



## SCOTTISH EXECUTIVE

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For Info  
ACPOS; COSLA; SFHA; SWIA

Dear Sir/Madam

### **INTEGRATED PRACTICE GUIDANCE FOR STAFF INVOLVED IN THE HOME LEAVE PROCESS**

We are writing to you about the new practice guidance that has been developed for those organisations and personnel directly involved in the home leave process for prisoners. The guidance has been compiled by the Home Leave Working Group with members representing the Scottish Prison Service, the Association of Directors of Social Work, the Convention of Scottish Local Authorities, and the Association of Chief Police Officers in Scotland, the Scottish Executive Justice Department and the Voluntary Sector. A copy of the guidance is attached.

The guidance has been prepared to help improve practice, to provide clarity about roles and responsibilities and to encourage a more integrated approach for the various agencies involved in the home leave process. It promotes a shared vision around a more focused home leave process which both promotes public safety and assists resettlement. Please bring the guidance to the attention of appropriate staff in your organisation, especially those who are directly involved in the home leave process or others who may have an interest in it.



INVESTOR IN PEOPLE



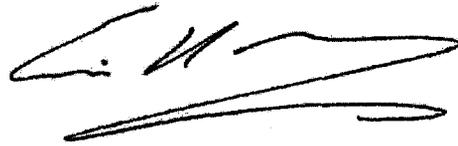
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Yours faithfully



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**HOME LEAVE WORKING GROUP**

**INTEGRATED PRACTICE GUIDANCE FOR  
STAFF INVOLVED IN THE HOME LEAVE  
PROCESS**

**FEBRUARY 2007**

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# HOME LEAVE PRACTICE GUIDANCE

## INTRODUCTION

1. This practice guidance has been prepared for those organisations and personnel involved in the home leave process and has been compiled by the Home Leave Working Group. Represented on the Group were members from the Association of Directors of Social Work (ADSW), the Convention of Scottish Local Authorities (COSLA), the Scottish Prison Service (SPS), the Police, Scottish Executive Justice Department, Community Justice Services and Parole & Life Sentences Review Divisions, the Scottish Executive Criminal Justice Group Projects and the Voluntary Sector. A full list of the membership of the Group can be found in Appendix A.

2. The remit of the Group was fourfold:

- i) to take forward an initial *scoping paper* on home leave issues prepared by SPS, local authority representatives and other interested parties in December 2004;
- ii) to examine how home leave operates;
- iii) to define ways in which the home leave process could be made a more effective and efficient process for all concerned; and
- iv) to produce appropriate practice guidance.

3. The context for the work on home leave is part of an Executive review on accommodation issues relating to offenders, comprising:

- The National Accommodation Strategy for Sex Offenders
- A seminar on Housing Advice Services for Prisoners
- A review of supported accommodation services for offenders, and
- The Home Leave Working Group.

## SCOPE AND PURPOSE OF GUIDANCE

4. This guidance seeks to improve the present home leave process by making it more integrated. The guidance defines specific purposes for home leave and notes the benefits that can be accrued from manageable changes to existing practice. The guidance outlines how the home leave process could work more efficiently and effectively; identifies the main players in the process; and defines the key tasks that require to be completed. This guidance sits within the developing Integrated Case Management (ICM) process, which will be explained in more detail in the *Assessment for Temporary Leave* section later in this document. The Scottish Executive Circular No. JD 8/2006 provides further information on Integrated Case Management.

## CONTEXT SETTING

5. In discussing *home leave*, it is important to situate it within the overall context of throughcare service provision across Scotland. Over recent years, throughcare services have been the subject of much improvement and central to that process has been the development of, and financial investment in, the Enhanced Throughcare Strategy<sup>1</sup>. There are three distinct phases in the strategy: Phase 1 which relates to service delivery for those prisoners subject to statutory supervision on release from custody; Phase 2 which focuses on voluntary throughcare services; and Phase 3 which is concerned with improving communication, facilitating joint working and sharing of information between the different organisations involved in the process. Issues relating to home leave arise in all three Phases.

6. The provisions of the Enhanced Throughcare Strategy are in alignment with the requirements of the new Management of Offenders Etc. (Scotland) Act 2005 (forthwith referred to as the MoO Act) and it is therefore important to draw attention to the following key points. The MoO Act completed its passage through the Scottish Parliament in November 2005 and received Royal Assent in December 2005. Section 1 of the MoO Act places a **duty to co-operate** on Scottish Ministers, Community Justice Authorities and local authorities: that is, these agencies/authorities must work together within the criminal justice system and share all relevant information that will contribute to the better management of the offender pre, during and post sentence. Additionally, Sections 10 and 11 of the Act place a statutory function on local authorities, the Scottish Prison Service, the Police and Health Services to establish arrangements jointly (i.e. the Multi-Agency Public Protection Arrangements (MAPPA)) for the **assessment and management of risks** posed by certain high risk offenders. The Scottish Executive Circular No. JD 15/2006 provides guidance on the MAPPA process and the interface with temporary release arrangements. Home leave for prisoners, which is an integral part of the custodial and throughcare process, is affected by the provisions above.

7. It should also be noted that Section 15 of the MoO Act amended the Prisoners and Criminal Proceedings (Scotland) Act 1993 and introduced Home Detention Curfew provisions. The Scottish Prison Service are now able to release selected short-term prisoners (at present prisoners serving between three months and four years) on Home Detention Curfew licences before they have served half their sentence. The scheme started on 3<sup>rd</sup> July 2006 and specific guidance is contained in the Scottish Executive Circular No. JD 9/2006.

## FORMS OF TEMPORARY RELEASE FROM PRISON

8. *Temporary Release* is the generic name for any period of agreed leave (for the prisoner) from prison during their sentence. Temporary leave can be broken down into two basic types: escorted and unescorted leave. *Escorted* leave means that the prisoner is accompanied by appropriate staff to the leave address (and back)

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<sup>1</sup> For more information, please see <http://www.scotland.gov.uk/library5/justice/tcds.pdf>

for the duration of the visit. *Unescorted* leave means that the prisoner travels independently to the leave address and back. In most cases, prisoners tend to progress through periods of escorted leave to unescorted leave, though there are exceptions to this rule.

9. Temporary release presently comes in many forms: home leave being one such type. The Prisons and Young Offenders Institution (Scotland) Rules 2006 define the specific rules for the various types of leave, with the SPS describing certain criteria. Appendix B contains relevant extracts from these rules for clarification, though the full document can be found on the following website:  
<http://www.uk-legislation.hmsso.gov.uk/legislation/scotland/ssi2006/20060094.htm>.

10. Reference to "home leave" in this practice guidance should be read as meaning:

*a period of temporary release from custody where the prisoner visits an approved place, for example the home of a family member or friend.*

11. **This guidance is focused specifically on home leave (as opposed to other forms of temporary release) for those prisoners who will be subject to statutory supervision on release from custody<sup>2</sup>. This is because this is the area of practice where the need and potential for improvement are greatest.**

12. **Temporary Release arrangements allowing prisoners to visit home or other approved places were altered in 2006. The Prisons and Young Offenders Institutions (Scotland) Rules 2006 now allow SPS to increase the total period for certain types of leave *from* up to 3 nights per month *to* up to 7 nights per month. Such leaves will run midweek to midweek and will replace the current weekend leave arrangements<sup>3</sup>.**

## **PURPOSE OF TEMPORARY LEAVE**

13. The principal purposes of temporary leave may be grouped under three main headings:

- (i) To assist in the prisoner's preparation for release;
- (ii) To maintain contact with family members; and
- (iii) To "test" or assess the prisoner's ability to cope outside the prison environment.

### To assist in the prisoner's preparation for release

14. Most prisoners make plans about what they intend (or hope) to do upon release from custody. Those prisoners who are subject to statutory supervision on release from custody are expected to discuss their plans with SPS staff and with

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<sup>2</sup> It is likely that the vast majority of prisoners affected will be long term prisoners, i.e. those serving sentences of four years or more.

<sup>3</sup> This change relates specifically to "short leave". See the Prison Rules Extract in Appendix B.

their community based social work supervising officers. Their plans may include such things as: avoiding reoffending; finding employment; undertaking further education/training; re-establishing themselves within the family unit; improving their relationship with a loved one; finding accommodation; dealing with an addiction difficulty; etc. Temporary leave provides an opportunity for these plans to be progressed.

15. Periods of temporary leave present opportunities for prisoners 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 prisoner during the leave period, in order to begin planning any future involvement.
- *engaging with community based agencies that might be able to provide support, advice and assistance to the prisoner upon release.* Temporary leave provides the prisoner with a good opportunity to meet with community based agencies that may have a role to play on the prisoner's eventual release. For example, it may be appropriate and useful for the prisoner to make contact with housing providers to discuss any potential accommodation issues that may need to be addressed upon release. Similarly, where relevant, the prisoner may wish to establish contact with community based addiction services. Starting the contact before the prisoner has been released can facilitate the planning process and help prepare the prisoner for specific interventions upon release. It can also provide a positive motivational focus for the prisoner. With the advent of expanded mid week home leave (7 nights), there are better opportunities to engage with community based services during their normal office hours.
- *re-acquainting themselves with life in the community and neighbourhood.* Temporary leave, (home leave in particular), can be beneficial in helping the prisoner re-familiarise themselves with community living. In effect, this is about the prisoner having the chance to spend short periods of time in a neighbourhood with which they have a connection, perhaps because of family or friends.

#### To maintain links with family members

16. Maintaining good contact between the prisoner and their family during the custodial sentence is crucial. It can help prisoners see that they have an ongoing and real link back to their communities. Of course, many prisoners do receive visits from family members during their sentence. However, a number of practical factors can either facilitate or hinder the regularity with which these visits take place. Chief amongst these are: the proximity of the prison - within which the prisoner is being held - to the family home; the availability of transport to the prison; the cost associated with such travel arrangements; the family's ability to meet these costs, etc. These are very real considerations for families. Home leave helps because it reduces the pressure on families to visit the prisoner and places a degree of manageable responsibility on the prisoner to do the travelling.

17. As stated, it is important for the prisoner to re-establish links with the family within the home environment – where appropriate and especially where it is the intention to live with the family on release. Often, such contact between the prisoner and their family requires both parties to modify their expectations. For example, in the case of long term prisoners, 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 learnt how to cope in the absence of the prisoner. The impact of the long term incarceration on the prisoner – which may include, for example, potentially unrealistic expectations on the prisoner's part – may not be anticipated or fully understood by family members.

18. A supportive and stable family environment is considered important, and in some cases critical, to the successful re-integration of the prisoner back into the community and to the reduction of further anti social and offending behaviour. Home leave provides an opportunity for learning: helping both parties address potential strains for short periods of time prior to the longer term re-establishment of familial relationships when the prisoner is released. However, it has to be recognised that the return of the prisoner may not be altogether welcomed by some family members. They may be concerned about the prisoner's past problematic behaviour and the potential for this to resurface. In such circumstances, the prisoner and their family may wish to consider possible alternative housing options and discuss these with social work and housing staff.

#### To test or assess the prisoner's ability to cope outside the prison

19. Temporary leave provides a basis for testing the prisoner's response to being at liberty in the community for a short period of time. Information gathered from these periods of leave will inform the Scottish Prison Service (and other criminal justice agencies) about how successfully the prisoner has managed 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. The data will also help inform future decisions about whether temporary leave should be granted and what, if any, additional licence conditions may be necessary.

20. Linked to the above, a prisoner'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 long term prisoners assists the Parole Board in coming to a more rounded assessment of the risks that the prisoner could present on release. The information also helps the Parole Board set appropriate (future) licence conditions. Equally, the data provides Criminal Justice Social Work (CJSW) and the Police with valuable information about how these risks might best be managed in the community.

## ELIGIBILITY CRITERIA

21. The eligibility criteria for the different types of temporary leave are quite elaborate. In essence, eligibility is concerned with all of the following:

- **the prisoner's security categorisation** – prisoners seeking to be granted leave must have attained a **Low Security Supervision Level<sup>4</sup>** and have held this for at least three months;
- **the length of sentence being served** – Appendix D provides information on the qualifying periods for different lengths of sentence;
- **the amount of time the prisoner has spent in custody** – Determinate sentence prisoners must have served at least one third of their sentence. Indeterminate sentence prisoners must have no more than four years to serve before the expiry of their "punishment part". Again, Appendix D provides further clarification; and
- **the prison in which the individual is being held** – prisoners must have progressed through their sentence and be in either a national *Top End<sup>5</sup>* facility or in *Open Conditions<sup>6</sup>*. Moreover, they must have resided in these for a minimum of eight weeks.

## PRISONERS WHO ARE EXCLUDED FROM TEMPORARY RELEASE

22. The Prisons and Young Offenders Institutions (Scotland) Rules 2006 notes that certain individuals are excluded from the existing temporary release arrangements<sup>7</sup>. However, SPS has advised that decisions about whether to grant temporary release are always based on the individual merits of the case. It is noteworthy that life prisoners are not automatically eligible for temporary release. A life prisoner is ineligible **unless** Scottish Ministers have given their prior consent to (a) their first grant of temporary release and (b) any further grant of temporary release where the prisoner has not been assigned a low supervision level.

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<sup>4</sup> A definition of each of the supervision levels (viz. low, medium and high) can be found in the Appendix C.

<sup>5</sup> 'Top End' is defined in the Prison Rules as meaning "... that part of a closed prison which the Governor has designated as a part of the prison to which there may be allocated prisoners who are considered to be given a range of privileges and who would be eligible to be considered for special escorted leave'. The five penal establishments with *Top End* facilities. These are: (a) Ingliston House 2 in Edinburgh Prison, (b) Chrisswell Hall in Greenock Prison, (c) The Top End of F Hall in Perth Prison, (d) Wallace House at Cornton Vale Prison, and (e) The Top End Hall in Peterhead Prison

<sup>6</sup> 'Open Prison' means any prison which is designated exclusively for the confinement of prisoners who are assigned low supervision level and who are eligible for temporary release in terms of Part 15 (Temporary Release) of the Rules. This applies to: (a) HMP Castle Huntly and Noranside, (b) HMP Inverness 'D' Wing, (c) HMYOI Polmont Beechwood, (d) HMP Cornton Vale Independent Living Units, (e) HMP Perth Friarton Hall and (f) in the case of a Life prisoner only; to every other prison or part of a prison that is not specified at sub-paragraphs (a) to (e) if there are special circumstances that support the grant of short leave or winter and summer leave.

<sup>7</sup> See Appendix B for further information.

## ROUTINE AND COMPLEX CASES

23. As stated earlier, prisoners have to apply to the Governor for temporary release. A significant number of applicants can be described as straightforward, or at least, *apparently* straightforward cases. That is to say they will either:

- a. not be eligible for temporary leave, or alternatively,
- b. have progressed well/reasonably well through their sentence, have been designated a Low Security Supervision Level, have moved into Top End/Open Conditions and they are now eligible for home leave. If the release address is stable, the family/friends supportive, the risks manageable and there are no significant community/victim/public protection issues, then one would expect the home leave to proceed.

24. With the expansion of temporary release stays to seven nights and greater numbers of prisoners potentially becoming eligible, the risks that a small number of apparently straightforward cases become more complex during their stay in the community must be recognised. Cases have arisen in the past where problems on home leave have been compounded by a lack of accessible support; examples of domestic violence have been recorded in such circumstances. Moreover, cases which on the surface look straightforward, on deeper analysis sometimes prove to be less so. All those involved in the home leave assessment process need to ensure that they are alert to any signs which might indicate potential problems during the home leave period. The Home Leave Working Group is aware that the available resources do not allow for all those on home leave to be monitored or supported. However, there is potential for resources to be targeted at those whose risk and need seems highest.

25. The implementation of Integrated Case Management (ICM) procedures will provide an opportunity to strengthen the assessment process for home leave. It is envisaged that the information flow between agencies will be enhanced and that *case conferences*, which are at the heart of ICM process, will make clear whether a prisoner has made sufficient progress as to warrant leave. The ICM process is discussed in more detail in the *Assessment for Temporary Release* section which follows later in this guidance.

26. Notwithstanding the above, some prisoners' circumstances will be more easily identified as being complex. Many of these prisoners will require housing advice and information. Types of prisoner cases which might come into this category include those:

- a. who cannot return to their home address or home area;
- b. whose family have declined contact;
- c. returning to an area in close proximity to their victim (especially serious cases);
- d. whose offence has acquired considerable public notoriety/media attention;
- e. who have no home or approved address;
- f. whose home address may be outwith Scotland;
- g. where there are concerns regarding child protection or domestic violence;
- h. requiring supported accommodation;

- i. where the police (or housing provider) advise that the prisoner should not be released to the intended address because of the potential for anti-social behaviour/offending/public protection concerns.

27. This list should not be considered exhaustive, but rather illustrative. In such cases, good communication and information sharing between SPS, criminal justice social work (CJSW), the Police and relevant other organisations is imperative. This will help determine whether the application for home leave should be approved. In addition, in cases where the prisoner will be subject to statutory supervision on release from custody, it is envisaged that the role of the supervising social worker will be enhanced.

## HOMELESSNESS AND HOME LEAVE

28. The following section notes the particular problems that homeless prisoners face in relation to home leave. There is also a brief explanation of the assessment process which takes place in prison around accommodation needs, with suggestions about how these needs can best be met. The assessment process described below applies equally well to other types of prisoner need (e.g. in relation to health needs). It should therefore be read as part of the section which follows on *Assessment for Temporary Leave*.

29. Homelessness can have a negative effect on a prisoner's ability to gain home leave, especially where it is accompanied by a lack of familial support. Prisoners who have no family – or no family willing to accept them on leave – are unlikely to be considered very positively. Moreover, those individuals with no accommodation may be discouraged from applying for early release (Parole) on the basis that they suspect they will be unsuccessful.

30. On entry to prison, all prisoners will have their needs assessed (accommodation needs are included in this assessment as it is recognised that the provision of stable housing on release can be a key factor in reducing reoffending). All prisoners will have a brief interview with a prison officer within the first three days of admission (via the SPS *Core Screen* process). This interview allows SPS the opportunity to gather information on the prisoner's basic needs and to provide them with access to a variety of services that may be able to meet those needs.

31. During the Core Screen process the following questions will be addressed in order to ascertain whether there are accommodation needs:

- *Where was the prisoner living prior to custody* - including details about the accommodation type e.g. renting, living within or outwith the family home, how long in this accommodation, etc.
- *Where was the prisoner living at the time of the offence* - including any details about the accommodation type e.g. renting or living with family and how long had the prisoner been living there etc.
- *Accommodation history prior to the time of the index offence* - including types of accommodation, duration in same and why they ended etc.

- *Has the prisoner previously received assistance with accommodation - including any details of such.*
- *Any reference to links between accommodation and other criminogenic needs - e.g. finances or addictions.*
- *Has accommodation status been linked as a factor in their offending behaviour*
- *Are there any other factors that appear to impact on their accommodation status - e.g. victim issues*
- *Any details of plans for accommodation upon release and willingness to accept help with this.*
- *Any factors to take into consideration that might limit the prisoner's options - e.g. preferred location, sex offender/schedule 1 status.*

32. The information from the Core Screen interview, and any other data that might be available, are likely to indicate a need for assistance/intervention where:

- The prisoner has a history of temporary housing.
- The prisoner relies on friends and family members to accommodate them for temporary periods.
- The prisoner will be of *No Fixed Abode* on release.
- The prisoner has lost/or is at risk of losing their tenancy due to imprisonment.
- The prisoner has a history of homelessness.
- The nature of the prisoner's offence restricts where they can stay (e.g. where the offence was of a sexual/Schedule 1 nature<sup>8</sup>).

33. Other key areas of need will be addressed early in the sentence, which may be closely linked to the accommodation needs of the offender. These areas of need may be connected to issues such as:

- Substance misuse
- Health (physical and mental)
- Employment
- Finances
- Learning difficulties
- Offending (e.g. violent misconduct)
- Family and social networks

34. In addition to the above, the prisoner subject to statutory supervision on release will be interviewed by prison based social work staff within seven days of admission to custody. Where it is identified that the prisoner has accommodation problems (presently or that they may have in the future), then the local authority housing service should normally be invited by SPS to the next ICM case conference<sup>9</sup>. The local authority housing service will then make the link with other housing advice services/providers, as may be appropriate. The ICM case conference should discuss with the prisoner their accommodation needs, identify a

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<sup>8</sup> This is Schedule 1 of the Criminal Procedure (Scotland) Act 1995. (See [http://www.opsi.gov.uk/acts/acts1995/ukpga\\_19950046\\_en\\_1.htm#tcon](http://www.opsi.gov.uk/acts/acts1995/ukpga_19950046_en_1.htm#tcon) for further information).

<sup>9</sup> See *Assessment and Temporary Release* section for more information on the ICM process.

range of possible solutions, agree what actions need to be taken, by whom and within what time frame. The early and appropriate involvement of housing providers is important for all prisoners with housing difficulties. However, it is particularly important in ensuring that the First Grant of Home Leave (for life prisoners) is successful.

35. Each annual ICM case conference should keep the housing agenda under review. The objective should be to attempt to resolve housing difficulties as effectively as possible and as soon as practical, rather than leaving the problem until the prisoner is due to leave custody.

## **ASSESSMENT FOR TEMPORARY LEAVE**

36. The following sections firstly identify the key principles inherent in the assessment process and secondly explain the links between assessment and Integrated Case Management.

### Key Principles – Community Safety and Public Protection

37. Where the current system is in need of most improvement is in relation to the first period of home leave. This is where procedures for risk assessment and information sharing need to be robust. If not, problems may arise.

38. In the assessment and management of temporary leave, the principal focus will be on community safety in general and on victims in particular. In effect, the responsible agencies must turn their attention from internal considerations (e.g. about a prisoner's progress whilst in custody) to external concerns (e.g. about the risk of reoffending/harm during the leave period).

39. The focus on community safety and public protection is heightened in cases where the prisoner has committed violent or sexual offences: it should be stressed that this refers to the prisoner's past offending history as well as the index offence. A partnership approach to risk assessment and risk management is vital in ensuring that public protection and community safety are kept at the forefront of everyone's efforts. It is worth repeating that the key elements in this process include:

- appropriate, purposeful, regular and positive information sharing amongst relevant agencies
- clarity about differing roles, responsibilities and tasks
- processes and procedures that facilitate the monitoring of progress
- mechanisms for successfully dealing with difficulties that arise in joint working.

### Assessment Process - Integrated Case Management

40. The procedures for home leave, including the assessment process, will sit firmly within the system of Integrated Case Management (ICM). This section provides some key information on ICM both in relation to its general development

and in terms of home leave's position within that process<sup>10</sup>. However it is not the intention, nor is it possible to, outline the whole ICM process within this practice guidance. That said, it is expected that this home leave practice guidance will fit well within the ICM process.

41. Integrated Case Management is the name given to the developing joint SPS and CJSW process for prisoner management. Simply put, ICM brings together the key tasks and strengths from SPS' *sentence management* and CJSW's *Circular No. JD 12/2002* and merges these into one unified process.<sup>11</sup>

42. Integrated Case Management arrangements will apply to all prisoners (both short and long term inmates) who are serving custodial sentences within Scottish penal establishments. Scottish Prison Service staff will obviously follow ICM processes for all prisoners. However, the involvement of criminal justice social work and the Police in ICM will vary depending on the type of prisoner case and the assessed need for these agencies to become involved. CJSW is likely to have more of a role in the ICM process than are the Police. Similarly, housing providers, health services and the Voluntary Sector will play their part in the ICM process. The following information gives a brief indication of the types of cases where CJSW and the Police will become involved<sup>12</sup>.

43. It is envisaged that criminal justice social work will mainly become involved in the ICM process in cases where:

- the prisoner will be subject to statutory supervision on release from custody;
- the prisoner requests a Throughcare Addiction Service;
- the prisoner requests a voluntary throughcare service; or
- there is no statutory reason for criminal justice social work involvement but the Scottish Prison Service request this because there are serious concerns for the person's welfare or because of concerns for public safety.

44. From a Police perspective, it is expected that their involvement in ICM will centre around cases where:

- there is a specific requirement for the prisoner to comply with registration under the Sex Offenders Act 2003;
- the risk of reoffending/serious harm the prisoner poses has been assessed as high;
- there are significant community/victim concerns;
- there is a likelihood of considerable negative media attention.

45. Cases involving the sustained effort and resources of all three criminal justice agencies are not likely to be routine or many in number.

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<sup>10</sup> As noted earlier, further information on ICM can be found in the Scottish Executive Circular No. JD 8/2006.

<sup>11</sup> Aspects of the *Criminal Justice Throughcare Standards*, *Circular No. SWSG 14/1998*, *Circular No. JD 18/2003* and *Circular No. JD 19/2005* are also reflected in the ICM process.

<sup>12</sup> It is noted that the proposals contained in the *Custodial Sentences and Weapons (Scotland) Bill* are likely to alter these processes in the future.

46. The philosophy underpinning ICM is essentially twofold. Firstly, with the advent of the Management of Offenders Etc. (Scotland) Act 2005 there is a clear need for closer co-operation between agencies; in particular, the Scottish Prison Service, Criminal Justice Social Work and the Police. Housing providers, health services and other agencies working with offenders will also be under a duty to co-operate in the joint arrangements for assessing and managing violent and sex offenders (Sections 10 and 11 of the 2005 Act). Secondly, closer co-operation and joint working should produce significant benefits in terms of public protection and prisoner resettlement.

47. From a practice perspective, it is envisaged that the agencies above will be required to collaborate and co-operate in:

- a) carrying out risk assessments, which may include the identification of appropriate accommodation;
- b) preparing robust joint plans for managing risk;
- c) delivering effective interventions;
- d) reviewing regularly the above plans and interventions and the progress made by offenders in remaining offence-free.

48. ICM is predicated on a "case conference" model<sup>13</sup>. This approach brings together the prisoner, their family (where appropriate) and other key staff to examine the prisoner's progress through custody. The case conference will consider the actions/interventions that are necessary to help make the prisoner's stay in custody successful. The case conference will also examine the assessed risks the prisoner poses and help decide on appropriate interventions aimed at reducing those risks.

49. This particular approach should prove useful in (a) keeping the prisoner at the centre of the ICM process and in (b) maintaining a focus on issues which are external to the prison as well as internal. A flow chart has been included in Appendix E showing the ICM process in diagrammatic form.

50. Those familiar with Circular No. JD 12/2002 will note that ICM has retained the initial interview by Prison Based Social Work with the prisoner after 7 days of admission<sup>14</sup>. The purpose of this interview is to (1) clarify how the prisoner is settling into the prison regime, (2) to check with the prisoner their family situation (and whether they want the family involved in the ICM case conference in the future), social circumstances and future resettlement issues, (3) to explain to the prisoner the ICM process and (4) to inform the prisoner that they will be subject to statutory supervision upon release.<sup>15</sup>

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<sup>13</sup> Initial, annual and pre-release case conferences are being planned in much the same way as there were initial, annual and pre-release meetings with the prisoner, prison based social work and SPS staff in Circular No. JD 12/2002.

<sup>14</sup> The Social Work Interview within 7 days of admission was also referred to in Paragraph 35 in the *Homelessness and Home Leave* section of this guidance.

<sup>15</sup> Short term sex offenders (i.e. primarily, though not exclusively, Section 15 of the MoO Act 2005 cases) are included in the ICM process and their cases will be prioritised. It is envisaged that the ICM process will be quickened for them so that they will not be disadvantaged, nor public safety compromised. Revised guidance was recently issued on this particular offender group (viz. Circular No. JD 19/2005).

### *A. ICM and Temporary Periods of Leave from Prison*

51. The process for assessing a prisoner's eligibility and suitability for temporary periods of leave has been incorporated into the new ICM system. The main players in this process – if one excludes the prisoner, their family/friends, the victim etc – are still SPS and CJSW staff. The local authority housing services will be involved where accommodation problems have been identified. The involvement of the Police in the process is likely to be minimal and quite focused.

52. ICM case conferences will be, in all likelihood, one of the main forums within which the prisoner's progress will be discussed. The ICM process will be better placed to link prisoner progression from closed to top end/open conditions by highlighting areas of risk, determining appropriate interventions and providing a mechanism for attributing the levels of support required (e.g. is it necessary to add additional conditions to the prisoner's home leave licence). With this in mind, it is important to stress that those attending case conferences need to discuss the prisoner's possible progression to top end/open conditions **prior to** the prisoner becoming eligible for this. Case conferences are scheduled annually and a prisoner therefore may become eligible for home leave at a point in-between the annual case conferences. It may not be practical nor operationally manageable to schedule another case conference to discuss only the home leave issue. Those attending case conferences consequently need to be alert to this possibility at the early stage of their involvement. SPS staff will play a vital role in giving advance notification to partner organisations of the dates when a prisoner will become eligible for leave. This is particularly important for housing providers who need to know well in advance when accommodation may be required.

53. Staff attending case conferences will need to address issues of *risk*. This is crucial in relation to home leave. In the past, the home leave process has framed *risk* primarily in relation to the security supervision level categorisation that the prisoner has attained: low security supervision level equating to a low risk of the prisoner reoffending and/or causing serious harm if released on leave. Albeit the security supervision level system is important in terms of managing the prison population, it is imperative that the *risk* posed by the prisoner being released temporarily on leave be reframed to focus on reoffending and serious harm. Public protection and community safety must be key considerations for all those involved in the home leave process<sup>16</sup>.

### *B. Request from SPS for a Home Background Report for Special Escorted Leave/Home Leave received by the Local Authority*

54. For those prisoners who will be subject to statutory supervision post release, SPS will send a formal written report request to the dedicated Throughcare Team (or the social work team in which the identified Supervising Officer with responsibility for

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<sup>16</sup> The important focus on community safety and public protection noted above is echoed in the ICM guidance which was distributed to SPS and CJSW staff in 2006.

the prisoner's case is located). The report request from SPS will contain the following key information:

1. the prisoner's name, date of birth, and prison number;
2. the prisoner's address at the time of sentence;
3. the index offence;
4. the length of sentence imposed, the Parole Qualifying Date and the Sentence Expiry Date;
5. the full address details for the proposed home leave visit;
6. the names of the occupants at the proposed address and their relationship to the prisoner;
7. the date by which the report is to be returned.

In relation to point 7. above, six weeks will be allowed for the production of the report. Where there are special reasons for a shorter timescale, SPS will inform the criminal justice social work of these and seek agreement for same.

### *C. Departmental Records Check and Report Allocation*

55. Once the report request is received, the relevant criminal justice (CJ) manager should make arrangements for its allocation: it is expected that this would normally be done within two working days. However, prior to allocating the report, the CJ manager should check their departmental records to (a) confirm that they (the Local Authority/their team) are responsible for the prisoner's case and (b) clarify whether there has been any previous social work contact with the individual.

56. Essentially, part (a) is about making sure that the paperwork has been directed to the correct organisation/authority. Part (b) is about checking if there are any significant issues that need to be taken into account before the allocation of the report to a worker and the formal assessment begins. Departmental records may contain information about the prisoner which may call for a particular worker's skills/experience (e.g. around domestic violence or sexual offending).

57. Alternatively, departmental records may contain data indicating historic, recent, or ongoing social work involvement with members of the family with whom the prisoner is seeking contact. Consultation with other local authority colleagues (including housing services where appropriate) may be required therefore, before the formal assessment commences.

### *D. Interview with Those Individuals at the Intended Address<sup>17</sup>*

58. Once the report is allocated to the CJ worker, they are expected to make arrangements (usually in writing, but possibly by telephone if time is limited) to visit those at the intended address to discuss the proposed home leave. Key aspects of the process in this part are about:

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<sup>17</sup> "Those living at the address" are likely to be family members in the majority of cases, however they could include friends/others from the prisoner's social network.

- Explaining the purpose of home leave
- Gaining the co-operation of those at the address
- Describing what information is required in order to make an assessment of the suitability of the home leave proposals
- Clarifying how the information collected will be used by the social work department and by SPS in the assessment process and how it may potentially also be used in the future,
- Explaining the process for decision-making in respect of the leave and then,
- Gathering the relevant information from those living at the address

59. The CJ worker will also give those living at the address the national leaflet<sup>18</sup> which explains the above in more detail. The individuals concerned may find this a useful source of reference after the worker has completed the visit. Moreover, the worker will advise those living at the address how they can access support, advice or information during (or after) the period of leave.

#### *E. Assessment and the Preparation of the Report*

60. The information gleaned from the interviews with those at the intended address and from departmental records should be compiled into a report. The report should include:

- **information about the proposed accommodation** – including a description of the physical living space within which the prisoner may temporarily reside; where the prisoner will be sleeping; who else resides in the home; if there are overcrowding issues etc.
- **information about those residing at the address** – including the nature and quality of the relationship between the family members and the prisoner; an analysis of the support on offer from those at the address; any information which indicates that the individuals at the address display any worrying signs of delinquency or anti-social behaviour; any data which may suggest that the family are coping with difficulties that would be exacerbated by the prisoner visiting on leave.
- **any available information about the attitudes of the victim(s) and wider community** – including any significant community/victim issues that could negatively affect the home leave taking place. In many cases, these factors centre on the victim, and rightly so. However, the report writer also needs to be attuned to the possibility of negative media publicity (for example, in high profile cases) or a community *backlash* (perhaps in cases where the index offence has been significantly violent or of a sexual nature). This information is vital in helping avoid repeat victimisation but it is also integral in ensuring that the prisoner is not placed at risk of harm too. Notwithstanding the above, it is acknowledged that gaining access to this kind of

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<sup>18</sup> An information leaflet on home leave is being prepared by Families Outside and will be distributed to relevant agencies in due course.

information is not easy. Family members, housing providers and the Police may be the most obvious sources of this type of data.

- **information from departmental records and ICM** – including any past contact with the prisoner, where relevant, and appropriate data from initial ICM visits to the family/prisoner and annual case conferences etc. SPS will already have access to data on their PR2 (Prison Records 2) computer system from ICM, so care should be taken not to duplicate this in the report itself. However, it may be necessary to utilise this data in making a particular point or as supporting evidence.
- **an assessment of the risks (of reoffending and serious harm) that the prisoner could pose if released temporarily on leave** – Commentators have noted that “*In the past, many [HBRs] were precisely that, more like an estate agent’s circular than a social work assessment of need and risk*”.<sup>19</sup> This has undoubtedly been a particular concern. Home Background Reports (HBRs) for home leave require to be more focused on risk and need. With the advent of extended home leave (of up to 7 nights duration), there is a need to reprioritise the importance of these HBRs. They should be considered of equal standing to those HBRs produced for Parole purposes and indeed, they form part of a continuing process whereby information on the prisoner builds towards the point of Parole eligibility. The risk assessment process should be therefore as robust and thorough as that carried out for Parole purposes.
- **conclusion and recommendation** – importantly, the report should conclude with an assessment of all these factors above and the report author should state whether they believe that the proposed home leave plan is appropriate (or not) and make clear the reasons for this. This will require the report author to balance the advantages – for the prisoner and their family – of the leave going ahead against the potential risks to the wider community.

61. The greater depth to the Home Background Report will be important in improving the decision making process.

62. It is also very important to stress that where there are concerns regarding child protection, these must be discussed with the relevant local authority staff, prison based colleagues, Police and others as appropriate before the report is submitted. A clear plan of action - aimed at protecting children - must be in place before any home leave is granted. Moreover, where the prisoner is a Schedule 1 offender (having committed a sexual or violent offence against a child), child protection procedures need to be instigated as per the Scottish Executive Circular No. JD 18/2003, *Protecting Children: Guidance on the Imprisonment and Preparation for Release of Schedule 1 Prisoners*.

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<sup>19</sup> Moore, G. and Whyte, B. (1998): *Moore and Wood’s: Social Work and Criminal Law in Scotland* (3<sup>rd</sup> Ed.), Edinburgh, Mercat Press.

63. CJSW and SPS staff should also be alert to the fact that certain sex offender prisoners will have obligations to fulfil under the Sexual Offences Act 2003, whilst on extended home leave. These obligations include, amongst other things, notifying the Police of their release from custody within three days of release and providing the Police with specific information (e.g. in relation to past, current and other home addresses). Without detracting from the prisoner's own responsibilities, it is worth emphasising the important part that good inter-agency information sharing can play in such cases.

#### *F. The Decision to Release the Prisoner*

64. The critical decision is the one to grant the prisoner's temporary release and this is made by the Governor of the prison in which the inmate is located. The Governor has a certain degree of discretion in making this decision, though clearly they will be influenced by the progress the prisoner has made throughout his/her sentence, the suitability of the arrangements for release and the assessed risks that the prisoner would pose if released.

65. It is imperative to stress that no prisoner should be granted temporary release if the risk of the person reoffending or causing serious harm to the public is high and/or unmanageable. Criminal justice social work and Scottish Prison Service staff must work closely together to ensure that their risk assessments are rounded and robust and take into account concerns for public safety as well as work completed in the prison.

#### *G. Contact with the Prisoner During Periods of Temporary Release*

66. The enhanced role of criminal justice social work services is most critical at the point of the home leave assessment. CJSW's greater involvement in the management of the prisoner through the new ICM procedures and in the assessment process, will improve the decision making process. This means that the prisoner should have been assessed as a low and/or manageable risk to the community before the request for home leave is granted by the prison Governor.

67. Nevertheless, some prisoners who are granted home leave may still present complications in terms of the practical arrangements needed to support them in the community (see *Purpose of Temporary Leave* and *Routine and Complex Cases* sections for further information/clarification). In such cases the prison authorities, in close consultation with the supervising officer and, where applicable the Police, may request that the prisoner be offered additional support or supervision during the period of home leave. Where this is agreed, a specific condition could be added to the release licence which would, for example, require the prisoner to attend a meeting with their supervising officer/other social work staff/Voluntary Sector staff during the home leave period. Any such appointments should be organised before the home leave begins and should be facilitated through the prison based social worker or the SPS ICM case co-ordinator.

68. In such cases, the supervising officer/social work staff/Voluntary Sector staff should consider providing the prison authorities with a short report on any issues which have arisen. This should be done at the end of the period of temporary release or earlier if circumstances indicate a need to address particular issues quickly.

69. Having visited the family of the prisoner when preparing the HBR, the CJSW practitioner will have discussed the proposed home leave and informed them how they can access support, advice and information during the period of leave. The CJSW practitioner should ensure that they are accessible to the family during the period of home leave and that in the complex cases, additional support is offered to the family where factors warrant this.

#### *H. The Prisoner's Release On Licence, Notification to the Relevant Agencies and Arrangements For Recall To Custody*

70. If home leave is granted then it is granted *conditionally*; that is to say, the prisoner will be released temporarily *on a licence which contains conditions*. A sample licence can be found in Appendix B (Cont.). These licences normally have conditions which require the prisoner to, amongst other things:

- Be of good behaviour
- Reside at the arranged address
- Refrain from the consumption of alcohol and non-prescribed drugs
- Not attempt to bring prohibited article(s) back into prison

71. Additional conditions can be added if this is considered necessary either to assist the prisoner in some specified way or as a means of promoting public safety. As stated in the preceding paragraphs, an obvious example of such an additional condition would be where the prisoner is required to attend a meeting with his/her supervising officer. It is worth emphasising that the adding of conditions to the licence needs to be thoroughly discussed and agreed with the relevant individuals involved: notably SPS, CJSW, the prisoner and any other appropriate agencies.

72. Once the decision to grant/refuse home leave has been made, SPS will notify the prisoner, the CJSW practitioner who prepared the report, the Police and the family before the leave takes place. Moreover, in situations where a prisoner – subject to statutory supervision on release in one local authority – wishes to have home leave in another local authority, it is vitally important that there be full discussion between the relevant local authorities and agencies involved prior to and after the leave taking place. This is an area of concern that the Home Leave Working Group identified as needing far greater co-operation and information sharing between the relevant parties.

73. Any prisoner on temporary release may be recalled to prison (by Scottish Ministers) whether or not they have broken any of the conditions of their home leave. The following provides some key information of the process for recalling a prisoner to custody.

74. Rule 147 of the Prisons and Young Offenders Institutions (Scotland) Rules 2006 allows SPS to make a direction in respect of home leave. The current direction states that any prisoner granted temporary release must be issued with a licence containing appropriate conditions and is required to sign a form of acceptance of those conditions. Rule 146 provides that Ministers may recall a prisoner to custody "whether the conditions upon which the prisoner has been granted such release have been broken or not". The power of arrest for failing to return to prison on time will arise when the prisoner fails to return to the prison at the agreed time/date on his/her licence. The prisoner then becomes "unlawfully at large". Section 40(1) of the Prisons (Scotland) Act 1989 provides for a power of arrest, without a warrant, in these circumstances.

75. However, if a prisoner breaks one of the licence conditions (e.g. by having a drink in a bar) then this on its own would not entitle a police officer to arrest him. It would, though, allow Scottish Ministers to recall him under Rule 146. The prisoner would also be subject to the internal discipline system provided by the 2006 Rules. Excluding those who are returned to custody after being unlawfully at large, recalls to custody are rare. It is recognised that the process for notifying and dealing with potential breaches can be problematic. However, staff who become aware of possible breaches of licence conditions must immediately inform the SPS staff at the prison from where the prisoner was released, so that they are then in a position to make a decision about appropriate action.

76. Family members may be the first to know of problems in the prisoner's situation and the potential breach of licence conditions. Whilst the family cannot be held responsible for the prisoners' compliance with the conditions of their licence, they may be willing to seek assistance for any problems arising if they have the information and confidence to do so. Previous positive experience of contact with SPS and other agencies (perhaps through ICM or Health case conferences) is likely to be instrumental in their decision to pass on information.

77. If the family has previously engaged with the care and management of their relative in prison, they may have made an explicit agreement to support and/or monitor the prisoner. Whilst it is acknowledged that the responsibility for dealing with breaches of conditions rests with SPS, families need to be able to contact the relevant agencies (i.e. SPS, CJSW and the Police) to express any concerns arising from the period of home leave. Such concerns may be general, easily resolved and not requiring immediate action, whilst others may be more complex, serious and requiring urgent attention.

## **CONCLUSION**

78. The Home Leave Working Group believes that this guidance will help improve practice by providing clarity and direction for all staff involved in the home leave process. The guidance makes explicit a shared vision for a more focused, integrated home leave process which not only promotes public safety but also assists resettlement.

## Roles and Responsibilities

### SPS

#### Responsible for

- dealing with prisoners movements within the prison system
- addressing the prisoner's needs and risks
- facilitating ICM case conferences (this includes involving the local authority housing services where there are accommodation needs)
- requesting Home Background Reports from CJSW
- discussing prisoners' situations with the relevant agencies, including housing services where appropriate
- deciding on whether the prisoner should be granted temporary leave
- providing the prisoner with a financial sum to cover the cost of temporary leave
- funding any specific supported accommodation options that might be required
- dealing with breaches and recalls
- requesting information on the pre-agreed contact any other agency may have had with the prisoner during the period of leave
- informing relevant sex offender prisoners, who may be released on extended home leave, of their obligations under the Sexual Offences Act 2003 (i.e. the notification and provision of information requirements)
- providing the Police with appropriate information in relation to any sex offender prisoner who is due to be released for an extended period of home leave
- following the procedures set out in Circular No. SEJD 18/2003, *Protecting Children: Guidance on the Imprisonment and Preparation for Release of Schedule 1 Prisoners*, where appropriate

### CJSW

#### Responsible for

- discussing prisoners' situations with the relevant agencies, including housing services where appropriate
- providing Home Background Reports for temporary leave
- providing support to the prisoner and family during periods of temporary leave, if this has been agreed as part of the assessment and action plan
- alerting SPS to any potential/actual difficulties that are likely to/have arisen during the temporary leave
- reiterating to relevant sex offender prisoners, out on extended home leave, their obligations under the Sexual Offences Act 2003
- following the procedures set out in Circular No. SEJD 18/2003, *Protecting Children: Guidance on the Imprisonment and Preparation for Release of Schedule 1 Prisoners*, where appropriate
- providing feedback to SPS when they have had contact with the prisoner or their family during the home leave period

## **Police**

### Responsible for

- discussing prisoners' situations with the relevant agencies, including housing services where appropriate
- alerting SPS and CJSW to any potential/actual difficulties that are likely to/have arisen during the temporary leave
- apprehending prisoners who are unlawfully at large, having failed to return to custody when required to do so
- following the *National Standard Operating Procedures: Relative to the Management of Registered Sex Offenders*, as applicable, to those sex offender prisoners who have been released on extended home leave

## **Housing Providers**

### Responsible for (when involved)

- providing housing advice and assistance to help prisoners consider and identify potentially suitable housing options
- attending ICM case conferences
- providing information to CJSW on community/victims' issues in relation to home leave

## **Voluntary Organisations**

### Responsible for (when involved)

- attending ICM case conferences
- providing any agreed support to the prisoner during the home leave period
- providing any feedback on any issues/progress arising during the home leave period

## **Prisoner**

### Responsible for

- their own behaviour
- adhering to the conditions of their licence generally, and more specifically to any obligations they may have under the Sexual Offences Act 2003 (i.e. the notification and provision of information requirements)
- travelling from the prison to the agreed release address and back within the prescribed timescale
- not becoming involved in any anti-social behaviour or offending

## **Family**

In terms of the effective implementation of the policy, the family potentially has a *role* – as distinct to a responsibility – in relation to providing support, monitoring progress and seeking assistance where necessary. The family can only be expected to assume these roles where it is primarily in their own interests as well as the prisoners.

# Appendices

## Appendix A – Home Leave Working Group Membership

Mrs Elizabeth Carmichael, Head of Community Justice Services Division, Scottish Executive

Mrs Jane Richardson, Head of Parole and Life Sentences Review Division, Scottish Executive

Ms Dee Williams, Branch Head, Criminal Justice Groups Project, Scottish Executive

Mr Paul Morron, Consultant, Community Justice Services Division, Scottish Executive

Mr Paolo Mazzoncini, Professional Advisor: Throughcare, Community Justice Services Division, Scottish Executive

Mr Robert McLernon, Policy Officer and Secretariat, Community Justice Services Division, Scottish Executive

Ms Sharon Stirrat, Criminal Justice Social Work Manager, Falkirk Social Work Services

Mr Dan Gunn, Deputy Director of Prisons, Scottish Prison Service

Mr Jack Thomson, Deputy Governor, Open Estate (HMP Noranside), Scottish Prison Service

Mr Tony McNulty, Social Care Advisor, Scottish Prison Service

A.C.C. Ian McLeod, Tayside Police

D. Sup't. Willie Manson, Strathclyde Police

Ms Angela Morgan, Director, Families Outside

Ms Jenny Bew, Manager, SACRO (Edinburgh)

Mr Willie Peacock, Sex Offender Liason Officer for Housing, Edinburgh City Council

## Appendix B – Extracts from The Prisons and Young Offenders Institutions (Scotland) Rules 2006

### **Special escorted leave**

**111.** —(1) In this rule, "special escorted leave" means leave of absence from the prison of a prisoner for the purpose of being escorted to their home or other approved place for a visit not exceeding 2 hours, excluding travelling time.

(2) On the application of an eligible prisoner, the Governor may grant special escorted leave if he or she of the opinion that, having regard to the relevant criteria applicable to the granting of such leave and to any operational requirements, it is appropriate to do so.

(3) For the purposes of this rule, a prisoner is an eligible prisoner if at the time of the application the prisoner—

(a) is confined in a prison, or a category of prison, or a particular part of a prison, to which this rule applies;

(b) is a life prisoner or is serving a sentence for a term of more than one year;

(c) is and has been for at least 3 months assigned low supervision level; and

(d) if serving a sentence for a term of more than one year, has served at least one third of his or her sentence.

(4) For the purposes of special escorted leave in terms of this rule, the Scottish Ministers may specify in a direction—

(a) the prisons, categories of prisons, or parts of prisons to which this rule applies;

(b) the manner in which the Governor shall consider an application for special escorted leave;

(c) the criteria about which the Governor must be satisfied before he or she may grant special escorted leave;

(d) the conditions which may be imposed in relation to any approval of such an application; and

(e) the timing and duration of special escorted leave and the frequency with which it may be granted to an eligible prisoner.

### **Direction Reference 91/4**

The direction relevant to this Rule specifies criteria for the purposes of Rule 111. The criteria for the granting of special escorted leave is hereby specified as follows:

- (a) the eligible prisoner's conduct in custody has in the last six months prior to this application been of a consistently high standard.
- (b) the eligible prisoner is in the opinion of the Governor making a positive effort to prepare for release and to address his offending behaviour.
- (c) the conditions at the home or approved place are assessed as satisfactory by the social worker.
- (d) the reports obtained by the Governor are satisfactory.

**Escorted day absence**

**112.** —(1) In this rule, "escorted day absence" means leave of absence granted to a prisoner, under escort from the prison, for a period not exceeding 1 day, to enable the prisoner—

- (a) to visit a near relative who it appears to the Governor is dangerously ill;
- (b) to attend the funeral of a near relative; or
- (c) to attend at any place for any other reason where the Governor is of the view there are exceptional circumstances.

(2) On the written application of a prisoner, the Governor may grant, subject to and in accordance with the provisions of this rule and any operational requirements, escorted day absence to the prisoner if satisfied that the purpose of the application is genuine and appropriate.

(3) Where the Governor grants escorted day absence, the prisoner concerned shall be escorted by an officer or officers throughout the period of absence from the prison.

(4) For the purposes of escorted day absence in terms of this rule, the Scottish Ministers may specify in a direction—

- (a) the criteria about which the Governor must be satisfied before granting leave of absence for the purpose specified in paragraph (1)(a);
- (b) the persons who are to be treated as near relatives of the prisoner; and
- (c) the proceedings, services or ceremonies which a prisoner may attend for the purpose specified in paragraph (1)(b).

**Direction Reference 92/5 - Visits to dangerously ill near relatives;**

The Governor shall not grant escorted exceptional day absence to a near relative in terms of rule 112(1)(a) of the Rules unless he has obtained, either orally or in writing, confirmation from a registered medical practitioner that the near relative of the prisoner is suffering from a life threatening illness or injury and is dangerously ill.

### **Definition of near relative;**

The definition of 'near relative' is as defined in the Directions of the Prison Rules specifically to Rule 112 (4)(b);

Definition of near relative:

- (a) her spouse;
- (b) a parent;
- (c) any person who in place of the prisoner's parents has or has had the care and custody of the prisoner;
- (d) a sibling;
- (e) a grandparent or great grandparent;
- (f) a child, grandchild or great grandchild;
- (g) a stepchild or any person for whom the prisoner has or has had the care and custody;
- (h) any parent, grandparent or sibling of the prisoner's spouse; or
- (i) any person with whom the prisoner co-habited (whether of the same sex or not) prior to her imprisonment.

### **Short leave and winter and summer leave**

**140.** —(1) In this rule—

(a) "short leave" means temporary release from a prison of a prisoner for the purpose of enabling the prisoner to visit his or her home or other approved place for a period not exceeding 7 nights excluding travelling time; and

(b) "winter and summer leave" means temporary release from a prison of a prisoner for the purpose of enabling the prisoner to visit his or her home or other approved place for a period of up to 5 nights, excluding travelling time, during the winter or summer.

(2) On the application of an eligible prisoner and subject to rule 147, the Governor may grant the prisoner short leave or winter and summer leave if the Governor is of the opinion that, having regard to the relevant criteria applicable to the grant of such leave, it is appropriate to do so.

(3) For the purposes of this rule, a prisoner is an eligible prisoner only if at the time of application the prisoner—

- (a) is confined at a prison or in a particular hall or part of a prison to which this rule applies;
- (b) is assigned low supervision level; and
- (c) is not disqualified from consideration for any reason specified in rule 145(1).

### **Pre-release leave**

**141.** —(1) In this rule, "pre-release leave" means temporary release of an eligible prisoner to enable the prisoner to visit his or her home or other approved place for a period not exceeding 3 days and 3 nights for the purpose of assisting in the prisoner's preparation for release.

(2) On the application of an eligible prisoner and subject to rule 147, the Governor may grant the prisoner pre-release leave if he or she is of the opinion that, having regard to the relevant criteria applicable to the granting of such leave, it is appropriate to do so.

(3) For the purposes of this rule, a prisoner is an eligible prisoner only if at the time of the application—

- (a) he or she is not disqualified from consideration for any reason specified in rule 146(1);
- (b) he or she is assigned low supervision level; and
- (c) he or she is—
  - (i) a prisoner serving a sentence of imprisonment for a term of 4 years or more; or
  - (ii) a life prisoner,

whose release date is within 6 weeks of the commencement of the pre release leave.

### **Unavailability of temporary release**

**145.** —(1) A prisoner shall be disqualified from being considered for temporary release in terms of rules 140 to 144 if he or she is for the time being—

- (a) an appellant;
- (b) subject to proceedings under the Extradition Act 2003;
- (c) in the opinion of a medical officer, suffering from mental disorder; or
- (d) in the opinion of a medical officer, otherwise unfit.

(2) A life prisoner shall not be granted temporary release under rules 140 to 144 unless the Governor has obtained the prior consent of the Scottish Ministers to—

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

### **Recall of prisoners granted temporary release**

146. The Scottish Ministers may recall to prison any prisoner who has been granted temporary release, whether the conditions upon which the prisoner has been granted such release have been broken or not.

### **Direction with respect to temporary release<sup>20</sup>**

147. For the purposes of temporary release consisting of any form of leave or release specified in rules 140 to 144, the Scottish Ministers may specify in a direction—

- (a) the prisons or any halls within or parts of particular prisons to which any of those rules applies;
- (b) the manner in which the Governor shall consider an application for any such form of temporary release;
- (c) the relevant criteria about which the Governor must be satisfied before he may grant any such form of temporary release;
- (d) the conditions which may be imposed in relation to any approval of such an application;
- (e) the timing and duration of any such form of temporary release and the frequency with which it may be granted to an eligible prisoner; and
- (f) the persons who are to be treated as a near relative of the prisoner.

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<sup>20</sup> This is an extract from the Prison Rules 2006. However, it should be noted that there is a separate nine page "direction" which applies to Rules 140 -144.

## Appendix B (Cont.) – Example of Temporary Release Licence

**SCOTTISH PRISON SERVICE**  
**TEMPORARY RELEASE LICENCE UNDER RULE 140(1)(a)**  
**SHORT LEAVE**

**ESTABLISHMENT:**

**TEL NO:**

**NAME OF PRISONER:**

**NUMBER:**

You are hereby granted temporary release in terms of Rule 140 of the Prisons and Young Offenders Institutions (Scotland) Rules 2006 (“the Prison Rules”) for the purpose of taking short leave within the meaning of that rule. This grant of temporary release is subject to the conditions specified below.

**79. Conditions**

1. The duration of your leave is for a period not exceeding 3 nights, excluding travelling time<sup>21</sup>. Subject to any earlier order for your recall, you shall return to the establishment no later than on It is your responsibility to ensure that you return by the time stated. If you fail to return by that time, you are liable to be arrested and you may also face disciplinary proceedings for a breach of paragraph (h) of Schedule 1 to the Prison Rules.

2. If the Scottish Ministers make an order under rule 146 of the Prison Rules recalling you to prison before the time stated in paragraph 1 above, you shall immediately return to prison on receiving notice of the order.

3. If you encounter difficulties in returning to prison on time, or if you have reason to believe that you might have any such difficulty, you must immediately telephone the establishment on the number shown above. You may ask for a reverse-charge call.

4. You must be of good behaviour during the period of your leave and, in particular, you shall not:-

- (a) consume any alcoholic liquor;
- (b) take, inject or ingest any drug (other than one which has been prescribed for you by the Medical Officer or any other Medical Practitioner);
- (c) introduce or attempt to introduce any prohibited article on your return to prison: or

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<sup>21</sup> At those prisons where Extended Home Leave is taking place, this will say "7 nights".

5. If, during the period of your leave, any Prison Officer of the establishment gives you further instructions regarding any arrangements for your leave or for your return, you shall be bound to comply with those instructions.

6. You must keep a copy of this licence with you throughout the period of your leave. You shall exhibit it if required to do so by any Police Constable or Prison Officer.

7. a. You will proceed to  
No property may be brought back, unless previously authorised and accompanied by a proforma.
- b. All prisoners will be searched on return.
- c. It is your responsibility to check all transport times.
- d. You should contact your Personal Officer or Duty Supervisor on return from home leave if you have any problems or concerns that you may have about changes in your personal or domestic circumstances
- e. Visit any place other than your home or other approved place.

**Any other conditions:**

**Signed** ..... (Governor)

**Date** .....

I have read the foregoing conditions upon which I am granted temporary release and undertake to comply with them

**Signed** ..... (Prisoner)

**Date** .....

Travel arrangements:

## Appendix C. – Supervision Levels

### Supervision levels

**Rule 16.** The supervision levels which may be assigned to prisoners in accordance with this Part of these Rules are specified in column 1 of the Table set out below and the description of each level is set out opposite that level in column 2 of the Table:–

<i>Column 1</i>	<i>Column 2</i>
<i>Supervision Level</i>	<i>Description</i>
High Supervision	A prisoner for whom all activities and movements require to be authorised, supervised and monitored by an officer.
Medium Supervision	A prisoner for whom activities and movements are subject to limited supervision and restrictions.
Low Supervision	A prisoner for whom activities and movements are subject to minimum supervision and restrictions, and who may be given the opportunity to participate in supervised or unsupervised activities in the community.

## Appendix D – Qualifying Periods in Custody and Eligibility for Temporary Release<sup>22</sup>

### (a) *Short Term Prisoners (Male and Female)*

<u>Length of Sentence</u>	<u>Actual Time to be Served</u>	<u>Eligible for Open Conditions</u>
18 months	9 months	6 months
24 months	12 months	8 months
30 months	15 months	10 months
36 months	18 months	12 months
42 months	21 months	14 months

### (b) *Long Term Prisoners (Determinate Prisoners)*

<u>Length of Sentence</u>	<u>Parole Qualifying Time</u>	<u>Eligible for Top End</u>	<u>Open Estate</u>
4 years	2 years	2 months	12 months
5 years	2.5 years	4 months	16 months
6 years	3 years	8 months	20 months
7 years	3.5 years	1 year	2 years
10 years	5 years	2 years	3 years
12 years	6 years	3 years	4 years
15 years	7.5 years	4.5 years	5.5 years
20 years	10 years	7 years	8 years
25 years	12.5 years	9.5 years	10.5 years

The pre-release part of the sentence: for all sentences of 5 years or more, the first 12 months of the pre-release part may be spent in top end facilities and the remaining 14, 16, 18 and 36 months in an open facility (according to whether it is a 5, 6, 7 or 10 year sentence respectively). For four year sentences, the first 10 months of the pre-release part of the term may be spent in top end facilities and the remaining 12 months in open conditions. Always assuming other eligibility criteria are met – eg: low security supervision levels have been achieved.

<sup>22</sup> The "qualifying period" criteria changed during the finalising of this guidance and a complete revision of the information was not possible. Importantly, it should be noted that there is now no minimum "qualifying period" for short term prisoners. Any queries regarding how this affects a prisoner's eligibility for temporary release should be raised with the appropriate SPS prison establishment.

**(c) Life Prisoners**

Expiry of Punishment Part of Sentence

Eligible for Top End and Open  
Conditions

8 years  
10 years  
12 years  
15 years  
20 years  
25 years

4 years  
6 years  
8 years  
11 years  
16 years  
21 years

6 years  
8 years  
10 years  
13 years  
18 years  
23 years

The time spent in pre-release is always scheduled to be 48 months of which the first half is in top end facilities and the second half in open conditions. Always assuming other eligibility criteria are positive.

## Appendix E – ICM Process Diagram

