to an eligible offender, the RMT must assess the risk that the offender may abscond, pose a danger or cause harm to the public.

This document provides guidance on RMTs and the progression of offenders to less secure conditions and community access.

For further information on ICM please refer to the ICM section on the Prisons Resource Library.

## 2.0 Aim

It is the aim of SPS to prepare people in custody for eventual release and return to communities as contributing citizens. The aim of this document is to provide guidance surrounding; Risk Management, Planning, Progression and Community Access.

## 3.0 Policy Statement

This document provides updated guidance on risk management and progression. It outlines national policy and procedures to be followed by RMTs. It also highlights that the RMT is the single reference point when:

- the ICM Case Conference is concerned that the identified action plan cannot be met by existing resources or requires a higher level of decision/ratification;
- there are concerns about an offender's behaviour or on-going management, which requires immediate intervention;
- considering progression of all classification of offenders to less secure conditions and/or unescorted access to the community;

- considering an adverse development in less secure conditions;
- considering the Risk Assessment Report (RAR) following admission of an Order for Lifelong Restriction offender (OLR); and
- considering Risk Management Plans (RMPs) or Annual Implementation Reports (AIRs) prior to sending to the Risk Management Authority (RMA) for approval.

## 4.0 Scope

The Director of Strategy and Innovation (S&I) is responsible for this policy and guidance.

This guidance is to be followed by Governors of all public sector prisons and Directors of private prisons who will be required to provide assurance that local practice is consistent with national policy.

The Offender Outcomes and Services Division, Strategy and Innovation Directorate, has responsibility for reviewing the Risk Management and Progression Guidance and reporting recommended changes to the Director of S&I in light of:

- learning from Critical Incident Reviews (CIRs);
- operational changes;
- legislative changes; and
- outcome of reviews from groups that meet to discuss progression and risk management.

To ensure robust version control, where any future amendments are made in relation to the role of RMTs, risk management or policy in relation to progression of offenders to less secure conditions, a Governors and Managers Action Notice (GMA) will be issued informing Governors that an amendment has been made, with the current version of the Risk Management, Progression and Temporary Release Guidance being available on [Prison Resource Library](#)



## 5.0 Definitions

For simplification of this document the following terms and definitions apply:

- **ACR**                               ▪ **Adverse Circumstances Report**
- **AIR**                               ▪ **Annual Implementation Report**
- **CBSW**                             ▪ **Community Based Social Worker**
- **CIP**                               ▪ **Community Integration Plan**
- **CIR**                               ▪ **Critical Incident Review**
- **CIU**                               ▪ **Community Integration Unit**
- **CMP**                               ▪ **Case Management Plan**
- **COPFS**                           ▪ **Crown Office Procurator Fiscal Services**
- **CSO**                               ▪ **Community Supervising Officer**
- **CRMP**                             ▪ **Community Risk Management Plan**
- **EDL**                               ▪ **Earliest Date of Liberation**
- **EEA**                               ▪ **European Economic Area**
- **EEF**                               ▪ **External Enquiry Form**
- **COPFS**                           ▪ **External Enquiry Form - Crown Office Procurator Fiscal Services**
- **EEF – Home Office**           ▪ **External Enquiry Form – Home Office**
- **ERLO**                             ▪ **Early Release Liaison Officer**
- **FGTR**                             ▪ **First Grant of Temporary Release**
- **GIC**                               ▪ **Governor In Charge**
- **HBR/HL**                          ▪ **Home Background Report/Home Leave**
- **HDC**                               ▪ **Home Detention Curfew**
- **ICM**                               ▪ **Integrated Case Management**
- **IPP**                               ▪ **Indeterminate Sentence for Public Protection**
- **LLO**                               ▪ **Lifer Liaison Officer**

- **LS/CMI**                   ▪ **Level of Service/Case Management Inventory – Risk Assessment**
- **LSE**                       ▪ **Learning, Skills, Employability**
- **MAPPA**                   ▪ **Multi-Agency Public Protection Arrangements**
- **MDT**                      ▪ **Mandatory Drug Test**
- **MHT**                      ▪ **Mental Health Team**
- **NTE**                      ▪ **National Top End**
- **OD**                        ▪ **Operations Directorate**
- **OE**                        ▪ **Open Estate**
- **OLR**                      ▪ **Order for Lifelong Restriction**
- **ORMAG**                   ▪ **Operational Risk Management Advisory Group**
- **ORT**                      ▪ **Opiate Replacement Treatment**
- **PB**                        ▪ **Parole Board**
- **PU**                        ▪ **Parole Unit**
- **PCF2**                     ▪ **Prisoner Complaints Form 2**
- **PMAG**                    ▪ **Prisoner Monitoring and Assurance Group**
- **POCA**                    ▪ **Proceeds of Crime Act 2002**
- **PR2**                      ▪ **SPS Prisoner Records (System) 2**
- **PRL**                      ▪ **Prisons Resource Library**
- **PSS**                      ▪ **Prisoner Supervision System**
- **PQD**                      ▪ **Parole Qualifying Date**
- **RAR**                      ▪ **Risk Assessment Report ( For OLRs)**
- **RoSH**                    ▪ **Risk of Serious Harm**
- **RM2000**                 ▪ **Risk Matrix 2000**
- **RMA**                      ▪ **Risk Management Authority**
- **RMP**                      ▪ **Risk Management Plan (For OLRs)**
- **RMT**                      ▪ **Risk Management Team**
- **RSO**                      ▪ **Registered Sex Offender**
- **SA07**                     ▪ **Stable and Acute 2007**
- **SCRO**                    ▪ **Scottish Criminal Records Office**
- **SED**                      ▪ **Sentence Expiry Date**
- **SEL**                      ▪ **Special Escorted Leave**

- SOLO
- SPSO
- VNS
- Sex Offender Liaison Officer
- Scottish Public Services Ombudsman
- Victim Notification Scheme

## 6.0 Risk Management

The challenge of assessing and managing risk draws together a diverse range of professions in the shared objective of protecting the public by preventing or minimising harm.

A recurring theme in risk management practice is the need to balance the safety of potential victims with the human rights of the offender. Best practice requires that measures by public authorities are proportionate to the risk of harm posed and delivered to standards consistent with human rights legislation.

**“Balancing professionalism (knowledge and skill) with procedural compliance, trust and professional respect”<sup>1</sup>.**

The RMA has produced a [‘Framework for Risk Assessment, Management and Evaluation’ \(FRAME, 2011\)](#). The objective of FRAME is to develop “a consistent shared framework that promotes defensible and ethical risk assessment and management practice that is proportionate to risk, legitimate to role, appropriate to the task in hand and is communicated meaningfully”<sup>2</sup>.

FRAME sets out several guiding principles for risk management. These principles set out the context within which good risk assessment and management may take place, and have wider relevance in many areas of practice including detention and imprisonment, social work, offender management and healthcare.

The necessary guiding principles are:

- Balancing rights;
- Proportionality;

<sup>1</sup> Bernadette Wilkinson and Hazel Kemshall, 2011

<sup>2</sup> RMA: Framework for Risk Assessment, Management and Evaluation (FRAME, 2011)

- Collaboration;
- Evidence-based practice;
- Defensible decision making;
- Reducing re-offending: principles of effective practice;
- Engaging and motivating individual change;
- Risk assessment;
- Implementation integrity; and
- Competence.

Defensible decision making is defined as a decision that will, 'withstand hindsight scrutiny in the event of adverse outcomes'. A decision is defensible if, in spite of a negative outcome, it can be demonstrated that all reasonable steps had been taken in its assessment and management<sup>3</sup>.

In accordance with FRAME, an action or decision is deemed **defensible** if an objective group of professionals would consider that it meets the following criteria:

- **Staff involved have:**
  - appropriate levels of knowledge and skill; and
  - an investigative stance and proactive approach.
- **The decision of action is based upon:**
  - appropriate use of collected and thoroughly evaluated information; and
  - a risk assessment using reliable methods grounded in the evidence.
- **Planning demonstrates:**
  - risk management strategies matched to risks and risk level; and
  - all reasonable steps have been taken.
- **Throughout the process:**
  - there is communication with relevant others;
  - decisions are recorded; and
  - policies and procedures followed<sup>4</sup>

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<sup>3</sup> Kemshall, H (2009)

<sup>4</sup> Kemshall, H (2009)

The Risk Management, Progression and Temporary Release Guidance manual is consistent with the guiding principles of FRAME, providing a framework for effective risk management and defensible decision making.

In order to reach a defensible decision, the chair of the RMT should ensure that they fully adhere to these guiding principles and that the agreed measures to manage risk will be evidence-based and tailored to the individual. Risk management strategies of monitoring, supervision, intervention and victim-safety planning should also be proportionate to the level of risk the offender presents. It is essential that the decision of the RMT is clearly recorded and communicated to the offender in writing as soon as possible after the final minute has been agreed.

## 7.0 Risk Management Team Purpose

The RMT is a multi-disciplinary team of professionals representing a range of agencies involved in the management of offenders. Its primary purpose is to consider:

- the assessment, intervention and management needs of those offenders referred via the ICM process;
- the management of those offenders whose behaviour is concerning;
- the management of those offenders whose behaviour requires immediate intervention; and
- offenders for progression to less secure conditions and/or community access.

In considering whether it is appropriate to grant temporary release to an eligible offender, the RMT must assess the risk that the offender may abscond, pose a danger or cause harm to the public.

The Governor in Charge at each establishment will determine if separate meetings should be held to consider each case type or if all business can be discussed at the same meeting. Circumstances whereby an RMT will be convened include:

### 7.1 Progression

- offender is being considered for progression to less secure conditions;

- offender is being considered for supervised access to the community under the Special Escorted Leave Scheme; and
- offender is being considered for unsupervised access to the community under Part 15 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011<sup>5</sup>.

## 7.2 Adverse Circumstances

- offender has been subject to an adverse development in less secure conditions.

## 7.3 Assurance

- upon an offender being approved for progression to less secure conditions, the receiving establishment (NTE, OE or CIU) will review the proposed management plan prior to granting community access. (There is no requirement for the RMT within less secure conditions to commence a new RMT Annexe A minute, they should, however, provide an update, review the Community Risk Management Plan and record the outcome of their discussion).

## 7.4 High Risk

- the ICM Case Conference is concerned that the identified action plan cannot be met from existing resources or requires a higher level of decision/ratification;
- offender has been subject to an adverse development in less secure conditions and returned to closed conditions;
- following the **decision** of a MAPPA referral that has been submitted, subsequent to the outcome of a risk assessment, (normally LS/CMI inclusive of fuller assessment of RoSH); see [MAPPA Guidance](#)
- offender is subject to an OLR, to consider the initial risk strategy following admission of an OLR offender; to consider RMPs prior to being submitted to the RMA for approval; AIRs for evaluation prior to sending to the RMA for evaluation. (See [RMA Standards and Guidelines](#) and further information within SPS OLR Guidelines on PRL area of SharePoint [OLR Guidelines](#); or
- local management have other concerns in relation to an offender's behaviour or on-going management, which require interventions that have resource implications such as Psychological Risk Assessment (PRA) or require immediate intervention\*.

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<sup>5</sup> The Risk Management Team is not responsible for considering offenders for unescorted day release for compassionate reasons” – see the Direction to rule 138 for further information.

\* Other concerns could include: offender unable/unwilling to engage with a particular management plan/programme; offender recalled to custody; to agree offender management plans prior to a Parole Tribunal; to allocate PRA, etc.

## 8.0 Less Secure Conditions / Community Access

### 8.1 Less Secure Conditions

Less secure conditions, for the purpose of this guidance include:

- HMP Open Estate
- Community Integration Units – HMPs Grampian and Greenock
- National Top-End for Young Offenders in HMYOI Polmont
- National Top-End – HMPs Barlinnie and Greenock
- Women’s National Top-End – HMP & YOI Cornton Vale
- Women’s Open Estate – HMP and YOI Cornton Vale
- Women’s CIUs – HMPs Inverness, Grampian and Greenock

#### Community Access for Individuals Serving Long-Term, Life and OLR Sentences

If appropriate criteria is met, LTPs, life sentence and OLR offenders can only be granted community access if they are located within less secure conditions described above.

#### Community Access for Individuals Serving Short-Term Sentences

If appropriate criteria is met, STPs must be serving 12 months (and less than 4 years) to be considered for community access, regardless of location. Home Leave can only be accessed from OE for STPs.

#### Community Access via Home Leave

All eligible offenders, who have been approved for community access via HL, must be located within:

- Independent Living Units in HMP & YOI Cornton Vale
- Aberlour, Banff and Level 3 of Cruden in HMP & YOI Grampian
- Female Unit of HMP Inverness

- HMP Open Estate
- Level 1 West of Monro Hall in HMYOI Polmont
- Arran House & Bute House in HMP Greenock

## 8.2 Purpose of National Top-Ends

The purpose of National Top End (NTE) is primarily to provide the opportunity for life sentence offenders to prepare for release, have increased self-responsibility and to be gradually tested in the community, in order that they are better prepared for transfer and succeed within open conditions. Additionally, the RMT may deem it appropriate to consider transfer to NTE for low supervision long-term, OLR and IPP offenders, to prepare for release.

The ultimate aim of NTE is to allow gradual re-integration into the community and/or to allow the offender to evidence reduction in their risk.

## 8.3 Purpose of the Open Estate

The purpose of the Open Estate (OE) is to provide an opportunity for suitable long-term, life sentence, OLRs and IPP offenders to have exposure to additional responsibilities associated with increased freedoms in the community and to allow the offender to further evidence reduction in their risk and demonstrate to the Parole Board that they are suitable for release. For suitable STPs, it also provides the opportunity to serve a proportion of their sentence in conditions with less restrictive security arrangements, giving access to improved development opportunities and the capacity to build and maintain family and community relationships prior to release.

## 8.4 Purpose of Community Integration Units

The purpose of Community Integration Units (CIUs) is to provide an opportunity to access the local community for those STPs coming towards the end of their sentence, where it can be evidenced that there is a rationale for it being of benefit to them on release. Potential benefits include, but are not limited to: helping adjust to the community environment; the opportunity to strengthen self-management and other skills; helping to maintain/establish links with community services that may be required post-release or which may contribute to well-being and risk management and help to maintain/build links with important support networks.



LTPs, life sentence and OLR offenders can also progress to community access at CIUs in HMPs Grampian and Greenock at the discretion of the RMT. It should be noted, however, that FGTR would be required prior to those serving life sentences accessing the community unsupervised.

**Offenders located within CIUs must meet the [standard criteria for progression](#) prior to being granted unescorted community access.**

## 8.5 What is temporary release?

Temporary Release is the generic name for any period of **unescorted** release from prison during an offender's sentence. Unescorted leave means that the offender travels to and from the leave address or approved place within the specified time and transport arrangements detailed on the temporary release licence.

Part 15 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011 and the Direction to [Rule 138](#) set out the criteria and conditions for temporary release for all offenders. [Rule 136](#) defines temporary release under five headings: home leave; unescorted day release; unescorted day release for compassionate grounds; temporary release for work and unescorted day release for health reasons.

## 8.6 Purpose of temporary release

The principal purposes of temporary release may be grouped under three main headings:

- To assist in the offender's preparation for release;
- To develop or re-establish contact with family members; and
- To monitor the offender's response to community access.

In particular, temporary release includes:

- "Home Leave" – the unescorted temporary release from prison of an eligible offender for the purpose of enabling the offender to visit his or her home or other approved place for a period not exceeding 7 nights excluding travelling time;
- "Unescorted day release" – the unescorted temporary release from prison of an eligible offender for a period not exceeding 1 day, including travelling time, for the purposes of enabling the offender, in preparation for eventual release;

- “Unescorted day release for compassionate reasons” – the unescorted temporary release from prison of an eligible offender for a period not exceeding 1 day, including travelling time, for the purposes of enabling the offender, to attend a funeral, visit an ill relative etc;
- “Temporary release for work etc” – the unescorted temporary release from prison of an eligible offender for a period not exceeding 1 day, excluding travelling time, for the purposes of enabling the offender to undertake a work or educational placement outside the prison; and
- “Unescorted day release for health reasons” – the unescorted temporary release from prison of an eligible offender for the purposes of enabling the offender to attend a hospital for treatment or to attend counselling out with the prison.

### To assist in the offender’s preparation for release

Periods of temporary release present opportunities for offenders to prepare for release by, for example:

- **making contact with training providers or employment agencies.** Prospective training/further education providers or employers may be happy to make arrangements for contact with the offender during the leave period, in order to begin planning any future involvement.
- **engaging with community based agencies that may be able to provide support, advice and assistance to the offender upon release.** Temporary release provides the offender with a good opportunity to meet with community based agencies that may have a role to play on the offender’s eventual release. For example, it may be appropriate and useful for the offender to make contact with housing providers to discuss any potential accommodation issues that may need to be addressed upon release. Similarly, where relevant, the offender may wish to establish contact with community based addiction services. Establishing contact before the offender has been released can facilitate the planning process and help prepare the offender for specific interventions upon release. It can also provide a positive motivational focus for the offender.
- **re-acquainting the offender with life in the community and neighbourhood.** Temporary release, Home Leave (HL) in particular, can be beneficial in helping offenders re-familiarise themselves with community living. This is to provide individuals with the opportunity to spend short periods of time in a neighbourhood in

which they have a connection, perhaps because of family or friends, or potentially where they will reside upon release.

### To develop or re-establish contact with family members

Establishing or maintaining good family contact during the custodial sentence is crucial for offenders and has the potential to provide links back to their communities. Many offenders receive visits from family members during their sentence, however, a number of factors can either aid or hinder the regularity with which these visits take place. Amongst these may be, but not restricted to: proximity of the prison which the offender is being held to the family home; availability of transport to the prison; costs associated with such travel arrangements and the families' ability to meet these costs. These are very real considerations for families, however, HL may help to reduce pressure on families to visit and places a degree of manageable responsibility on the offender.

It is important for an offender to re-establish links with the family within the home environment, where appropriate, especially where it is the intention to live with family on release. Often, such contact between offenders and their family requires both parties to modify their expectations. For example, in the case of long-term offenders, it is possible that family life may have *moved on* since the period of custody was imposed. Partners and families may have become more independent, having learned to cope in the absence of the offender. The impact of long term incarceration on the offender, which may include for example, potentially unrealistic expectations on the offender's part, may not be anticipated or fully understood by family members. Offenders are also required to balance the expectations of supervision with that of their families and this means adjustments that often prove difficult to manage for all parties. Good working relationships between Community Based Social Workers (CBSWs) and the family may help to address these concerns and support reintegration.

In such circumstances, the offender and their family may wish to consider possible alternative housing options and discuss these with Social Work who may consult housing staff. Progression to HL will have been considered prior to a move to OE, and identifying a suitable address may aid the process. For those not having a suitable address identified, specific enquiries will be made which should provide a detailed support plan of how that offender could be supported to participate in the HL scheme. The report writer should consider the available accommodation options (and explore alternative accommodation options in exceptional circumstances) and make appropriate recommendations. After these considerations,

offenders who have no fixed abode may still be eligible for progression to NTE, OE or CIU with a suitable Home Circumstances Report.

### To Monitor the Offender's Response to Community Access

Temporary release provides a basis for assessing an offender's response to being at liberty in the community for a short period of time. Information gathered from these periods of leave will assist SPS and other criminal justice agencies to assess how successfully an offender is managing to comply with licence conditions and what their response has been to potentially destabilising factors, such as the availability of drugs and alcohol in the community. It is **good practice** for all statutory offenders to be seen by their CBSW at least once when on HL, however, it is recognised that this might not always be possible and all arrangements should therefore be clear in the plan when any temporary release licence is made. Any information received should be shared between CBSW and SPS to ensure consideration is given to continued suitability, or whether any adjustments to the support package may be required, for example, a change in licence conditions.

Linked to the above, an offender's response to testing on periods of leave contributes significantly to the risk assessment process. For example, information relating to the success, or otherwise, of the temporary leave for LTPs assists the Parole Board in coming to a more rounded assessment of the risks that an offender may present on release. This information also assists the Parole Board to set appropriate future licence conditions. [Standard Licence Conditions](#) Equally, this data provides CBSW and where appropriate, Police Scotland with valuable information about how these risks might best be managed in the community. Pre-release ICM reviews will consider how previous reintegration and/or HL was supported and what may be required for the best possible outcome following release.

In considering whether it is appropriate to grant temporary release to an eligible offender, the RMT must assess the risk that the offender may: abscond; pose a danger or cause harm to the public.

## 8.7 Community Access for Short Term Offenders from Closed Establishments

Short term offenders serving sentences of 12 months or more (and less than 4 years), and who meet the standard criteria for community access, may be considered at RMT for unescorted community access for any purpose to support re-integration back into the

community, inter alia, work placements, further education and interviews, regardless of location.

It should be noted that community access is not an entitlement but at the discretion of the Governor/RMT Chair and, particularly in terms of work placements, will depend upon the availability of such opportunities in each establishment.

Unsupervised Community Access for those serving short term sentences is governed by Part 15 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011. Individuals can be granted community access in the form of; 'Unescorted day release', 'unescorted day release for compassionate reasons', temporary release for work' and 'unescorted day release for health reasons'.

It is the role of the officer to check that the standard criteria for community access has been met and that all relevant information is presented in order to allow the RMT to make a defensible decision on whether or not to grant community access. In determining whether to grant community access the RMT must be satisfied that any risks can be managed and that the individual would benefit from access to the community.

Establishments should ensure that they comply with the Work Placements Direction [Work Placements Direction](#) when considering suitability of community work placements.

RMT referrals relating to community access for individuals serving short term sentences should be forwarded to the RMT via the ICM/RMT Co-ordinator, using the RMT referral form and minute of meeting.

## **8.8 Work Placement Assessment**

Establishments should ensure that they assess suitability of work placements and ensure that they comply with [Work Placements Direction](#) and Prisoner Community Placements Implementation of [Toolkit and PRL Audit and Assurance Standards](#), when considering the suitability of any community work placement.

## 9.0 Victim Notification Scheme (VNS)

The **Criminal Justice (Scotland) Act 2003** provides a number of rights for victims. The SPS obligations under the Act are managed through the **Victim Notification Scheme (VNS)**. The VNS is a statutory scheme and entitles victims to receive defined information about offenders who have been sentenced to 18 months or more. These rights as a minimum include the date of release or escape of the offender.

Full details of the Victim Notification Scheme and its provisions can be found at [Victim Notification Scheme](#)

### Temporary Release; victims' right to make representations.

Victims who have expressed a desire to do so, require to be afforded the opportunity to make written representations to the SPS about any licence conditions that the victim considers should be imposed in relation to temporary release. The victim is able to make representations **only on the first occasion on which the convicted person is entitled to be considered for temporary release.**

### RMT Considerations

If an offender has a VNS flag highlighted on PR2, the RMT that is responsible for setting license conditions in relation to temporary release on the first occasion is required to consider any victim representations. The purpose of any representation is to inform the inclusion of licence conditions which may be relevant or necessary to avoid further re-victimisation or stress to the victim. Licence conditions do, however, require to be proportionate. For example, a licence condition excluding an offender from a large area may be disproportionate when the same aim may be achieved by confining the license condition to a smaller area.

In advance of the meeting of the RMT, Legal Services HQ should be contacted and will advise if the victim has expressed a desire to make representations. Legal Services HQ will write to the victim to seek representations and victims are advised that they should be returned within 14 days. Victims representations may be provided to the offender, therefore Legal Services HQ will consider whether redactions are necessary to protect sensitive personal data of the victim. These will be forwarded to the establishment once consideration has been undertaken.

For planning purposes, from the date of the request to Legal Services, three weeks should be provided for the receipt of representations. Should representations not be returned within the timescale, the RMT should proceed to reach a decision. It will be a matter for the RMT to decide whether to consider representations at a later date and if it is considered that it would be appropriate to do so at the next review of the offender. If a licence condition is inserted which is applicable to the victim, the chair of the RMT should notify Legal Services HQ, who will inform the victim.

- There is no requirement to consider representations unless the victim has expressed a desire to do so.
- Only the RMT responsible for setting licence conditions should consider any representations; and
- If an offender has been on temporary release and is subsequently returned to closed conditions there is no requirement to consider representations again.

### Victim Notification for FGTR

If a life sentence offender has a VNS flag there will be a requirement to consider representations prior to setting licence conditions. Legal Services should be contacted once FGTR has been approved and prior to the offender accessing the community for the first time.

## 10.0 RMT Membership / Role

**It is mandatory that the Chair of the RMT is the Deputy Governor, or in their absence, the Governor in Charge. In the case of Adverse Circumstance RMTs, the senior manager on duty can chair the meeting.**

The Chair of the RMT requires to give consideration to the required membership of the RMT meeting to ensure that it contains an appropriate range of disciplines that accurately reflects the specific risk and need of the offender. In addition, the Chair of the RMT should consider the benefits on a case by case basis, of each prisoner making their own representation through attending the RMT meeting, where appropriate. The core membership of the RMT when considering risk or progression cases should consist of:

## Deputy Governor, or in their absence, the Governor in Charge

The role of the Governor/ Deputy Governor/Director is to:

- chair the RMT meeting (**mandatory**);
- direct scheduling of the time and place of the next RMT meeting;
- ensure that key personnel (and any other person that the chairman requires to attend) are invited to the RMT meeting;
- ensure that all RMT members are provided with names of offenders who are to be discussed at least 7 working days prior to the meeting date;
- ensure that all relevant information including offender's representations are available for reference at the RMT meeting;
- be satisfied that all risk assessments are up date;and
- hold responsibility and accountability for decisions taken by the RMT.

## Prison Based Social Worker

The relevant Local Authority will determine the grade/competence of attendee representing PBSW, who will:

- contribute to discussion and provide additional information where appropriate from Social Work records;
- consider and, where suitable, accept referrals to Social Work for further assessment, intervention or throughcare arrangements;
- liaise with Community Based Social Work (CBSW) and provide details of resources available in area of release;
- ensure that assessments, (including, but not limited to: LS/CMI & RoSH, and SA07), and plans are updated where necessary in line with ICM, LS/CMI and Progression Guidance. [LS/CMI Guidance](#); and
- where appropriate, ensure Risk Management Plans are made available to RMT members.

## Psychologist

- The Head of Psychology (HoP) should attend but in the event that a HoP is unable to attend, a Psychology Manager can act as a representative under the proviso that the HoP has determined they are competent;



- contribute to discussion and provide additional information where appropriate from psychology records, including offender's response to programmes, etc;
- In progression and community access cases, a CARA and CRMP will be compiled for consideration by the RMT; and
- consider and, where suitable, accept referrals to Psychology for further assessments, e.g. Psychological Risk Assessment (PRA) Reports.

### **Health Centre Professional**

- contribute to discussion and provide relevant information, where appropriate, from an offender's health records, including substance misuse and mental health;
- ensure accurate recording of agreed needs and take steps to access services to meet these needs; and
- consider and accept referrals for further health related assessments.

### **Administrator – Support Staff**

The RMT should have administrative support available from within the establishment. The administrator will be responsible for the production of minutes of the standard format (see *Annex A*) and any other related RMT tasks, as directed by the Chair of the RMT.

### **Additional members of the RMT (to be invited as required) include:**

#### **Individual responsible for the offenders case**

The individual responsible for the offender's case should attend the RMT meeting where possible and:

- speak on behalf of the offender in relation to the referral to the RMT;
- contribute to the discussion and provide additional information where required;
- brief the meeting on any relevant issues relating to the offender;
- support and encourage the offender to comply with the outcome of any RMT meeting;
- monitor the resulting RMT management plan and ensure adherence (where relevant); and
- record outcomes appropriately on PR2.

## ICM/RMT Case Co-ordinator

The ICM/RMT Case Co-ordinator should attend all meetings that concern their allocated offenders to update on any recent additional information available since the previous ICM Case Conference. If they cannot attend, they should ensure that a deputy who knows the offender attends on their behalf. They should also ensure:

- the offender has had the opportunity to make written representation to the RMT;
- they have fully considered and made available copies of ICM documentation, including the latest Case Conference Record of Outcomes, to all those attending the meeting at least one week prior to the scheduled meeting date;
- the offender has had opportunity to make representations;
- a minute taker is available at each meeting to record discussion and action points;
- implementation and evaluation of the CMP/RMP;
- up-to-date documentation, including CMP/RMP, contains all relevant information is shared and recorded on PR2;
- any enhanced action planning as directed by the RMT is accurately recorded;
- the offender is advised of the decision of the RMT and receives a copy of the decision of the RMT (Section 7 of Annex A); and
- the offender is advised of the complaints procedure if necessary.

## OLR Case Manager

In OLR cases, the Case Manager should attend RMTs which are concerned with the management of an OLR offender, including:

- ensuring that information identified in the Risk Assessment Report (RAR) is brought to the attention of the RMT to consider the initial risk strategy following admission of an OLR offender;
- co-ordinating the preparation and implementation of RMPs and AIRs;
- establishing arrangements to ensure that information relating to the plan is effectively communicated between the Lead Authority and other agencies;
- Ensuring that information concerning the RMP is effectively recorded, including any obstacles to the delivery of the plan;

- referring RMPs to the RMT to consider/ratify prior to submission to the RMA for approval;
- referring AIRs to the RMT to consider/ratify prior to submission to the RMA for evaluation; and
- overseeing the implementation and evaluation of OLR RMPs.

Full details of OLR Case Manager responsibilities located within [OLR Guidelines](#)

### **Lifer Liaison Officer (LLO) / Early Release Liaison Officer (ERLO)**

Attend any RMT of those cases they are managing. For example, life sentence offenders, OLRs and extended sentence recall offenders etc. Additionally, they should ensure that a management plan for presentation at a Tribunal is agreed by the RMT and:

- contribute to the discussion and provide additional information, where appropriate, from LLO/ERLO case management records;
- brief the RMT on parole decisions; and
- feedback any relevant information to Parole Scotland.

### **Community Based Social Worker (CBSW) (NB: Standing invite for OLR cases and progression cases)**

The relevant Local Authority will determine the grade/competence of attendee representing CBSW, who will:

- Contribute to development of initial RMPs;
- Facilitate sharing of relevant information;
- Inform future planning; and
- Contribute to progression and release planning.

### **Other Specialists**

Other professional specialists may be invited on a needs determined basis to the RMT where they have involvement or specialist knowledge regarding a particular case. This may include: Medical Officer; Mental Health Team representative; Intelligence Analyst; Programmes

Officer; Police Scotland (including Offender Management Unit for RSOs); MAPPA Co-ordinators etc.

In OLR cases, when approving an amended RMP prior to parole or progression to less secure conditions, it is essential that CBSW should be of appropriate seniority to approve the resource allocation within the community prior to the RMP being submitted to the RMA for approval.

## 11.0 RMT Referral Process

In most cases, prior to referral to the RMT, the case will have been discussed at an ICM case conference whereby agreement has been reached that the referral to RMT is appropriate. All relevant information should, therefore, have been prepared and discussed at ICM case conference and be readily available for the referral. However, for STPs not subject to post release supervision there may be minimal file information available.

**If the referral is for progression to less secure conditions then offenders must complete Annex B – Application for Progression.**

Completed referrals to the RMT should either be forwarded, in the first instance, to the ICM/RMT Co-ordinator or originate from the ICM/RMT Co-ordinator, using the RMT Referral and Minute of Meeting Form ([Annex A](#)). If the RMT is to consider Adverse Circumstances or to review the decisions to Return to Closed Conditions (RTCC) the offender should be given the opportunity to make written representations and attend in person, if appropriate to do so.

### 11.1 Offenders Application for Progression/Unescorted Community Access

If the referral is to consider an offender for progression to less secure conditions and/or unescorted access to the community, then the offender should complete an Application for Progression to Less Secure Conditions/Unescorted Access to the Community ([Annex B](#)), providing the following information:

- confirmation of the reason for the application;

- confirmation that they meet the relevant Standard Criteria for Progression ([see section 12](#));
- details of what the offender considers they have achieved in order to merit consideration for a move to less secure conditions, including evidence of a reduction in risk;
- reasons why the offender considers that they should be considered by a RMT for progression/unescorted access to the community; and
- any other supporting factors which should be taken into consideration by the RMT.

Officers with case management responsibility should provide assistance to offenders when completing [Annex B](#), where requested.

## 11.2 RMT Referral Form ([Annex A](#))

### Section 1 – Offender Details

Section 1- Offender details, should be completed by the officer making the referral. All information requested should be available on PR2.

### Section 2 – Reason for Referral

The reasons for the referral should be clearly recorded in Section 2 and be completed by the officer making the referral. If the reason for the referral is **not** in relation to progression, the paperwork should be referred to the ICM/RMT co-ordinator.

### Section 3 – Standard Criteria for Progression

This section should be completed by the officer making the referral where an offender is being considered for progression to less secure conditions and/or community access only.

For statutory offenders, a referral for progression should be discussed and recommended at ICM case conference prior to the RMT. **Offenders must still complete Annex B – Application for Progression.**

The standard criteria for progression is an assessment of an offender's **eligibility** for consideration by a RMT, for progression to less secure conditions and/or unsupervised community access. It will be for the RMT to consider whether the offender is **suitable** for

progression to less secure conditions and/or community access, having met the standard criteria, taking into consideration: the risk that they present; what the offender has done to reduce risk and whether that risk can be safely managed in the community.

An offender **may** be **eligible** for consideration for progression, if they meet the standard criteria as outlined in [Standard Criteria for Progression 12.0](#):

If the offender does not meet the standard criteria for progression, they should be informed promptly of the decision by the relevant officer, and provided with the reasons for the decision in writing within seven days. The offender should also be advised of any steps they needs to take to address any obstacles, if appropriate.

**Such cases should not be referred to the RMT.**

## Section 4 – Sources of Information to be considered by the RMT

**Section 4.1** should be completed by the officer making the referral.

The purpose of section 4.1 is to ensure that all key information is gathered and forwarded to the person responsible for the co-ordination of the RMT to review prior to the RMT meeting, and be available for reference at the RMT meeting.

**Section 4.2** of the form should be completed by the person responsible for the co-ordination of the RMT, following receipt of the RMT paperwork, and associated documents.

The person responsible for the co-ordination of the RMT is required to:

- identify the purpose of the RMT Referral;
- carry out a review of **all** available information (paper based and information stored electronically) pertinent to the offender, *including the most recent ICM documentation and specifically the latest ICM Case Conference Record of Outcomes for those on the Enhanced ICM process*;
- consider an offender's risks and needs identified via the ICM process, steps taken to address risks and needs and any outstanding identified needs which have not yet been addressed;

- in progression cases, seek confirmation from the relevant establishment that they can manage any risks and/or address any outstanding needs within less secure conditions, following approval from the sending establishment RMT;
- identify/request specific further investigations/assessment required by specialist areas;
- check an offender's previous abscond/escape history ([see 14.3](#));
- prioritise referrals to RMT, considering; critical dates, individuals who are currently involved in the tribunal process, offenders who have been recalled/returned to closed conditions, or licence breaches;
- provide copies of ICM documentation and any other relevant information to all those required to attend the RMT meeting at least seven working days prior to the date;
- liaise with the Chair of the RMT to consider whether the offender should be invited to the RMT meeting; and
- ensure that a minute taker is available to record discussion and action points.

If the referral is in relation to progression to less secure conditions and/or unescorted community access, the ICM/RMT Coordinator should request the following information, ***approximately eight weeks prior to the RMT meeting:***

- A Home Leave Report (HLR), via PBSW and HLR1 forms (HLR should be dated within last 6 months);
- Intelligence information from the local Intelligence Management Unit (IMU). This should include Intelligence information requested from the Police, via the Police External Enquiry Form (EEF);
- For Foreign National Offenders, information from Home Office, Immigration Enforcement confirming whether or not they are minded to deport the offender at end of sentence, via the [Home Office External Enquiry Form \(EEF – HO\)](#); [EEF - Home Office](#);
- Information from the Crown Office in relation to any proceedings under the Proceeds of Crime Act 2002 via the [External Enquiry Form – Crown Office Procurator Fiscal Service](#) [EEF - COPFS](#);
- Where an offender is subject to a Serious Crime Prevention Order, licence conditions should be checked with COPFS. Such requirement will be recorded in 'Risks and Conditions' within PR2; and
- For offenders **subject to** Multi-Agency Public Protection Arrangements (MAPPA) (i.e. have been accepted through the identification, notification and referral process), the MAPPA National Guidance 2016 should be followed and adhered to for RSOs and Other Risk of Serious Harm Offenders. [MAPPA Guidance 2016](#)

## Section 5 – Assessment

Section 5 should be completed by the person responsible for co-ordination of the RMT.

Section 5 describes the assessment of risk and should be reviewed in full at the RMT meeting, confirmed as an accurate record of all issues/risks discussed with an assessment provided. A Pre-Progression ICM will have discussed and agreed an appropriate management plan including agreed supervision from CBSW. In order to ensure that the RMT meeting is conducted as efficiently and effectively as possible, the identified officer can pre-populate this section from the latest information available on the Prisoner Records System (PR2), the latest ICM Case Conference, in consultation with PBSW and Psychology/Programmes. **Offender input should also inform this section, taking care where no corroboration exists, to mark this as self-disclosed.** When populating the RMT document, **it is essential that sources of information are consistently quoted.**

The draft document should be circulated to all members of the RMT a minimum of seven working days prior to the RMT to ensure accuracy of information can be checked with any anomalies being highlighted prior to the meeting.

It is essential that all relevant risk factors are clearly identified, recorded and discussed at the RMT meeting, including evidence of the relevant risk factors which contributed to the offending behaviour and the steps taken to reduce the risk, for example, successful participation on relevant offending behaviour programmes, etc. Factors which mitigate a particular risk should also be discussed, evidenced, and recorded. This is particularly important when offenders are being considered for progression to less secure conditions or access to the community. It is also important for the RMT to consider risk scenario planning, early warning signs and the management plan to support community access.

**NB: All relevant Risk Assessments should be updated prior to transfer to less secure conditions.**

When considering temporary release, the following available information should be considered, recorded and may include, but is not limited to:



### **Details of Index offence and Previous Offending**

**LS/CMI risk assessment, RoSH and risk management plan (where identified), case management plan, interventions assessment, previous convictions from the Scottish Criminal Records Office (SCRO) and ICM processes should inform this Section.**

Information captured should include details of the index offence and any previous offending history. This information can assist the RMT in identifying connections or patterns in how an individual behaves such as: similar circumstances; victim type; methods of offending and hate crimes etc.

### **Statutory Review Position**

Details of any outcomes, date of next review and if applicable date of last review.

### **Response In Custody**

Information within this section describes how an offender has responded to custody, both positively and negatively. This may include a description of:

- how well an offender has maintained positive working relationships with professionals whilst evidencing any negative or anti-authority attitudes;
- disciplinary history indicating previous abuses of trust;
- engagement with a co-produced management plan;
- motivation to plan for release;
- how the individual responds to stressful and confrontational situations;
- how the individual responds to positions of trust;
- development of strengths and assets; and
- how the offender reacts to being challenged constructively.

### **Lifestyle/Personal Information (Resettlement)**

**Home Leave/Background Report, ICM processes and Social Work/ LS/CMI files** should be used to inform this section. Include any available information which may relate to the following:

- family relationships and levels of support;
- parental responsibilities, as well as specific family reintegration needs;

- is the support pro-social or negative and has this changed over time;
- has the address for Home Leave changed;
- has there been regular contact throughout the sentence from the resident of the home leave address;
- did they attend the ICM Case Conference;
- information about peer groups and intimate relationships and whether these relationships are protective or otherwise.
- has it been identified that the family require any support or advice? Is the proposed address for an overnight release acceptable and have appropriate arrangements been made;
- are there any individuals in the home or home area whose presence would increase or, conversely, minimise risk; and
- are there particular events, or dates which should be considered? For example, a family occasion?

### **Learning Skills, Employability and Learning Difficulties**

**PR2, ICM processes and Social Work/ LS/CMI files will inform this section.** Include any information available which may relate to the following:

- educational attainment and employability skills and whether this has changed over time;
- report on any issues the offender had in engaging with employment or educational programmes;
- do they have a history of poor attendance or poor work performance;
- is there any evidence of being dismissed regularly or resigning; and
- are there any links to offending i.e. sparetime

### **Substance Use**

**PR2, ICM processes, Healthcare and PBSW, ICM minutes and LS/CMI files will inform this section.** Include any information available which may relate to the following:

- any history of substance misuse;
- is this problematic and how is this managed;

- is it linked to offending (e.g. do they commit offences when under the influence or in order to obtain substances);
- attempts to stop using substances, now or in the past;
- is the substance use heavy or chronic;
- does the individual use multiple substances;
- is there any suspicion or involvement in drug dispersal/dealing;
- is there evidence that substance use leads to unsafe or dangerous behaviour or conflicts within personal relationships;
- is the substance use in the recent past; and
- drug test history.

### **Violent Conduct**

**PR2, PRA, ICM processes, ICM minutes and Social Work/ LS/CMI files will inform this section.**

### **Sexual Conduct**

**PR2, PRA, ICM processes, ICM minutes and Social Work risk assessments will inform this section.**

### **Health, Mental Health and Personality Disorder**

**PR2, Health care records, PRA, ICM processes, ICM minutes and Social Work/ LS/CMI files will inform this section.** Include any information available which may relate to the following:

- are there any known health issues;
- does the offender have any known learning difficulties or personality features that make it challenging to work with them;
- has the offender had any contact with the Mental Health Team or Health Care Team;
- are they on any medication;
- are they undergoing any therapeutic work to address mental health problems;
- how do they interact with others; and
- is there any evidence of emotional or behavioural instability, a domineering or hostile approach to others, deceitfulness, impulsiveness or a callous, uncaring attitude.

## **Interventions**

**PR2, ICM processes and Social Work/ LS/CMI files will inform this section.** Include any information available which may relate to the following:

- has the offender been assessed and offered a programme place to address offending behaviour;
- has the individual addressed their offending behaviour in a positive and successful way. For example, by completing a relevant programme and demonstrating learning by effectively implementing the skills from the programme;
- thinking about an individual's relapses, have there been any responsibility or motivational issues; and
- report if there is outstanding work required or programme recommendations and how it has been suggested that these can be met.

## **Insight and Attitudes**

**PR2, Post Programme reports, and ICM minutes and Social Work/ LS/CMI files will inform this section.** Include any information available which may relate to the following:

- does the individual understand or reflect on the reasons why they offended;
- in cases where monitoring and supervision are required, do they understand why this is necessary;
- do they have a reasonable plan to prevent them from reoffending and do they understand their risk;
- where relevant, are plans for reintegration realistic and appropriate?

## **Analysis of Offending**

**PR2, ICM processes, Psychology risk assessments and Social Work/ LS/CMI files will inform this section.**

This section should be completed by, or in consultation with PBSW and/or Psychology if a formal risk assessment is available. All offenders subject to statutory supervision on release should have an up to date risk assessment completed. All formal risk assessments and dynamic risk information should be reported.

## **Safeguarding (Child Or Vulnerable Adult) Summary**

**PR2, ICM minutes and Social Work will inform this section.**

Any known factors should be fully discussed at the RMT and where appropriate relevant information noted. However, **care should be exercised when recording sensitive information**. For data protection it may be appropriate not to provide detail within the documentation but instead to note “ Child Protection issues have been discussed and factored into Risk Management Plan”. Information may include:

- any child protection or vulnerable adult issues to be aware of;
- instances where the offender is known to children’s/social services; and
- possible risks from others. For example, individuals the offender needs to avoid (Domestic violence, sex workers, trafficking etc.)

## **Victim Considerations - Summary**

**PR2, ICM minutes and Social Work will inform this section.**

Any known factors should be fully discussed at the RMT and where appropriate relevant information noted. However, **care should be exercised when recording sensitive information**. For data protection it may be appropriate not to provide detail within the documentation but instead to note “ Victim issues have been discussed and factored into Risk Management Plan”

- does the victim have any relationship with the offender;
- is there a current VNS marker;
- is the victim living in the neighbourhood, or the area to which the individual would be going on release on temporary licence;
- is the offender aware of restrictions related to contacting victims;
- are there indications that the victim may be at risk if the individual were to be released;
- what is the offender’s attitude to the victim; and
- are there particular events or dates which need to be avoided. For example, the anniversary of an offence.

## **Intelligence Summary**

Any relevant intelligence should be discussed and considered at the RMT meeting. However, **care should be exercised when recording sensitive information.**

**For progression/community access cases, the following information should be provided**

**Supervision/Previous Time in Less Secure Conditions**

**PR2, ICM minutes, previous RMT minutes and Social Work will inform this section.**

Include any information available which may relate to the following:

- information which determines if the individual complies with supervision and has responded well to custody;
- how well the offender has maintained positive working relationships with professionals and describe any negative or anti-authority attitudes;
- details of any previous periods in less secure conditions and the circumstances of any return to closed conditions;
- engagement with regime and ICM process or any indication that their response to supervision has been superficial;
- Response to any previous community supervision. For example: did they abide by their conditions; have they ever escaped or absconded, including circumstances; does the individuals disciplinary history indicate previous abuses of trust; and
- LS/CMI should report nature, patterns seriousness and likelihood of reoffending.

**Details of any Previous Escape / Abscond History**

Details of any previous escape/abscond, where applicable. Include circumstances of events, dates, days at large and any convictions as a result.

**Confirmation of any proceedings under the Proceeds of Crime Act 2002**

This section should provide details of any outstanding proceedings/Confiscation Orders. Does this present an increased risk that the individual may offend further, fail to comply with licence conditions or possibly abscond?

**HDC**

Details of previous HDC periods and if applicable details of any current application or qualifying dates.

### **Special Escorted Leave**

Details of any SELs undertaken, including details of when, where, who was involved and positive or negative outcomes.

### **Placement Details**

Insert details of proposed placement and any details of current and/or previous placements. Details of any health issues that may have an impact on the proposed placement should also be documented.

### **FGTR Details (if applicable)**

Insert details of any previous FGTR approvals.

## **Section 6 – Community Access Risk Assessment/Community Risk Management Plan**

A CARA will be completed by the Head of Psychology, or a competent representative from the closed sending establishment, where an offender is being considered for progression to less secure conditions and/or community access. This will inform the CRMP and will detail how it is proposed to manage any risks or presenting concerns, including any referrals and approximate timescales and subsequently agreed by the RMT.

In addition; offenders subject to Serious Crime Prevention Orders (SCPO) should also have these conditions taken into account when outlining licence conditions. Where an offender is subject to a SCPO, this should be noted on the Risk and Conditions screen within PR2.

**Risk Factors** – The [RMA Standards and Guidelines for Risk Management](#) document defines identified risk factors as aspects of the offender's personal, inter-personal and environmental context that cause, contribute or increase the likelihood of the person re-offending. These factors will form the focus of risk management strategies.

**Early Warning Signs** - The [RMA Standards and Guidelines for Risk Management](#) document defines early warning signs as those noticeable behaviours, events and other indicators that might provide staff and others who come into contact with the offender (the family, agencies etc.) with an indication that the person is entering into a period of critical risk. These signs, which warn those involved in the management of the offender that offending might be imminent, can be utilised as an opportunity to intervene in an effort to prevent the deterioration or take other action to protect victims. ***Possible Early Warning Signs of Increased Risk***  
Examples include:

- any behaviours or statements that indicate an increase in interest or preoccupation with violence;
- attitudes that support or condone violence;
- significant or sudden changes in appearance, behaviour or demeanour;
- aggression, including threats of violence after a period of calm;
- distress or grief;
- signs of increased alcohol/drug use or abuse;
- disengagement from services including: non-attendance; insufficient participation; discontinuation of medication or failure to disclose relevant information;
- non-compliance with conditions of release or general conduct rules;
- homelessness or change of address;
- breakdown or turmoil in relationships with significant others, including illness or death;
- new and inappropriate associations, with offenders, potential victims, etc;
- social withdrawal following a pattern of sociable engagement or participation;
- evidence of intolerance or a diminished threshold for frustration and distress;
- other actions related to the offending cycle (acquiring car, new relationship with mother of young children, etc).

All early warning signs that would indicate a change in risk should be recorded in this section, together with the proposed action/response that should take place in relation to the early warning sign.

**Protective Factors** - Protective Factors are circumstances, relationships or characteristics that have a mitigating effect on risk.<sup>6</sup> Where strengths may be the positive characteristics, relationships or circumstances that act as a buffer, build resilience and promote pro-social

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<sup>6</sup> Risk Management Authority (2011). Framework for Risk Assessment, Management and Evaluation. Paisley: Author.



behaviour, protective factors contribute beyond these functions to directly influence the likelihood and impact of offending. Therefore, they have an important role within risk management.<sup>7</sup>

The consideration of identified protective and risk factors should contribute to an individual's likely risk scenario which then informs appropriate and proportionate risk management strategies. For example, contingency planning should include an awareness of any identified protective factors, as the weakening or breakdown of them could provide early warning signs and evidence of imminence. Another example, within risk management planning, would be the inclusion of supportive measures aimed at either developing a potential protective factor, or maintaining and reinforcing an existing one.

**Example of a Community Access Risk Assessment / Community Risk Management Plan:**

<b>Risk Factors, areas of concern or issues to be addressed</b>	<b>Early Warning Signs</b>
Violence	<p>Any threats of violence, indications of aggressive behaviour or carrying of weapons.</p> <p>Association with any individuals who have pro-violent attitudes. Associations with negative peers involved in the distribution or supply of illicit substances which may also increase the likelihood of weapon carrying and/or aggressive behaviour.</p> <p>Signs of rumination, social withdrawal and low mood or substance misuse.</p> <p>Indications of relationship breakdown or instability.</p>

<sup>7</sup> Risk Management Authority (2007) *Standards and Guidelines: Risk Management of Offenders Subject to an Order for Lifelong Restriction*. Paisley: RMA

	<p>A perception that he/she has been slighted, e.g. if he/she perceives that there is a challenge to his/her status, position or family.</p> <p>Increase in negative attitudes e.g. increased denial or justification for the use of violence.</p>
Using/accessing alcohol or substances	<p>Appearing under the influence or displaying behaviours associated with substance misuse, associating with substance users e.g. socialising in public houses, associating with negative peers related to the distribution or use of illicit substances, verbalising or justifying the use of substances or alcohol or being resistant to intervention in relation to the above.</p> <p>Chaotic interpersonal relationships which have historically increased the likelihood of his/her substance use. Monitor interpersonal relationships for signs of breakdown or instability.</p>
Negative peer associations	<p>Seeking out opportunities to associate with negative peers is likely to indicate an increase in violence and/or substance misuse.</p>
Distribution of illicit substances	<p>Non compliance or secrecy in interactions with professionals, availability of unaccountable money or goods, associating with negative peers, either using or distributing substances, increased influences and changes in social interaction and networks.</p> <p>Increased stress relating to lack of regular income leading to conflict in interpersonal relationships.</p>
Motivation and attitudes towards authority and/or compliance; he/she has a history of entrenched antisocial attitudes and non engagement with	<p>Early warning signs include a reduction in motivation towards pro-social lifestyle, increase in stress in relationships, signs of substance</p>

professionals which has led to a criminal lifestyle and violence.	misuse and/or distribution of illicit substances (see risk factors above).
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**Risk Scenarios**

**(Example responses)**

<p><b>Who</b> <i>(are the likely victims)</i></p>	<p><i>Male or female negative peers or others associated within the local drug culture.</i></p> <p><i>Individuals who he/she perceive to demean or humiliate him/her (be gender specific where possible).</i></p> <p><i>Anyone who threatens to, or hurts people they love (be gender specific where possible).</i></p> <p><i>Victims of future violence are likely to be... (specific whether male/female victim).</i></p> <p><i>In relation to his/her general offending there are no discernible victim type.</i></p>
<p><b>What</b> <i>(is likely to happen; what will the offending look like)</i></p>	<p><i>Violence including the use of weapons.</i></p> <p><i>Violence to maintain control of drug distribution.</i></p> <p><i>Impulsive, aggressive reactions to staff.</i></p> <p><i>Possession of drugs or weapons.</i></p> <p><i>Assault, sexual assault of female/child.</i></p> <p><i>Failure to return due to intoxication.</i></p>
<p><b>Why (Formulation)</b> <i>(what will be happening in the offender's life that will make him/her want to offend)</i></p>	<p><i>Indicators of drug / alcohol misuse.</i></p> <p><i>Relationship difficulties.</i></p> <p><i>Unsuitable employment. (selling illicit substances)</i></p> <p><i>Lack of structure to day.</i></p> <p><i>Associating with negative peers.</i></p> <p><i>Perception that he/she is being demeaned or humiliated.</i></p>
<p><b>When</b> <i>(when will this happen; how imminently)</i></p>	<p><i>The imminence of further serious violent offending occurring is not considered high at this time; however should Mr/Ms misuse drugs and/or alcohol the likelihood of further offending would significantly increase.</i></p>

	<i>Perception that he/she is being demeaned or humiliated is likely to lead to imminent violence.</i>
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### **Protective Factors**

<b>What factors support the offender for progression?</b>	<b>What are the actions that will enhance the effect of these factors?</b>
Completion of all identified offending behaviour programmes and the demonstration of the learning outcomes.	<i>Continue to utilise the skills learned on intervention programmes and work closely with support agencies. Remain honest and open with staff and implement the self-management of his/her emotions. Be vigilant to possible triggers and high risk situations.</i>
Positive family support	<i>Continued regular contact with family members through visits and telephone conversations. Being open with family members about any pertinent issues or concerns. Continue to take SELs and progress to unescorted leave when appropriate.</i>
Motivation for progression	<i>Continue positive engagement with all professional services.</i>
Participation in pro-social aspects of prison regime	<i>Continued participation to be encouraged.</i>
Sustained provision of negative MDTs and reduction in ORT	<i>Continue to provide negative MDTs and reduce further ORT.</i>
Positive pro-social attitudes towards authority and compliance.	<i>Continued pro-social attitudes and behaviours and engagement with professional services.</i>

### **Management Plan**

<p><b>Monitoring</b></p> <p><i>What is the best way to monitor the warning signs that risk is increasing?</i></p> <p><i>What events, occurrences or circumstances should trigger a reassessment of the individual's case management or risk?</i></p>	<p><i>Mr/Ms... should continue to be subject to regular MDTs. Also potential for alcometer testing on return from community access. Any change in family support network should be assessed to ensure no increase in potential risk. Any episodes of violence or aggressive behaviour should be challenged and referred to RMT.</i></p> <p><i>Mr/Ms... has identified the correlation between his/her drug use and difficulties within intimate relationships; it would be beneficial to provide Mr/Ms... with support at these times. Placement officer will liaise with placement provider on a regular basis to monitor progress.</i></p> <p><i>Monitor for social isolation, e.g. low mood, ruminating or withdrawal from regime/professional services.</i></p> <p><i>Increased availability of money, secrecy, increase in social status within peer group, or non compliance.</i></p>
<p><b>Treatment</b></p> <p><i>What Interventions are required?</i></p>	<p><i>Mr/Ms... has completed all appropriate interventions. He/she should continue to utilise skills learned.</i></p> <p><i>Continue to engage with NHS Addictions in order to reduce further his/her ORT.</i></p>
<p><b>Supervision</b></p> <p><i>What supervision strategies are required to manage the risk posed? Licence Conditions required.</i></p>	<p><i>Consider any other strategies in addition to standard licence conditions.</i></p> <p><i>Meet with Community Supervising Officer on periods of Home Leave.</i></p>
<p><b>Victim Safety Planning</b></p> <p><i>What is required to protect potential future victims? Licence Conditions required?</i></p>	<p><i>VNS considerations</i></p> <p><i>Standard licence conditions.</i></p>
<p><b>Accountability</b></p> <p><i>How will progress be monitored?</i></p> <p><i>Who will monitor progress and how often will it be reviewed?</i></p>	<p><i>Personal Officer/Psychologist/PBSW... will be responsible for working with Mr/Ms... in relation to..... and submit weekly/monthly updates to CIP that reflect progress. If any risk factors are presenting as having increased, consideration should be given to RMT review.</i></p>

## Section 7 – Decision of the RMT

Decisions taken must be recorded and defensible, prior to this being signed off by the Chairperson of the RMT. Section 7 should be copied and provided to the offender to inform them of the outcome of the RMT as soon as possible after the final minute of the meeting has been agreed, outlining any future actions required. If the decision of the RMT is not to approve progression, the individual must be advised what steps they require to take prior to being reconsidered. Where the RMT requires to adjourn a meeting for a specific reason, this also should be recorded, clearly outlining the reasons.

Where the RMT has approved an offender for progression to less secure conditions or community access, a Statement of Assurance should be completed by the Chair of the RMT. This Statement of Assurance is confirmation that the RMT Chair has considered all available information through a robust assessment of risk factors, the community Risk Management Plan is suitable and that it is appropriate for the offender to progress to less secure conditions and/or unescorted community access.

Where the RMT in closed conditions has approved an offender for progression to less secure conditions, the RMT Minute is forwarded to the receiving establishment to arrange transfer. Where the receiving establishment may have concerns about management of the offender in less secure conditions, they should be raised with the sending establishment prior to transfer of the offender and within two weeks of receipt of the RMT documentation. Pending transfer, the RMT at the sending establishment should then consider any concerns raised and determine if the decision of to transfer should stand or be reconsidered. It would be considered good practice for both establishment RMTs to work collaboratively in reaching the best outcome for the person awaiting transfer. Decisions should be recorded in Statement of Assurance within Section 7 of Annex A.

The transfer should then take place at the earliest opportunity. If the offender has not transferred within four months of approval, then the RMT should reconvene to review the reasons why and take any further actions considered necessary to facilitate progression.

## **Section 8 – Attendance**

This section should clearly record the names of all attendees at the RMT meeting along with their position/role.

## **Section 9 – Administration**

This section should clearly record whether:

- The CIP has been updated and RMT document uploaded to PR2
- The LS/CMI Case Management Plan has been updated
- The offender has been advised of the outcome through provision of RMT minute
- A PMAG Referral has been submitted (See Guidance Notes for Annex D)
- A PMAG Approval has been received and attached to RMT document
- An FGTR has been submitted (See Section 15 and Annex J)

### Referral to Prisoner Monitoring and Assurance Group (PMAG)

The Prisoner Monitoring and Assurance Group (PMAG) is an advisory body, which is chaired by the Head of Operations and Public Protection. Its membership is comprised of the Deputy Governors or Assistant Directors of HMPs Addiewell, Barlinnie, Edinburgh, Castle Huntly, Edinburgh, Glenochil, Greenock, Kilmarnock, Low Moss, Perth, Shotts, and any other Deputy Governor who has a case for consideration.

The PMAG, which meets monthly, is constituted to provide advice to Governors and assurance to the Director of Operational Delivery in relation to the following cases:

- The management of individuals who have been removed from association for 3 consecutive months or more;
- The management of individuals who have been held in a Separation and Reintegration Unit (SRU) for 3 consecutive months or more, who refuse to return to mainstream circulation; and
- The management of difficult individuals, who the Deputy Governor wants to refer to PMAG for advice (this can include those who are approaching 3 months in an SRU or any other operational issue). (Referral form for such cases and further PMAG details contained within [GMA 28A/13](#))

The PMAG is also responsible for considering and approving (where appropriate) the progression of previous absconders/escapees to less secure conditions, where a local RMT has recommended that it is in the public interest that a particular individual be allowed to progress to less secure conditions.

In such cases, Annex D – Referral to PMAG must be completed and presented (alongside Annex A) at the next available PMAG meeting by the Deputy Governor. There is a presumption

against any offender progressing to less secure conditions and gaining unescorted access to the community where there has been a previous abscond or escape episode. Where an RMT is recommending the progression of such an offender, the Chair of the RMT must clearly and in detail identify the specific circumstances that were considered to be exceptional or of such criticality to justify progression, given the 'presumption against'. [See 14.3](#) for further details on the progression of previous absconders/escapees.

In terms of defensible decision making (see section 6), it is essential that PMAG notes the case made by the RMT in the closed establishment, and considers whether the specific circumstances are exceptional or of such criticality to justify progression, given the 'presumption against'. It is also necessary in all cases to identify that progression is in the public interest. If no such case is, or can be made, then progression should be refused and reasons clearly recorded.

## **Section 10 – Assurance: RMT in Less Secure Conditions**

This section should be completed by the Chairperson of the RMT in less secure conditions following approval of progression by the sending establishment.

Whilst it is the responsibility of the RMT in the closed establishment to make a decision on the progression of an offender to less secure conditions, it is the responsibility of the RMT in less secure conditions to decide when/if an offender is granted unescorted access to the community and if the management plan proposed by the sending establishment is appropriate.

Section 10 should therefore record the decision of the RMT in less secure conditions. In reviewing the case, the RMT in less secure conditions should update Section 6 and provide an updated individualised management plan on how the offender should be managed, if community access has not been granted. This should include plans to manage any presenting concerns and approximate timescales when this will be considered again.

### **11.3 Adjournment**

Where the RMT requires to adjourn a meeting for a specific reason, this reason should be clearly recorded in Section 7 – Decision of RMT, together with an approximate timescale in which the RMT will be reconvened. Assuming there has been no adverse development, the discussion and decision at the reconvened RMT should be recorded on the [RMT Addendum Form \(Annex C\)](#). If there has been an adverse development between the date of the



adjourned RMT meeting and the proposed date for the reconvened RMT, then a new RMT Referral Form and Minute of Meeting Form should be used, as the reasons for the RMT meeting may have changed.

## 11.4 Review and Re-referral

The RMT should set a review timeframe or specify the conditions of a review for an offender in order to manage progress and highlight, where necessary, amendments to Case Management and/or RMPs. This should be recorded in Section 7 – Decision of RMT and Section 6 Management Plan should be amended accordingly.

## 11.5 Suitability for Psychological Risk Assessment (PRA)

All referrals for PRA **must** be actioned by the RMT only. The Psychologist attending the RMT must also agree to and approve the referral. Referrals for PRA should only be made where it is considered that the report would supplement what is already known about the offender. If an offender transfers to another establishment prior to completion of PRA, the sending establishment has responsibility to complete this, or liaise with the receiving establishment in order to agree uptake.

RMTs should consider the following when deciding whether or not a PRA is required:

- serious unexplained concerns about the offence. For example, unusual crime or offending profile, unclear motivation;
- additional concerns about behaviour in custody that staff are having difficulty managing;
- offender represents a Risk of Serious Harm (RoSH) whereby there is no obvious route to reduce risk; and
- Where an individual denies some, or all, of the index offence, and that has inhibited their participation on programmes to address their offending behaviour (See [GMA 11A/13](#))

## 11.6 Offender attendance at RMT

The attendance of offenders and their families is at the discretion of the RMT Chair who will decide, on a case by case basis, whether attendance is appropriate. An offender should be permitted to make representation at all RMTs.

## 11.7 Circulation of RMT minutes

Section 7 - Decision of RMT, should contain a clear record of the discussion and management recommendations. As such, it is important that they are agreed as a true record by all attendees. The minute taker will circulate a draft copy with any comments or amendments and should be returned *within 1 week of the RMT*. Following this, a final copy will be produced as an 'agreed' version. The offender should then receive a copy of Section 7 – Decision of RMT as soon as possible. Should the offender require a copy of the full RMT documentation, then this should be considered via a Subject Access Request (SAR).

## 11.8 Redaction of RMT minutes

Under SAR, a copy of the Risk Management Team Referral Form and Minutes of the meeting should only require to be redacted for an offender if it contains sensitive personal data belonging to a third party or it contains potentially damaging information such as anything that would be likely to:

- adversely affect the health and welfare or safety of any other person;
- result in the commission of a crime;
- facilitate an escape from legal custody or the commission of any act prejudicial to the safe keeping of persons in legal custody;
- impede the prevention or detention of offences or the apprehension or prosecution of suspected offenders; and/or
- damage the public interest.

## 11.9 Storage of RMT minutes

Once RMT minutes have been finalised, a copy of the minute should be uploaded to the Community Integration Plan section (Risk Assessment) on PR2.

## 11.10 Complaints about RMT Decisions

Where an offender wishes to raise a formal complaint about the decision of the RMT, they should do so in writing, by completing Part 1 of the Prisoner Complaints Form (PCF1).

# 12 Standard Criteria for Progression

## 12.1 Progression to NTE/OE/CIU/STP Community Access

The standard criteria for progression is an assessment of an offender's **eligibility** for consideration by a RMT for progression and/or unsupervised community access. STPs can be considered for community access regardless of location. It will be for the RMT to assess whether the offender is **suitable** for progression and/or community access (having met the standard criteria), taking into consideration: the risk that they present; whether that risk can be safely managed in the community and will depend on work placement availability of such opportunities in each establishment.

An offender may be **eligible** for consideration for progression, if they satisfy the following standard criteria:

- offender wishes to be considered for a transfer to less secure conditions and/or unsupervised access to the community;
- offender has been assigned low supervision status;
- offender is free of misconduct reports, which resulted in an award greater than a caution, within the preceding 3 months;
- offender is not subject to a deportation order or if they are subject to a deportation order have already been granted temporary release within the last 3 months under Rule 134
- offender has no outstanding criminal charges;
- offender has had no positive, and at least one negative, drug tests within the last three months;
- offender has served the appropriate period of their sentence in closed conditions as per the Progression Pathway; and
- LTPs being considered for unescorted community access are located within less secure conditions.

## 12.2 Progression to CIU

It will be for the local establishment to assess whether a low supervision offender is **suitable** for transfer to a CIU taking into account behaviour in custody and previous escapee/absconder status. However, before unsupervised community access can be granted they must meet the Standard Criteria for Progression as outlined in Section 12.1.

## 13 Progression Pathway

The Progression Pathway defines the criteria and minimum period of sentence that each offender type is expected to serve in a secure establishment before being eligible for consideration by the RMT for progression to less secure conditions. There are three key areas that are relevant when considering progression: time served, risk and behaviour in prison. There is a public expectation that an offender will spend a period of time in a closed prison before accessing the opportunities afforded in less secure conditions.

Only following these defined timeframes, will someone be eligible to progress. In terms of risk of re-offending, an offender must demonstrate that they have taken steps to reduce their risk, *and* there must be sufficient evidence that the risk presented can be managed in the community. Less secure conditions provide the opportunity within which appropriate 'testing' of this can be undertaken. In addition, decisions regarding progression also take into account the extent to which the offender has positively engaged with the prison regime. This includes, but is not limited to: supervision level; conduct including intelligence; engagement with case management and motivation to change through: addressing addiction problems; completion of identified offending behaviour programmes; engagement with employability and education.

The recommended timescales differ for the following categories of offender:

- Life Sentence Offenders;
- Order for Life-long Restriction (OLR) Offenders and those sentenced to an Indeterminate Sentence for Public Protection (IPP);
- Long-Term Offenders (i.e. those sentenced to a total of 4 years or more; and
- Short-Term Offenders (i.e. those sentenced to less than 4 years).

**NB: All relevant Risk Assessments should be updated prior to transfer to less secure conditions.**

### **13.1 Progression Pathway for Life Sentence Offenders**

The SPS seeks to provide a life sentence offender with a reasonable opportunity, by the time of the punishment part expiry (PPE), to demonstrate that they are suitable for release by the Parole Board for Scotland.

In the vast majority of cases this is unlikely to require more than two years in the NTE followed by two years in the OE. The actual time required to spend in the NTE and OE will be a matter for the RMT, based on the risks presented; however, the testing phase of the management of life sentence offenders should commence no earlier than 4 years prior to the expiry of their punishment part. Whilst there is an expectation that life sentenced offenders will be tested through community access prior to release, it should be noted that the Parole Board for Scotland can direct release from closed conditions.

A number of factors such as; the extent to which the offender has positively engaged with the prison regime, the offender's supervision level, conduct in custody, addiction problems and steps taken by the offender to address his or her offending behaviour will affect the timing of consideration for a transfer to less secure conditions. These factors could therefore result in an offender being beyond PPE before being eligible for consideration for less secure conditions. Where it is assessed as necessary to evidence reduction of risk, life sentenced offenders will require to be tested in the community.

How the offender is to be tested will depend upon the individual, however, currently this can be achieved through access to SELs, temporary release for various purposes including work placements and HL. The opportunities required to demonstrate reduction of risk is a matter for the RMT and it is for the RMT to decide what is necessary at each stage, taking into account the requirements to apply for FGTR. Stages can include: access to SELs and placement at NTE; access to community placements; temporary release and HL at the OE. These steps need not be prescriptive and the actual testing required is a matter for the RMT to consider and the steps necessary to allow the offender to demonstrate that their risk is manageable and that they are suitable for release.

## 13.2 Progression Pathway for OLR Offenders

The timescales for considering the progression of an OLR offender to less secure conditions will depend on the length of their punishment part taking into account the risk that they present to the public. The SPS seeks to provide an OLR sentence offender with a reasonable opportunity, by the time of the PPED, to demonstrate that they are suitable for release by the Parole Board for Scotland.

An OLR offender may be considered for transfer direct to OE from a closed establishment, or can spend a period in NTE prior to transferring to OE. The actual time required to spend in less secure conditions will be a matter for the RMT based on the risks presented; however, the testing phase of the management of OLR sentence offenders should therefore commence no earlier than two years prior to the expiry of their punishment part. Whilst there is an expectation that OLR offenders will be tested through community access prior to release, it should be noted that the Parole Board for Scotland can direct release from closed conditions.

A number of factors such as: extent to which the offender has positively engaged with the prison regime; supervision level; conduct in custody; addiction problems and steps taken by the offender to address his or her offending behaviour will affect the timing of consideration for a transfer to less secure conditions. These factors could therefore result in an offender being beyond PPE before being eligible for consideration for less secure conditions.

Where it is assessed as necessary to evidence reduction of risk, OLR offenders will require to be tested in the community. How the offender is to be tested will depend upon the individual; however, currently this can be achieved through access to SELs, temporary release for various purposes including work placements and HL. The opportunities required to demonstrate reduction of risk are a matter for the RMT and it is for the RMT to decide what is necessary at each stage. However, RMA Standards require the RMT to evidence that collaboration with community based partners, including social work have taken place to inform plans for progression and community access. Stages can include access to SELs and placement at NTE, access to community placements, temporary release and HL at the OE. These steps need not be prescriptive and the actual testing required is a matter for the RMT to consider what steps are necessary to allow the offender to demonstrate that their risk is manageable and that they are suitable for release.

### 13.3 Risk Management Plan (RMP) Approval Process for OLR Offenders

Where an OLR offender is being considered for progression from closed conditions to less secure conditions at either NTE, or direct to OE, the RMP will require to be *amended* by the sending establishment's RMT. The amended plan must be submitted to the RMA for approval. Once the plan has been approved, the case should be considered by the RMT again to ensure there have been no further significant developments and to update Section 7 of the RMT Referral Form and Minute of Meeting to accurately record that the RMA has approved the amended Risk Management Plan. The offender is then ready to transfer to less secure conditions.

Where an OLR offender located at NTE is subsequently being considered for progression to unescorted community access and/or progression to the OE, the RMT will be required to discuss the case and decide how significant the pending reduction in restrictions are in relation to the risk management of the individual. It is for the RMT to decide if the RMP requires to be *updated* to ensure all relevant detail is included or if the plan requires to be *amended* for consideration by the RMA. In both circumstances the rationale for the decisions should be recorded within the RMT minute. In deciding on the merits of updating or amending the RMP, the RMT should consider two issues:

- Whether the individual has evidenced self-management skills that suggest they are ready for the challenges unescorted community access / transfer to OE will bring; and
- Whether the existing plan outlines adequate support mechanisms to supplement this and identifies any early warning signs or changes in risk that would signal a need to pause progression and review.

If the answer to either or both is no, and the RMT decides against amending the plan, it should be able to provide a robust and detailed rationale for this in the RMT minute.

### 13.4 Return to Less Secure Conditions for an OLR Offender

Where an OLR offender who has previously progressed to less secure conditions at NTE, or OE and returned to closed conditions is subsequently being considered again for progression, the RMT will be required to discuss the RMP to determine if the progression represents a significant change. If the RMT decide that the currently approved plan remains appropriate, the plan should be *updated* to ensure all relevant detail is included. Updated plans do not require RMA approval. If it concludes that the progression represents a significant change, the

plan will need to be *amended* and submitted to the RMA for approval. An *amended* plan is altered in light of significant change and requires RMA approval. In both circumstances the rationale for the decisions should be recorded within the RMT minute.

### 13.5 Progression Pathway for Recalled Life Sentence Offenders

If a life sentenced offender is recalled to custody with no additional sentence there is no minimum period to be spent in closed conditions before they can be considered for a return to less secure conditions. They should be considered on a case by case basis taking into account risk, any identified needs and outcome of the Life Prisoner Tribunal (LPT) hearing. If the individual receives an additional sentence they will serve 50% of that sentence prior to the next LPT. They should therefore be considered in line with progression dates for a determinate sentence offender.

### 13.6 Progression Pathway for Long-Term Offenders

The RMT should consider what period is reasonable to allow the offender to demonstrate suitability for release. In the vast majority of cases this is unlikely to require more than two years in the OE. The actual time required to spend in the OE will be a matter for the sending establishment RMT, based on the risks presented. However, the testing phase of the management of long-term determinate sentence offenders should therefore commence no earlier than two years prior to the parole qualifying date (PQD).

Long-term determinate sentence offenders (LTPs) may be eligible for consideration for transfer to the OE providing:

- they meet the standard criteria for progression;
- they have served a minimum period of six months in closed conditions to allow sufficient time for proper assessment to be carried out; and
- the RMT considers they are suitable for progression to less secure conditions.

LTPs will usually transfer direct from closed prisons to the OE. However, LTPs may be gradually tested in NTE, prior to progression to the OE, if they have been placed there as a result of a specific decision based on the assessment of risk.



Where an LTP has previously breached licence conditions and been subject to revocation of licence, the RMT will consider the potential for transfer to NTE rather than directly to OE. If having considered the circumstances the RMT are minded to transfer to OE, there should be specific reference within the RMT minute as to why a transfer to OE was considered appropriate in this case.

### **13.7 Progression Pathway for Extended Sentence Offenders**

Progression of extended sentence offenders should be as described for both LTPs and STPs, depending on the length of their custodial part. If an extended sentence offender is recalled to custody with no additional sentence they can be considered for a return to less secure conditions on a case by case basis taking into account any further identified needs and outcomes of the extended sentence tribunal hearing. If the individual receives an additional sentence they will serve 50% of that sentence prior to the next tribunal hearing or their sentence expiry date whichever comes first. They should, therefore, be considered in line with progression dates for a determinate sentence offender.

### **13.8 Progression Pathway for Those Serving Short-Term Sentences (STPs)**

The purpose of progression for STPs is to provide the opportunity of community access for those offenders coming towards the end of their sentence, where it can be evidenced that there is a rationale for it being of benefit to them on release. Potential benefits include: help in adjustment to the community environment: the opportunity to strengthen self-management and other skills: help to maintain/establish links with community services which may contribute to well-being: risk management and help to maintain/build links with important support networks.

STPs serving sentences of 12 months or more (and less than 4 years), with low supervision level may be considered for community access (as detailed in Section 8.7) regardless of location and can be considered for transfer to the OE providing:

- they meet the standard criteria for progression;
- they have served a minimum period of 3 months in custody to allow sufficient time for adequate assessments to be carried out; and

- the RMT considers they are suitable for progression to less secure conditions.

Consideration should be given to HDC qualifying dates and whether the HDC process has commenced. Transfers should not take place if this would have the effect of debarring the offender from HDC or reducing the period of time spent on HDC.

## 14 Offenders Requiring Special Consideration

### 14.1 Offenders transferred from other UK jurisdiction

Schedule 1 to the Crime (Sentences) Act 1997 makes provision for the transfer of offenders from one United Kingdom jurisdiction to another. The main purpose of inter-jurisdictional transfers is to enable offenders to maintain family contact. Offenders apply, in the first instance, to the jurisdiction in which they are detained. However, both jurisdictions must agree to a transfer before it takes place. Transfer is not a legal entitlement and offenders must meet the agreed UK criteria for transfers as laid down in a statement to the UK Parliament on 28 October 1997.

[House of Commons Hansard Written Answers for 28 Oct 1997 \(pt. 2\)](#). Each case is considered on its individual merits taking into account any compassionate or compelling circumstances.

The 1997 Act provides for offenders to be transferred to another jurisdiction on either an unrestricted or a restricted basis.

Where an unrestricted transfer is granted, the sending jurisdiction relinquishes all control over the offender. The offender will serve the remainder of his sentence in the receiving jurisdiction as if that sentence had been passed there, and will be subject for all purposes to the statutory and other provisions applying to offenders within the receiving jurisdiction. An offender granted a restricted transfer will automatically remain, for the duration of his or her transfer, subject to the law governing detention, ultimate release, post-release supervision and recall applicable in the sending jurisdiction. In addition, any other condition relating to the terms of an offender's detention as the Minister in the sending jurisdiction may deem appropriate in any particular case or class of case may be attached to the transfer.

Unless the transfer is time limited, an offender transferred on a restricted basis will normally become subject for all purposes, other than those specified in any conditions attached to the transfer, to the prison rules and procedures applying to offenders in the receiving jurisdiction.

Regardless of whether or not an offender is transferred to Scotland on restricted or unrestricted basis, their day to day management is for the SPS. Therefore, transferred offenders may be eligible for consideration for progression to less secure conditions in line with the relevant progression pathway for their sentence length.

## 14.2 Offenders Sentenced to Imprisonment for Public Protection

Imprisonment for Public Protection (IPP) was a type of life sentence issued by Courts in England and Wales. The ability of a court to sentence individuals to an IPP has been revoked. However, there are a number of offenders in England and Wales serving this type of sentence. To be given an IPP sentence an offender had to be:

- aged 18 or over;
- convicted of a serious specified violent or sexual offence committed on or after 4 April 2005, for which the maximum penalty is 10 years or more; who
- in the court's opinion, pose a significant risk of harm to the public.

IPP offenders may be transferred to Scotland on a **restricted basis** in accordance with the Crime (Sentences) Act 1997, where they meet the criteria for such transfers; where the day to day management is for SPS, and matters of release and post release supervision are for the authorities in England and Wales.

As the levels of risk reduce, a referral should be made to the RMT in the standard way. The appropriate timescale for considering IPPs for progression to less secure conditions will depend on the length of their punishment part, the risk that they present to the public, the steps they have taken to reduce their risk and whether or not they meet the standard criteria for progression. Given the unique arrangements for the management of IPP offenders, there is no minimum qualifying period before IPPs with low supervision level may be considered for transfer to NTE or the OE. Whilst the length of the preparation for release phase for IPP offenders should be determined on its individual merits, the maximum period an IPP offender would be expected to spend in NTE is 2 years followed by 2 years in the OE, and this is prior to the expiry of their punishment part.

Offenders subject to IPP may transfer direct from a closed prison to the OE or, alternatively, they may be gradually tested in NTE for a period, prior to progression to the OE. Each case shall be considered on its individual merits, having regard to the risk that they present, and

whether or not the RMT considers they require to be gradually tested in NTE prior to progression to the OE.

## 14.3 Progression of Previous Absconders and Escapees

### Background

There is a presumption against any offender progressing to less secure conditions or being granted unescorted access to the community where there has been a previous abscond or escape episode unless it is in the public interest. The Chair of the RMT will therefore take all possible steps to check the previous escape/abscond status of any offender being considered for progression to less secure conditions or access to the community.

### Definition of Abscond/Escape

In relation to this guidance, the definition of an escape and abscond is as follows:

- **Escape** – where an offender breaches a security perimeter; breaches a security barrier; or evades a secure escort and the escapee is out of sight of the escorting officers; and
- **Abscond** – where any low supervision offender leaves a place of custody, without permission, that does not have a secure physical external perimeter or where an offender who has been temporarily released on licence fails to return to lawful custody (does not include HDC) at a designated time.

Any offender who is deemed to have escaped and/or absconded, as per the definition above, must have a corresponding risk and condition applied on PR2. In the case of historic escapes/absconds, including information available to SPS which suggests that an offender previously escaped/absconded from a secure Children's Unit, Police/Court Custody or from another jurisdiction etc, it may be necessary to apply the risk and condition retrospectively on PR2. For further information on Escape/Abscond Risk Markers applied to an offender's record on PR2, please see associated [Desktop Instructions](#).

Where the establishment's RMT has information to suggest that the offender has previously escaped or absconded, (including from court or police custody, a secure Children's Unit, or any other jurisdiction), and the RMT in the closed establishment recommends that it is in the public interest for the offender to be allowed to be tested in less secure conditions, the RMT should ensure that the case is forwarded to the Prisoner Monitoring and Assurance Group

(PMAG), using Annex D - PMAG Referral Form prior to any movement to less secure conditions. (See Page 42 for the role of PMAG). The process does not apply to those who have offended whilst accessing the community, or those who have attempted to escape or abscond. Such breaches of trust or offending behaviour should be considered as a risk factor by the local RMT.

### **Progression of OLR offenders with previous abscond/escapee episodes:**

As the levels of risk reduce, and an OLR offender becomes eligible for consideration for progression to less secure conditions (in accordance with the Progression Pathway and standard criteria for progression), then a referral should be made to the RMT in the normal way and the RMP should be sent to the Risk Management Authority (RMA) for approval. The RMT must convene again to consider the outcome of the RMA and if content, the case including the RMP and all relevant documentation must be referred to PMAG. The chair of PMAG will take the final decision to transfer an offender to less secure conditions or to refuse a proposed transfer, on behalf of the Scottish Ministers under section 10(2) of the Prisons Scotland Act 1989.

### **The case to be made**

Where the RMT makes a recommendation for progression of a previous escapee/absconder, the Chair of the RMT should, no later than 2 weeks following the RMT, complete Section 10 of the RMT documentation and forward it to the Head of Operations and Public Protection.

The establishment's case for progression must clearly, and in detail, identify the specific circumstances that were considered to be exceptional or of such criticality to justify progression, given the 'presumption against'. It is also necessary in all cases to identify that progression is in the public interest. If no such case is, or can be made, progression should not be approved.

### **The public interest test**

The Public Interest test has been described as "something which is of serious concern and benefit to the public", not merely something of individual interest. It has also been described as "something that is "in the interest of the public", not merely "of interest to the public." In other words, it serves the interests of the public.

The decision to be reached based on the evidence available is whether in a particular case it serves the interests of the public better to permit the offender, with a previous escape or

abscond, to access less secure conditions than it would be to deny that access. The public interest might be served by allowing access to test risk and evidence suitability for release. Withholding access to less secure conditions when it is a necessary step for the offender to demonstrate suitability for release would not normally be in the public interest as the offender would be held longer than is necessary in closed conditions.

### Progression to less secure conditions

The following represents the responsibilities involved in the assessment of offenders for onward movement to less secure conditions, where a previous history of escaping or absconding has been identified:

- RMTs at sending establishments must clearly, and in detail, identify the specific circumstances that were considered to be exceptional or of such criticality to justify progression;
- sending establishment has responsibility to engage with the relevant receiving establishment prior to the RMT, to ensure that any risks and outstanding needs can be managed within less secure conditions;
- prior to any case being referred to PMAG, the relevant receiving establishment will have confirmed in principle that they are able to manage any risks and address any outstanding needs within less secure conditions;
- RMTs at sending establishments should be satisfied that the decision supporting progression is in the public interest and recorded appropriately;
- PMAG should review the case as presented and confirm that the decision taken locally is defensible. It must also be satisfied that the decision is in the public interest;
- The Chair of PMAG will take the final decision to transfer an offender to less secure conditions; and
- The minute of the PMAG meeting will record the decision in each case. Upon receipt of the minute, the extract should be recorded appropriately within the RMT minutes.

The transfer should then take place at the earliest opportunity. If the offender has not transferred within four months of approval, then the RMT should reconvene to review the reasons why and take any further actions considered necessary to facilitate progression.

Where PMAG has previously supported the progression of an offender to less secure conditions, with the offender being returned to closed conditions, there is no requirement to

re-refer the case to PMAG, unless there has been a subsequent escape/abscond episode since the original decision.

## 14.4 Progression of Foreign National Offenders/Offenders Subject to Deportation Order

The Prisons and Young Offenders Institutions (Scotland) Rules 2011, Rule 134 states:

(6) A prisoner is disqualified from obtaining temporary release if the prisoner is subject to a deportation order, unless:

(a) the prisoner has been granted temporary release in the **3 months** prior to the deportation order being made; **and**

(b) the Governor considers the risk that the prisoner may abscond has not increased since the deportation order was made.

(7) For the purposes of paragraph (6), a prisoner is subject to a deportation order where:

(a) a deportation order **has been made** against the prisoner under section 5(1) of the Immigration Act 1971; and

(b) that order, for the time being, remains in force against the prisoner.

In practice, this means that Foreign National Prisoners (FNPs) serving a sentence of imprisonment are only disqualified from obtaining temporary release if the offender **has been made** subject to a deportation order. Notification of an intention to deport is a factor to be considered when reaching a decision on temporary release. Where an individual has been sentenced to a period of imprisonment of more than 12 months the Home Office will seek to deport. However it is practise that they will not reach a decision until closer to the release date of the offender.

If an offender has been progressed to less secure conditions and has been granted temporary release in the three months prior to the deportation order being made, they should be reviewed by RMT to consider if the risk that the offender may abscond has increased since the order was made. If it is the view of the RMT that the risk of abscond has increased, temporary release should no longer be granted. The RMT should consider where the offender should be managed in the NTE or closed conditions. Where the offender is serving an indeterminate sentence consideration should be given to locating at NTE to continue to allow the offender to demonstrate suitability for release.

## 14.5 Progression of Offenders Who Are Subject To Proceeds of Crime Act

Offenders with outstanding proceedings under the Proceeds of Crime Act 2002 (POCA) i.e. a Confiscation Order, can progress to less secure conditions and/or apply for unescorted community access.

The existence of a Confiscation Order under POCA should not be classed as an outstanding charge, and should not in itself, prevent an offender from progressing to less secure conditions. The decision has to be based on all the available information relevant to the risk the offender presents. However, the existence of a Confiscation Order will be a risk factor that will require to be considered by the RMT in particular, whether or not an offender is complying with the terms of the order.

The final decision to grant progression to less secure conditions and/or unescorted community access is for the chair of the RMT. In order to consider an offender for progression and/or unescorted community access, information from the Crown Office and Procurator Fiscals Service (COPFS) should be sought, recorded and taken into account in the risk assessment undertaken prior to making a final decision.

An External Enquiry Form (EEF – COPFS) has been developed for this purpose. The EEF should be referred to COPFS in Edinburgh by email 8 weeks prior to an RMT meeting, a response should be received no later than 4 weeks prior to the RMT date.

The purpose of the EEF is to advise COPFS that an offender is about to be considered for progression to less secure conditions and/or unescorted access to the community. It is also to obtain any information from COPFS in relation to any existing or pending proceedings under 'POCA' together with any other information which should be taken into consideration as part of the risk that the offender might further offend, fail to comply with license conditions or perhaps abscond.

Each case referred to a RMT must be considered on its individual merits. However, the need to protect the public is paramount when making a decision to progress an offender to less secure conditions and/or unescorted community access. When assessing the suitability of an offender who is subject to a Confiscation Order, the offender's compliance with that order



and/or the amount outstanding will be a factor for RMTs in determining the risk of an offender absconding or failing to comply with licence conditions.

### Implications for Offenders Subject to Confiscation Orders

There are two situations where an offender could be subject to an outstanding confiscation order while serving a prison sentence in respect of the offence:

- where the offender has been given 'time to pay' by the court. Standard 'time to pay' lasts up to 6 months, but could last up to 12 months where there are exceptional circumstances.
- where the court has postponed making the confiscation order. The standard postponement period lasts for up to 2 years. However, where there are exceptional circumstances, or where the accused has failed to comply with an order under section 102 of POCA, there is **no limit** to the period of postponement.

In both cases, where the offender fails to pay the required amount at the time designated by the court, enforcement proceedings can be brought against the offender.

## 14.6 Progression of Offender Subject to Serious Crime Prevention Orders

Offenders who are subject to Serious Crime Prevention Orders (SCPO) can progress to less secure conditions and/or apply for unescorted community access and should be considered at RMT as normal.

If an offender subject to a SCPO is approved for temporary release then the conditions of the SCPO should be reflected in the SPS temporary release licence conditions.

## 14.7 Applications to the Scottish Criminal Cases Review Commission

Offenders for whom the SCCRC have accepted an application to investigate a possible miscarriage of justice whilst the offender is located in less secure conditions should ordinarily continue to be located there. The SCCRC will decide whether to refer the case back to the

Courts. Should they decide not to refer the case back to the Courts, this is likely to be a factor which would require the RMT to consider the likely response of the offender.

## 14.8 Progression of Offenders Subject To MAPPA

Offenders who are **subject to** MAPPA (i.e. have been accepted through the identification, notification and referral process) can progress to less secure conditions and/or apply for unescorted community access.

In considering whether it is appropriate to grant progression to less secure conditions and/or unescorted community access, the RMT Chair must ensure all relevant and appropriate information is taken into account during the decision making process, particularly the input of community partners.

In order to consider an offender who is **subject to** MAPPA for progression and/or unescorted community access, a [MAPPA Notification](#) should be issued, by the transferring establishment, to the area local to the relevant prison (i.e. NTE/OE/CIU) and also the area which is considered the home area of the offender.

Until 30 March 2016, only offenders subject to the Sex Offender Notification Requirements were captured under MAPPA. However, from 31 March 2016, Scottish Government enacted the relevant legislative provision to extend MAPPA to those offenders who, by reason of their conviction, are assessed as posing a risk of serious harm to the public, i.e. those offenders:

- who are **not** required to comply with the SONR or are defined as a “Restricted Patient”, but:
- have been convicted of an offence and by reason of that conviction are required to be subject to supervision in the community by any enactment, order or licence; **and**
- are assessed by the Responsible Authorities as posing a high or very high risk of serious harm to the public at large; **and**
- require active multi-agency management at MAPPA Level 2 or Level 3.

[GMA012A/16](#): Provides guidance and a document set on the extension of MAPPA to high risk offenders not subject to the SONR. Chapters 9 and 15 of the MAPPA National Guidance 2016 provide further detailed information and timescales surrounding the progression process. [MAPPA Guidance](#)

The purpose of the MAPPA Notification form is to advise MAPPA coordinators that a relevant offender is about to be considered for progression to less secure conditions and/or unescorted access to the community.

It is also to obtain any relevant additional information from the MAPPA Co-ordinator local to the prison and the area which is considered the home area of the offender. The home area is more likely to be aware of the offender's background information, and the local prison area will be aware of the environmental factors which will require to be considered prior to the decision being made in respect of progression to less secure conditions and/or unescorted access to the community. However, it should be acknowledged that most of this information can be made available through CJSW and Police Scotland partners. The MAPPA Notification should be made using the existing MAPPA Notification form. The MAPPA Notification form should be submitted 8 weeks prior to the RMT meeting.

## 14.9 Schedule 1 Offenders

In considering CIRCULAR JD 18/2003 PROTECTING CHILDREN: GUIDANCE ON THE IMPRISONMENT AND PREPARATION FOR RELEASE OF SCHEDULE 1 PRISONERS originally issued in 2003 and amended in 2005, the RMT should take account of information held by prison social work units when making decisions about permitting unsupervised access to the community by Schedule 1 offenders. This guidance sets out procedures to assist local authorities, the Scottish Prison Service and other agencies to work together to protect children when a person sentenced to imprisonment for an offence listed in Schedule 1 of the Criminal Procedure (Scotland) Act 1995 is released. Further information can be found here [CIRCULAR JD 18/2003 \(updated 2005 and 2011\)](#).

*Further details of the MAPPA process can be found in the [MAPPA](#) National Guidance, 2016.*

## 15 First Grant of Temporary Release (FGTR)

### Legislation

In accordance with Rule 134(4) of the Prisons and Young Offenders Institutions (Scotland) 2011 Prison Rules, a life sentence offender is disqualified from obtaining temporary release unless the Governor has obtained the prior consent of Scottish Ministers for:

- (a) the life sentence offender's First Grant of Temporary Release; and
- (b) any further grant of temporary release where the offender has been assigned a supervision level other than low supervision level following the consent of Scottish Ministers having been obtained under sub-paragraph (a).

### What rule 134(4) means in practice

Rule 2 of the Prisons and Young Offenders Institutions (Scotland) Rules 2011 defines a life sentence prisoner as a person serving a sentence of life imprisonment. Therefore, only prisoners who are serving a sentence of life imprisonment require the prior consent of Scottish Ministers before they can be granted temporary release. This does not include prisoners subject to an OLR or those who have been sentenced to Imprisonment for Public Protection.

Approval by the Minister for Community Safety and Legal Affairs is required before a life sentence prisoner can be considered for any type of temporary release for the first time. In addition, the decision to transfer a life sentence prisoner who is in receipt of FGTR, to the OE is taken by the Director of Strategy and Innovation, on behalf of Scottish Ministers.

Following FGTR approval by the Minister for Community Safety and Legal Affairs, any re-assignment of supervision level (e.g. from low to medium or high) will require the case to be re-submitted to Scottish Ministers when low supervision is re-assigned and the RMT has recommended progression. A life sentenced prisoner who has been released and subsequently recalled to prison needs to be granted temporary release by Scottish Ministers before they can move from the receiving prison to OE. *NB: If a life sentenced prisoner has been on HL at some point before release, progression when recalled would normally be to OE direct, rather than to top-end and placement. However, this is for the RMT to decide and depends on the risk that the prisoner presents, including the length of time the prisoner has been in custody following recall.*

A life sentenced prisoner, who has been granted FGTR and is returned to closed conditions but remains at low supervision level, can re-commence temporary release if approved by the RMT, without further approval from Scottish Ministers once they return to NTE, CIU or OE. This could also apply where the supervision level has been changed in error on PR2, in which case a data amendment will be required. For example, a life sentenced prisoner with FGTR and low supervision is transferred to England for accumulated visits and incorrectly assigned high supervision in error on return to Scotland.

## Applications for FGTR/Transfer to OE

All applications for FGTR are submitted to Scottish Ministers in the form of a submission, signed off by the Director of Strategy and Innovation. Applications for the transfer of a life sentenced prisoner to OE, where FGTR has already been granted, are referred to the Director of Strategy and Innovation, who takes the decision on behalf of Scottish Ministers.

Before an application for FGTR at NTE, or for transfer to OE can be made, the RMT must have fully considered the life sentenced prisoner's case and recommend that application for FGTR or transfer to OE should be made. The FGTR submission should therefore clearly articulate the management plan discussed at RMT outlining factors supporting the application as well as risk factors identified along with mitigating circumstances.

Additionally; following the MAPPA Category 3 Extension, the RMT should ensure that all stages of the relevant process flow from Chapter 15 of the MAPPA Guidance 2016 have been completed prior to submission of FGTR. [MAPPA Guidance](#)

## Governor's Assurance

Where the RMT makes a recommendation for FGTR, the Governor should, as soon as is reasonably practicable (and *certainly no later than 2 weeks following the RMT or, in the case of previous absconder/escapee, within 2 weeks of approval at PMAG*), forward relevant paperwork via email to the Director of Strategy and Innovation. Following recommendations from the SPSO: where the paperwork has not been submitted within 2 weeks, the offender should be informed in writing of the reason for the delay and the expected date of submission. The relevant paperwork will include, the RMT document, together with a draft submission for FGTR. This FGTR submission will include an **operational assurance from the Governor** that they are satisfied that the offender should be granted temporary release. Responsibility for drafting the FGTR submission lies with the appropriate establishment and the Governor must be satisfied that all operational issues and management of risk have been considered and that the application should be of a standard where the Director can consider and submit to Scottish Ministers.

## Compiling FGTR Submissions

There are 2 parts to the submission:

- Minute to the Minister for Community Safety and Legal Affairs; and
- Copy list.

Examples of FGTR submission can be found at [Annex J](#) but key points to note are that the submission should be marked **OFFICIAL SENSITIVE – PERSONAL** and, excluding the copy list, should be no more than two pages long, written in Candara font, size 11 and justified.

If the Director of Strategy and Innovation feels there is insufficient information or the submission is not of the required standard, it will be sent (along with an explanation) to the Divisional Head of Operational Delivery who will return it to the relevant establishment.

Where the Director of Strategy and Innovation is content with the recommendation for FGTR, they will sign off the submission and submit to Scottish Ministers. Following consideration of the case, Scottish Ministers will communicate their decision via e-mail.

On receipt of the decision, the RMT minutes should be annotated accordingly and uploaded onto PR2 with the transfer taking place as soon as possible. The transfer should then take place at the earliest opportunity. If the prisoner has not transferred within four months of approval, then the RMT should reconvene to review the reasons why and take any further actions considered necessary to facilitate progression.

### **Application for transfer to OE (for those already in receipt of FGTR)**

In the case of a life sentence prisoner with FGTR approval and the RMT have subsequently recommended transfer to OE, the Governor should, as soon as reasonably practicable, forward a copy of the relevant paperwork by email to Director of Strategy and Innovation. Relevant paperwork should include, the RMT document and an operational assurance from the Governor that they are satisfied that the prisoner should transfer to the OE.

### **Compiling Applications for transfer to OE (for those already in receipt of FGTR)**

Applications for a move to OE are less formal in style than FGTRs and are presented in bullet point format. The decision is taken by the Director of Strategy and Innovation on behalf of the Minister for Community Safety and Legal Affairs.

**Application for Transfer template can be found at [Annexe K](#)**

Where the Director of Strategy and Innovation is content with the recommendation for transfer to OE (for a life sentenced prisoner who has already been granted temporary release), the Director will communicate the decision via e-mail direct to the Governor of both the sending establishment and the OE.

On receipt of the decision, the RMT minutes should be annotated accordingly and uploaded onto PR2. The transfer should then take place at the earliest opportunity. If the prisoner has not transferred within four months of approval, then the RMT should reconvene to review the reasons why and take any further actions considered necessary to facilitate progression.

### **What happens to the application at SPS Headquarters**

All applications for FGTR or transfer to the OE should be sent to the Director of Strategy and Innovation via email, alongside any supporting documentation. If the Director considers there is insufficient information, or the application is not of the expected standard, rationale will be forwarded to the Divisional Head of Operational Delivery, who will return the application to the relevant Governor. Once the application has been updated accordingly, it will be signed off once again by the Governor and resubmitted to the Director of Strategy and Innovation, alongside any updated documentation.

### **Rejected FGTRs or Applications to OE**

In the event of an application being rejected either by Scottish Ministers or the Director of Strategy and Innovation, the application will be forwarded to the Divisional Head of Operational Delivery who will return the application to the relevant Governor, outlining the rationale behind the rejection.

## **16 Temporary Release Licence Conditions**

Once approved at the RMT, there is a requirement by the Establishment to issue a temporary release licence to any offender accessing the community unescorted. Rule 138(1) (e) allows the Scottish Ministers to specify in a direction “the conditions which may be imposed in relation to any approval of an application for temporary release”.

## Temporary Release Licence Conditions

All Establishment's must now use one of the 3 standard licences. The 3 standard licences are:

- home leave (attached at [Annex G](#));
- for work and education placements (attached at [Annex H](#));and
- other forms of temporary release (attached at [Annex I](#)).

The conditions which may be imposed by the Governor in relation to the approval of an application for temporary release are as follows:

1. the prisoner must remain at a specified address either throughout the period of temporary release or between specified hours during the period of temporary release;
2. the prisoner must comply with any instructions given to them by a prison officer regarding the arrangements for the prisoner's temporary release or the prisoner's return to prison;
3. the prisoner must be of good behaviour throughout the period of temporary release;
4. the prisoner must not carry out any unlawful activity;
5. the prisoner must not consume any alcohol;
6. the prisoner must not take, inject or ingest any drug (other than drugs which have been prescribed for the prisoner by a healthcare professional);
7. the prisoner must return to the prison immediately upon being informed that the Governor has recalled the prisoner to prison under rule 137;
8. the prisoner must not introduce or attempt to introduce any prohibited article or unauthorised property into the prison on the prisoner's return to prison;
9. the prisoner must keep a copy of the temporary release licence with them throughout the period of temporary release and must produce a copy of the licence if required to do so by a police constable or prison officer;
10. if the prisoner encounters any difficulties in complying with the conditions of his or her temporary release the prisoner must inform the prison immediately by telephone and may use a reverse-charge call to do so;
11. the prisoner must remain within a specified radius of a specified address either throughout the period of temporary release or between specified hours during the period of temporary release;
12. the prisoner must not travel outside Great Britain;
13. the prisoner must not visit specified addresses;
14. the prisoner must attend a work placement at a specified address at specified times;



15. the prisoner must attend any appointments arranged for the prisoner for the purposes of the prisoner's temporary release;
16. the prisoner must comply with any instructions given to them by a supervisor at any place the prisoner is required to attend for the purposes of work, training, education or counselling;
17. the prisoner must arrive at any placement on time;
18. the prisoner must not request or receive money from the provider of the prisoner's placement;
19. the prisoner must not leave the prisoner's placement without the prior approval of the Governor;
20. the prisoner must comply with all meal arrangements at the placement;
21. the prisoner must not leave the placement if it finishes early and must await transport back to the prison;
22. the prisoner must return to the prison immediately in the event of the placement finishing early;
23. the prisoner must not visit premises for which a betting premises licence under the Gambling Act 2005 is in force;
24. the prisoner must not meet with specified persons;
25. the prisoner must not use any personal communication device while on temporary release unless the prisoner has obtained the express permission of the Governor;
26. the prisoner must not make or receive any telephone calls or electronic communication without the prior authority of the Governor unless the prisoner is contacting the prison;
27. the prisoner must not send any letters or packages;
28. the prisoner must not make any contact with a victim, or the family of a victim, of an offence for which the prisoner is serving a sentence;
29. the prisoner must not make any contact with a media representative;
30. the prisoner must return to the prison on the date on which the grant of temporary release expires and by such time on that date as may be specified by the Governor;
31. in relation to unescorted day release for compassionate reasons, the prisoner may be permitted to attend any service or proceedings at a church, crematorium or cemetery which forms part of the funeral but the prisoner must not otherwise attend any family gathering in connection with the funeral.

Rule 135 (4A) allows the Governor to set further license conditions having regard to the individual circumstances of the prisoner.

## Standard Licence Conditions

Conditions 1-10 are attached to every temporary release licence. These are taken from Schedule 1 and already appear on the standard licences. Governors do not need to complete Part 1.

## Additional Conditions

Additional conditions should be taken from conditions 11-31 in Schedule 1.

## Specifying certain information

A number of conditions in the Schedule to the Temporary Release Direction allow the Governor to “*specify* the place” or “*specify* places where the prisoner must not visit” etc. This means that the Governor can add these specific arrangements to these conditions. For example, the licence condition “the offender must not go into specified areas”, the Governor may include specific licence information which tailors the licence to that offender, for example: “the offender may not enter any recreational areas that children frequent such as swimming pools or parks”.

## Instructions

Condition 2 in Schedule 1 reads:

“the prisoner must comply with any instructions given to them by a prison officer regarding the arrangements for the offender’s temporary release or the offender’s return to prison”

This is a general condition enabling a verbal instruction or a written instruction to be issued to offenders but is entirely separate from the conditions. This means, for example, instructing the offender to take a reasonable route to arrive at and return from a designated place, or that the offender must know who their supervisor is throughout their placement. These are not *conditions* on the temporary release licence but form separate instructions to the offender.

These instructions may be issued at the time of the licence by adding them to the separate sheet or similarly, may be given verbally to the offender during the course of the temporary release.

Examples of instructions are:

1. You will know who your supervisor is throughout the placement.
2. You will take a reasonable route to arrive at and return from the designated place.
3. You will travel to and from the designated place by the prescribed route and method of transport and not vary from the prescribed route without prior permission of the prison.
4. You should advise \_\_\_\_\_ on your return from temporary release of any problems or concerns you have about changes to your personal circumstances.

## 17 Offenders Returned To Closed Conditions

### Policy and Procedure

It is the aim of SPS to prepare offenders for eventual release and return to society better able to cope with life and take a constructive role in the community. Removal from CIU, NTE or OE will therefore have an impact on the preparation for release phase of an offender's sentence.

**Where possible, offenders should be given the opportunity to make written representation prior to consideration for removal and in all cases must be given the opportunity to make representation to the Adverse Circumstance RMT.**

Any decision to remove an offender from less secure conditions is an important one. It is critical that all decisions are taken on the basis of evidence and a sound, defensible rationale. It is therefore important that individual circumstances are taken into account by RMTs when considering the removal of any offender from less secure conditions and that the offender is only returned to more secure conditions (for reasons including drug test failure/s) where it is clear that the offender:

- is a serious threat to security or good order of the prison;
- presents an unacceptable risk to public safety;

- has repeatedly\* abused the freedom offered within less secure conditions; or
- requires support, which is not available in their current location.

*\*For example, if an offender has recently been punished in the Orderly Room for other misdemeanours not necessarily related to drugs.*

When considering the appropriate action to be taken following an adverse development, RMTs should carefully consider whether the risk that an individual presents can continue to be managed in the current location. A return to more secure conditions cannot be an automatic sanction and must be an evidence based decision. Where it is concluded that an offender should return to closed conditions, RMT decisions should be clearly documented within Annex D - [Risk Management Team – Adverse Circumstance Report](#) and communicated to the offender.

The decision should also include an updated management plan on how it is proposed to manage any risks or presenting concerns in closed conditions, including any referrals, approximate timescales etc. The PSS3 should be completed by the establishment responsible for the offender during community access prior to the offender returning to another establishment. The offender should also have been given an opportunity to make representations against such a decision before the final decision is taken under PSS3.

Where any requirement to carry out specific work prior to being considered for a return to less secure conditions has been incorporated into the offender's management plan, the rationale behind the decision *must* be clearly recorded. The RMT has responsibility, therefore, to ensure the correct evidence-based processes and procedures have been followed in line with appropriate policies and guidelines and that any decisions are defensible.

In circumstances whereby it is not possible to complete a PSS3, or convene the RMT meeting prior to any return to closed conditions, for example, where the offender has failed to return from temporary release or has absconded, an Adverse Circumstances Report (ACR) and a Critical Incident Review (CIR) should still be held by the establishment responsible for the offender whilst on community access. However, when the offender returns to prison following the abscond etc, the RMT should be convened within the closed establishment to determine the offender's future management. Form PSS3 should also be completed by the receiving establishment within 72 hours of admission, and the RMT in the closed establishment should take the ACR and CIR if available, into account when considering an offender's future management.

## 17.1 RMT – Adverse Circumstance Report (ACR)

An adverse circumstance is a factor that has the potential to change the risk that an offender may present, for example, negative reports or failure to comply with the behavioural standards expected whilst participating in a community work placement.

The RMT [ACR](#) is a record of assessment and decision making following an event, incident or change of behaviour which potentially changes the risk that an offender might present. The ACR allows for consideration of the:

- event or incident;
- impact on the level of risk being managed;
- steps needed to be taken in future to manage the risk presented; and
- whether it is appropriate for the offender to remain at OE, CIU or NTE at this stage.

In cases where there is an urgent operational requirement, which would justify returning an offender to closed conditions or removing an offender from unsupervised community access, the RMT may be chaired by a Unit Manager. Any decision to subsequently progress an offender to less secure conditions or to reinstate an offender's unsupervised access to the community must be made by a Deputy Governor or a Governor following an RMT meeting.

If a return to closed conditions is as a result of an abscond or escape, any return to less secure conditions **must** be referred to, and considered by PMAG, following an RMT meeting.

When completed, the RMT *should arrange for the RMT – ACR to be uploaded to PR2 under the Integrated Case Management (ICM) section: Select ICM > Community Integration Plan (CIP) > Risk Assessment (ACR template attached at Annex D).*

## 17.2 Critical Incident Review (CIR)

The [CIR](#) allows for analysis and recording of learning outcomes following critical incidents involving offenders with unsupervised access to the community. The CIR is aimed at informing developments and change in managing such unsupervised access to the community and will provide evidence that SPS has responded appropriately to such incidents. It should draw on all of the available information pertaining to offenders and any such incidents. The focus of the review is to identify and analyse significant occurrences in a systematic and detailed way

to ascertain lessons to be learned regarding the overall management of offender progression and to specify any changes that might lead to future improvements. *It should be noted that an ACR should also be completed in all circumstances (so where there has been an incident in the community, both reports would be completed).*

The CIR should be conducted by a minimum of three members of staff, one of which should be a Social Worker (of relevant seniority) and should be chaired by a senior SPS manager from the establishment where the incident occurred. It would also be appropriate to invite an independent senior manager from another establishment, to provide some impartiality during the review. Where the CIR relates to an OLR offender, consideration should be given to the benefits of inviting the RMA to participate in the review.

Following completion, the CIR should be copied to the Chair of Prisoner Monitoring and Assurance Group (PMAG). PMAG is responsible for reviewing this guidance and reporting recommended changes to the Director of Operations in light of:

- learning from CIRs;
- operational Changes;
- legislative Changes; or
- outcome of reviews from various groups that currently meet to discuss progression and risk management.

## 18 Annexes

### **Annex A - Risk Management Referral Form and Minute**

[Annex A - Risk Management Referral Form and Minute](#)

### **Annex B - RMT Application for Progression**

[Annex B - RMT Application for Progression](#)

### **Annex C - RMT Addendum Form**

[Annex C - RMT Addendum Form](#)

## **Annex D - Referral to PMAG**

[Annex D - Referral to PMAG](#)

## **Annex E - RMT Adverse Circumstance Report**

[Annex E - RMT Adverse Circumstance Report](#)

## **Annex F - RMT Critical Incident Review**

[Annex F - RMT Critical Incident Review](#)

## **Annex G - Home Leave Licence**

[Annex G - Home Leave Licence](#)

## **Annex H - Work/Education Licence**

[Annex H - Work/Education Licence](#)

## **Annex I - Other Temporary Release Licence**

[Annex I - Other Temporary Release Licence](#)

## **Annex J - FGTR Application**

[Annex J - FGTR Application](#)

## **Annex K - Application for OE**

[Annex K - Application for OE](#)

## **Annex L – Parole Board for Scotland Standard Licence Conditions**

[Annex L - Parole Board for Scotland Standard Licence Conditions](#)

## **Annex M – RMT Guidance Leaflet**

[Annex M - RMT Guidance Leaflet for Prisoners](#)

## Further Information:

The SPS recognises that from time to time employees may have questions or concerns relating to **Risk Management, Progression and Temporary Release**. In certain situations employees' rights and obligations regarding **Risk Management, Progression and Temporary Release** may change. In these circumstances the SPS will abide by any statutory obligations. The SPS wishes to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. Employees are encouraged to seek clarification on any issues with the appropriate Line Manager in the first instance.

## Sustainability

Improving our environmental performance and doing things in a more sustainable way should be seen as integral to our core business practices.

In line with the SPS Sustainable Policy and to demonstrate compliance with the Scottish Government's commitment to improving environmental and sustainable development performance, please be mindful if printing this document – keeping paper usage to a minimum (print only version), printing on both sides, and recycling.

## Equality Statement

The SPS is an equal opportunities employer where all employees are treated with dignity and respect. We are fully committed to equality, diversity and human rights and to ensuring our culture, working environment, policies, processes and practices are free from bias. This policy applies to all employees regardless of protected characteristics, and, subject to any eligibility criteria, length of service, grade, working pattern or operational status.

## Inclusive Communications

It is our ambition to ensure that SPS documents are readable, accessible and engaging for staff.

In formatting this document, good practice principles around engagement and inclusive communications have been adhered to.

If you require this document in an alternative format please contact Human Resources.



## **Review and Monitoring**

This policy will be subject to Version Control, updated as necessary and reviewed every two years to reflect changing business and legislative requirements.