

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

CHAPTER 12 : SUPERVISED RELEASE ORDERS

INTRODUCTION

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

LEGISLATIVE BACKGROUND

369. The legislative basis for the imposition of the supervised release order is set out in **section 209 of the Criminal Procedure (Scotland) Act 1995**. The actions which must, or may be taken by courts, the Secretary of State and local authorities, following the imposition of such an order, are set out in sections 14, 15, 18 and 19 of the 1993 Act.

Conditions of the Order

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

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

370.2 requires the offender to comply with:

370.2.1 standard requirements specified in the order, namely

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

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

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

370.2.3 such requirements as that officer may reasonably specify;

for the purposes of "securing the good conduct of the person, or preventing, or lessening the possibility of, his committing a further offence." (This is a more specific purpose than that intended for a probation order where the requirements

need only be "conducive" to the prevention of re-offending.)

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

372.All adult prisoners and young offenders released subject to an SRO are also subject to the provisions of section 16 of the 1993 Act. Under these provisions, if a person is convicted of an imprisonable offence which was committed during the "unexpired portion" of a determinate sentence, a court may order that person to be returned to prison, regardless of any disposal which it makes in respect of the new offence. The person may be so returned to prison for a period equivalent to that between the date on which the offence was committed and the expiry date of the full sentence. (Similar provision is made in respect of children sentenced under **section 208 of the 1995 Act**.)

Length of the Order

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

Court's Duty to Explain the Order

374.Prior to making an SRO the court must explain to the accused, in as straightforward a way as is practicable, the effect of the order and the possible consequences for him/her of any breach of that order. The court is required to obtain a **social enquiry report** before making an SRO, but is not required to obtain the accused's consent.

Transmission of Information from Court

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

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

retained by the Governor, for transmission to the designated supervising authority prior to the prisoner's release.

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

Designation of Supervising Authority

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

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

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

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

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

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

Variation of Terms of Order

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

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

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

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

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

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

Breach

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

385.Once an officer of the local authority has **informed the court** of the grounds of the alleged breach, the court may either issue a warrant for the arrest of the offender or issue a citation requiring the offender to appear before the court at a specified time. The evidence of one witness will be sufficient evidence in breach cases.

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

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

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

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

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

Example

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

after his release, the alleged breach is proved, and the Sheriff orders his return to custody, with immediate effect.

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

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

Right of Appeal

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

THE PURPOSE AND NATURE OF THE SUPERVISED RELEASE ORDER

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

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

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

The Need for Local Consultation

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

to explore whether sentencers would be prepared, when requesting an SER or a Supplementary Report, to indicate whether they were considering making an SRO.

Preparing Social Enquiry Reports

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

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

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

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

Assessing the Risk of Custody

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

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

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

behaviour".

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

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

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

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

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

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

398.6 the risk to the community at large; and

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

Reaching Conclusions

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

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

401. If the report writer has reached the conclusion that a community-based

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

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

THE ROLE OF SOCIAL WORK DEPARTMENTS DURING IMPRISONMENT

Phase 1. The Beginning of the Sentence

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

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

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

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

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

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

404.5 discuss the preparation of a joint action plan;

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

404.7 address any difficulties identified by local management; and

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

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

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

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

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

Phase 2. During Sentence

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

offending.

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

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

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

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

Phase 3. Pre-Release

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

delegated to an Early Release Liaison Officer (ERLO).

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

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

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

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

SUPERVISION IN THE COMMUNITY

Introduction

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

Phase 1. Pre-Release

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

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

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

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

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

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

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

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

Principles of Supervision

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

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

Initial Meeting Following Release

430. The initial post-release meeting between the offender and the Supervising Officer will normally take place on the day of the offender's release, except when logistics render this impossible. In all circumstances this meeting must be scheduled to take place within one working day of the offender's release. The meeting must focus on those tasks set out in paragraphs 183 and 216 (clarifying the respective responsibilities of the offender and the supervisor). In addition the supervisor must clarify with the offender the action plan for the supervision period, based on available information and on the discussions and decisions taken

at the pre-release meeting. If, for any reason, (e.g. sickness), the Supervising Officer is unable to attend the initial meeting, the designated supervising authority must ensure that another worker is available to carry out the tasks required at the initial meeting.

Frequency of Contact

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

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

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

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

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

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

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

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

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

Enforcement And Breach

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

438. The commission of a further offence does not of itself constitute a breach of the SRO (which in this respect is similar to a Community Service order) but the sentencing court may order the offender to be returned to prison to serve some

or all of the unexpired portion of the original custodial sentence, instead of, or in addition to, dealing with the new offence (see section 16 of the 1993 Act).

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

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

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

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

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

441.3 progress to date with implementing the action plan; and

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

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

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

444. When it is decided to initiate breach proceedings, the Supervising Officer must also decide whether the desired outcome of such proceedings is the termination of the order and the offender's consequent return to custody, or an amendment of the order to include, if required, the insertion of additional requirements. Where it is judged that the offender is at significant risk of re-offending, and that his/her compliance is unlikely to be achieved by the amendment of the order, the Supervising Officer's presumption should be in

favour of termination. Where, in the Supervising Officer's judgement, there is a likelihood that compliance, and therefore a reduction of the risk of re-offending and of risk to the community, may be secured by the insertion of an additional requirement or, indeed, the amendment of the order, then this may be pursued as the desired outcome of the breach proceedings.

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

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

TRANSFER

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

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

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

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

451. The Secretary of State will consider the application and where he agrees he will:

451.1 determine the date from which the designation is to take effect;

451.2 arrange for the offender, the first designee (i.e. the existing supervising authority), and the second designee (i.e. the new designated authority) to receive copies of the new designation, using Form E (see Annex C); and

451.3 arrange for a copy of the SRO to be sent to the second designee.

452. Where an offender applies to the Secretary of State for the designation of another supervising authority without the knowledge of the Supervising Officer, SOHD officials will contact the supervisor to advise of the application, and to seek information as set out at paragraphs 448 and 449 above.

453. Where a new authority has been designated, the previous Supervising Officer must liaise closely with the new supervising authority and send all relevant information, including a copy of the case file and any documentation supplied by the prison.

454. Where an offender proposes to move to England or Wales, the supervisor should determine the petty sessions and probation area within which the offender will reside and make enquiries with the probation service accordingly. If acceptable, application should be made to the Secretary of State in the same way as for a transfer within Scotland. The justices for the petty sessions area will then be substituted as the "appropriate authority" for the purposes of the order, and a probation officer for or assigned to that area will be nominated as the Supervising Officer. Liaison should then be with the probation officer. It should be noted that breach of the order can only be dealt with by the court making the order.

VARIATION OF TERMS OF ORDER

455. The offender or Supervising Officer may apply at any time during the currency of the SRO to the court which made the order for that court to vary the terms of that order. The court may:

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

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

456. This makes it possible to take into account any changed circumstances which render it desirable to delete existing requirements or insert new requirements subsequent to the making of the order. Variation may be desirable in light of any change in the offender's circumstances since the making of the order. A variation of the order might also be necessary if an additional requirement imposed by the court is not available in an area to which the prisoner is to move. Where the application is made by the offender alone, the Supervising Officer should investigate the appropriateness of any variation and consider the scope and need for any alternative conditions.

457. In many cases, application for variation will coincide with an application for transfer to another area. As the applications are made to different bodies (Secretary of State for transfer, sentencing court for variation) careful co-ordination will be necessary to ensure that the applications are made in tandem and that consequential effects of one application being accepted or rejected are fully recognised.

458. When an application for variation has been made, the Supervising Officer should write to the court setting out the current conditions and indicating what change is sought, the reasons for the application, and the suitability of the proposed variation. If the offender agrees with the application, this should be clearly stated, and the offender should sign a statement to that effect.

459. Where the application is made by the Supervising Officer alone, the court must cite the offender to appear before the court and must explain to the offender the effect of any proposed amendment, variation, cancellation or insertion.

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