

Non – Compliance – Extended Sentence – Circ 14

6.11 Breach/ Enforcement and Transfer

- 6.11.1 While offenders are on licence, irrespective of whether this is as part of an Extended Sentence, enforcement in the event of non-compliance remains as set out in National Standards 232 to 252. However, the criterion for the imposition of an Extended Sentence - that is, the protection of the public from serious harm - needs to be borne in mind by the Supervising Officer when considering when to report to SOHD. In particular, evidence of a marked increase in the level of risk posed by an offender should be considered seriously. In this context, it should be noted that sex offenders subject to an Extended Sentence will also be registered under the Sex Offenders Act 1997 and there will thus be regular opportunities for reviewing the level of risk posed by such an offender under the guidance for that legislation.
- 6.11.2 In the case of a short-term prisoner who is released on Extended Sentence and subsequently re-offends in the "at risk" period, (i.e. when he is no longer on licence) there is no specific social work role.

Examples of operation of Extended Sentences

Example 1 - custodial term of less than 4 years: if an offender is convicted of in the High Court of shameless indecency. If the court intended to impose a custodial sentence of 2 years but considers that in addition 6 years supervision is needed for public protection, it would impose an Extended Sentence of 8 years. This would be made up of a custodial term of 2 years and an extension period of 6 years. The offender would serve 1 year in custody, and then would be released on licence, which would last for 6 years. During that period, he would be subject to recall to custody in the same way as any other prisoner on licence. If recalled, he would have the right to require the Secretary of State to refer his case to the Parole Board, which if it were satisfied that his continued detention was not necessary to protect the public from serious harm would have to direct his release on licence. For the final year of the Extended Sentence he would remain "at risk" of an order which would return him to custody (under section 16 of the Prisoners and Criminal Proceedings (Scotland) Act 1993) if he were convicted of a further offence.

Example 2 - custodial term of 4 years or more: if an offender is convicted of indecent assault and the court wants to impose a custodial sentence of 6 years but considers that in addition 8 years supervision is needed for public protection, it would impose an Extended Sentence of 14 years. This would be made up of a custodial term of 6 years and an extension period of 8 years. The offender would serve 3 or 4 years in custody depending on whether or not he got parole, and then would be released on licence, which would last for 10 or 11 years. During that period, he would be subject to recall to custody in the same way as any other prisoner on licence. If recalled, he would have the right to require the Secretary of State to refer his case to the Parole

Board, which if it were satisfied that his continued detention was not necessary to protect the public from serious harm, would have to direct his release on licence. He would also be at risk of an order for return under section 16 if he committed another imprisonable offence