

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

CHAPTER 8 : VARIATION OF LICENCE CONDITIONS

INTRODUCTION

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

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

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

APPLICATION FOR VARIATION (ALL LICENCES)

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

257.The progress report must set out:

257.1the level of contact with the licensee;

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

257.3the response of the licensee to supervision; and

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

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

258.Occasionally a licence may contain a condition which was not suggested in the Home Background Report, and which cannot be met, for example because the resource is not available. In such circumstances the Supervising Officer must

inform SOHD immediately, and must include a recommendation as to whether the condition should be deleted or amended. Wherever possible, the Supervising Officer should offer alternative proposals to try to meet the intention behind the original condition.

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

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

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

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

CANCELLATION OF SUPERVISION REQUIREMENTS (LIFE LICENCE)

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

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

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

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

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

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

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

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

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

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

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