

**rds practitioners guide 1**

# assessing prisoners for home detention curfew: a guide for practitioners

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## Foreword

This guide was prepared by Ed Mortimer, Kath Dodgson and Darren Sugg of the Offenders and Corrections Unit in the Home Office Research, Development and Statistics Directorate. It is based on work carried out with prisons, probation services, police forces, electronic monitoring contractors, Prisoner Administration Group and Sentence Enforcement Unit at the Prison Service and the Electronic Monitoring Section at the Home Office.

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**Which part of the report is most relevant to me?**

One of the key findings from this practitioner guide was the ongoing pressure of tight time scales in carrying out all aspects of the HDC process. We therefore recognise that many of the target audience for this report will want to focus on the sections with most relevance to their work. The table below should help to signpost readers to the most relevant parts of the report.

HDC tasks	Target practitioner audience	Chapter
Overview of HDC	All	One, Two
Overview of the assessment process	All	Three
Assessing eligibility	HDC administrative staff in prison establishments	Four
Initial assessment of suitability	Prison HDC staff; seconded probation teams	Five
Assessment of home circumstances	Local probation services' HDC staff	Six
Enhanced assessments and decisions	Prison HDC staff; seconded probation teams; governors	Seven
Post-release issues	All, particularly: electronic monitoring contractors; Sentence Enforcement Unit; Police; probation officers supervising released prisoners	Eight

**Background**

The Home Detention Curfew (HDC) scheme was introduced on 28 January 1999 across England and Wales and quickly became one of the largest electronic monitoring schemes in the world. In the first year of the scheme, approximately 16,000 prisoners were released up to 60 days before their normal release date, having passed a risk assessment exercise and having agreed to abide by an electronically monitored curfew. At any point in time, around 2,000 prisoners are being monitored electronically on Home Detention Curfew.

Given the scale of the scheme, and the fact that it was introduced nationwide from the first day, the implementation of HDC has been a genuine success in organisational terms. All of

the agencies involved have worked hard to bring the scheme into being, and to make it work effectively in practice. In setting up and operating the scheme, a number of lessons have been learned about how to make the process more efficient and effective, and many of these ways of working have become standard practice.

The aim of this guide is to try to distil some of the good practice lessons learned by practitioners over the first year or so of the Home Detention Curfew scheme. The main focus is on the process by which eligible prisoners are assessed for HDC. As a result, the main audience for this guide will be HDC staff in HM Prison Service establishments and local probation services, though there are also implications for other agencies working on HDC, such as electronic monitoring contractors and police forces.

## Methodology

This practitioner guide arose out of a process evaluation of Home Detention Curfew. This was an exercise to try to discover how the scheme was operating in practice, what examples there were of good practice, and what obstacles existed to the effective running of the scheme. Each of the main agencies involved in the process was examined: prison establishments, probation services, police forces, electronic monitoring contractors, the Parole Unit (now Sentence Enforcement Unit), Prisoner Administration Group at Prison Service HQ, and the Electronic Monitoring Section of the Home Office's Probation Unit.

The main approach was of carrying out semi-structured interviews with key individuals in each of these organisations, either in person or by telephone. The sample was not random, but was taken to try to ensure that we obtained the broad perspective on the HDC process. Thus the sample included a range of different types of prison (closed, open, local, women's prisons, and Young Offender Institutions), both rural and urban probation services and police forces, as well as all three of the electronic monitoring contractors. Researchers also observed the operation of the risk assessment process, home visits by probation services, the decision process, enhanced boards, the induction of new curfewees, the monitoring process, recalls and appeals.

We were also given access to a wide range of the documentation used both centrally and by most of the individual organisations and establishments. Guidance and regular feedback on developments in the scheme were provided by colleagues in the Electronic Monitoring team at the Home Office and in the Prisoner Administration Group and Sentence Enforcement Unit at the Prison Service.

### **The structure of the report**

The next chapter gives an overview of Home Detention Curfew, including some of the key data from the first year of the scheme's operation.<sup>1</sup> Chapter Three provides a short summary of the assessment process which is dealt with in more detail in Chapters Four to Seven, which cover eligibility, initial assessment of suitability, the report on home circumstances and enhanced assessments, decisions and appeals. Chapter Eight gives an overview of the process once an offender is released on HDC, including the roles of the electronic monitoring contractors, the Prison Service's Sentence Enforcement Unit and the police. The appendices contain further information on the HDC assessment process, timetable and eligibility, as well as a list of HDC contact points.

In each of these chapters, we try to identify any arrangements that have worked well and offer the suggestions of practitioners to indicate ways in which the HDC process might be improved. These 'good practice points' are summarised at the end of each of Chapters Four to Eight.

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1 Further details and data on the first year of the scheme can be found in Dodgson and Mortimer (2000).



Electronic monitoring (EM) is a means of determining whether a person is present or absent from a particular place at any given time by the use of electronic equipment. Electronic monitoring schemes were first introduced in the U.S.A in 1984 but since then have been adopted in a number of countries around the world and have been in continuous use in England and Wales since 1995. EM has had a variety of uses within the Criminal Justice System but by far the most significant use has been under the Home Detention Curfew (HDC) scheme which came into force on 28 January 1999 across England and Wales<sup>2</sup>.

Under HDC, selected prisoners are able to serve up to the last 60 days of their sentence in the community provided they pass a risk assessment, have suitable accommodation and agree to abide by a curfew enforced by electronic monitoring. The scheme's stated aim is to ease the transition of prisoners from custody to the community. Almost all prisoners serving sentences of three months or more but less than four years and who are aged 18 or over are eligible to be considered for release onto HDC<sup>3</sup>.

The length of the curfew period will depend on the length of the prisoner's custodial sentence,<sup>4</sup> but the maximum period is 60 days and the minimum is normally 14 days<sup>5</sup>. The average curfew period of prisoners on HDC in the first year of operation was 46 days. The actual curfew will last for a minimum of nine hours per day and, in most cases, will be for twelve hours per day, normally lasting from early evening to early morning.<sup>6</sup> During this period the offender must remain inside their place of curfew.

In the first year of operation, just under 54,000 prisoners were eligible to be considered for HDC and just over 16,000 were actually released on the scheme<sup>7</sup>, a release rate of 30 per

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2 HDC was introduced by Section 99 and 100 of the Crime and Disorder Act (1998)

3 See Chapter Four (Eligibility for Home Detention Curfew) for details of prisoners who are not eligible for the scheme.

4 Prisoners who are sentenced to 3 months or more but less than 4 months must serve 30 days of their sentence before they are eligible for HDC; prisoners sentenced to 4 months or more but less than 8 months must serve one quarter of their sentence; prisoners sentenced to 8 months or more but less than 4 years must serve 60 days less than half their sentence.

5 Due to tight timescales when assessing inmates' suitability, it is not always possible to release prisoners 14 days early.

6 Curfews longer than 12 hours a day must only be imposed if they are likely to increase the probability of the curfew being completed successfully (e.g. if it prohibits the offender from being out when it is known that they are particularly likely to be vulnerable to the availability of alcohol).

7 On average, each month 4,500 prisoners were eligible for consideration for HDC and 1,300 prisoners were released onto HDC.

cent. This is because prisoners eligible to be considered for Home Detention Curfew must pass an in-depth assessment of their suitability for the scheme which is carried out by prison and probation staff before they are released. The aim of the assessment is to determine whether the offender is likely to reoffend whilst on HDC and whether s/he will comply with the curfew conditions.<sup>8</sup> Only if the eligible prisoner passes this risk assessment will s/he be released on Home Detention Curfew. In the first year of operation on average approximately 2,000 prisoners were subject to Home Detention Curfew at any one time.

Private sector contractors are responsible for monitoring offenders released on HDC and notifying the prison service if the offender breaches their curfew conditions. The monitoring equipment installed in the curfewee's home (which includes a 'tag' worn by the curfewee) notifies the contractors of any infringements of the curfew hours or any attempt to interfere with the monitoring equipment by the curfewee. If an infringement does occur, the contractors may issue a warning to the offender or, if the violation is serious enough (either by itself or in conjunction with previous violations), contact the Prison Service's Sentence Enforcement Unit, who will decide whether the violation constitutes a breach of the HDC licence conditions. A confirmed breach will normally lead to a revocation of the HDC licence and the prisoner will be picked up by the police and returned to custody where (subject to any appeal) they will serve the remainder of their sentence up to their automatic or conditional release date.<sup>9</sup> The HDC licence can also be amended or revoked if it is no longer possible to monitor the whereabouts of the curfewee, if it is considered that the curfewee poses a risk of serious harm to the public, or if the curfewee is charged with an offence committed whilst on HDC.

Six per cent of prisoners released on HDC in the first year of operation were recalled. The most common reason for recall was breach of curfew conditions – accounting for two-thirds of all recalls. This category includes being absent from the curfew address, threatening monitoring staff, damaging the equipment or failing to be present for the installation of a new telephone line or equipment. Less than one per cent of recalls were on the grounds that the prisoner posed a risk of serious harm to the public. If a curfewee is recalled, s/he can appeal against the decision.

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8 An overview of the risk assessment process (including a flow chart) is contained in Chapter Three and a timetable is contained in Appendix One.

9 Prisoners recalled to prison under section 39 of the Criminal Justice Act (1991) may serve up to the three-quarter point of their sentence.

The major task of the prison and probation service in the HDC process is to assess the suitability of prisoners for the scheme. The aim is to determine the likelihood of the prisoner reoffending whilst on curfew and the likelihood of his/her abiding by the curfew conditions. This chapter gives a brief overview of the HDC risk assessment process. Figure 1 (on the following page) shows the various stages of the process.<sup>10</sup>

### The initial suitability assessment for eligible prisoners

Firstly, the prison carries out an initial assessment of the prisoner's suitability for HDC in which:

- the prisoner is asked whether s/he wishes to be considered for HDC. If the prisoner does wish to be considered, they must provide details of a suitable curfew address. Prisoners who do not have a suitable address will not be granted HDC.
- an appropriate member of the prison staff who has regular day-to-day contact with the prisoner provides information on any factors which relate to the prisoner's suitability for HDC<sup>11</sup>. The prisoner's risk prediction scores are also calculated (i.e. the statistical probability of an offender committing a sexual, violent or other offence, or of being reimprisoned).
- the seconded probation officer or other authorised HDC officer conducts an initial scrutiny of the documents available (e.g. pre-sentence reports, previous convictions, risk predictors, etc.) to determine whether there are any immediate issues which the prison staff or home probation service should be invited to comment on.

### Probation service assessment of home circumstances

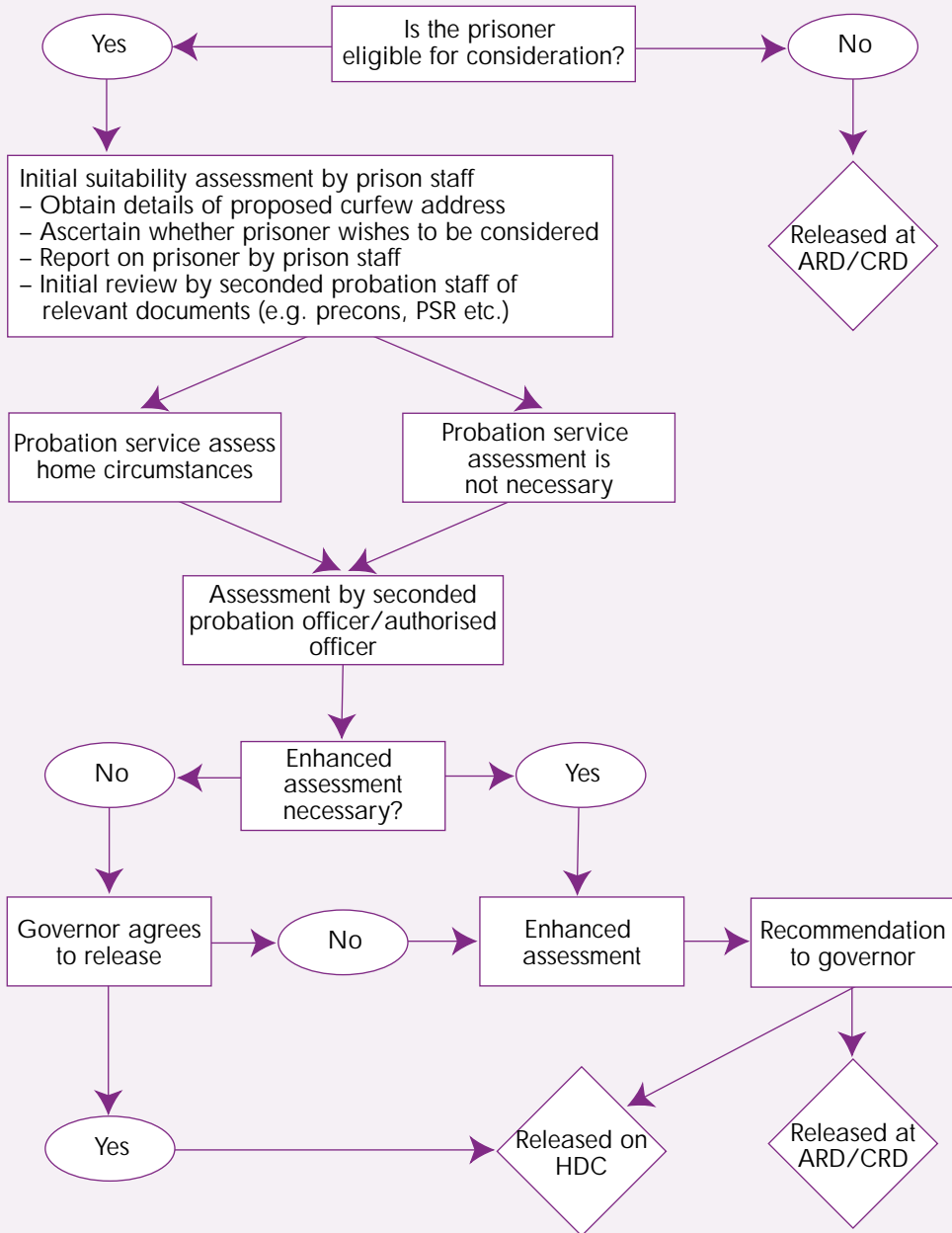
Secondly, the home probation service assesses the suitability of the proposed curfew address, and if possible, provides information on domestic circumstances, victim issues and the suitability of the prisoner for HDC. Home probation service input should only be requested by the prison if the inmate has a realistic chance of getting HDC.

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10 Fuller details of the HDC assessment tasks to be carried out by establishments are contained in the revised Prison Service Order 6700 (HM Prison Service, 2000).

11 These factors include whether they have had a successful history of release on temporary licence (ROTL), the progress they have made in addressing offending behaviour and their attitudes and behaviour whilst in prison.

**Figure 1** The HDC risk assessment process



### Assessment by seconded probation team/authorised officer

Thirdly, either the seconded probation officer or the authorised officer must summarise and review the prisoner's core documentation<sup>12</sup>, the reports by prison staff, the probation service comments (if obtained) and the prisoner's risk prediction scores. Then make a recommendation for or against release based on the evidence.

They can then either refer the inmate to the authorising governor for consideration for HDC or refer the inmate for an enhanced assessment. If the inmate is referred to the authorising governor at this stage, the governor can either agree to release the prisoner on HDC or, if s/he is unsure, refer the case back for an enhanced assessment.

### Enhanced assessment

A case should be referred to an enhanced board if:

- the risk prediction scores indicate that the prisoner is in the statistically high risk category for reconviction for sex or violent offences, or for reimprisonment;
- the offender is serving over one year and does not have a successful history of release on temporary licence; or
- the evidence collected suggests that there is a legitimate case for not releasing the prisoner on HDC.

The enhanced assessment must be completed by a board consisting of at least a governor grade and a seconded probation officer or a member of the throughcare team. If available a member of the prison staff with regular contact with the prisoner should also attend<sup>13</sup>. The board must consider the core documents and the evidence collected in previous stages of the assessment process. Once the board members have reached a decision they will make a recommendation to the authorising governor who will make the final decision. In practice, enhanced assessments are used widely by establishments, and any decision to refuse HDC should be referred to an enhanced board.

### Governor's decision

The final decision whether to grant HDC must be taken by an authorised governor. The main (governing) Governor is authorised to take the decision on behalf of the Secretary of State but may delegate the task to a governor of grade 4 or above if the area manager approves. This is usually what happens and means that the main Governor is free to deal with any appeals against a decision to refuse HDC.

<sup>12</sup> Core documentation includes pre-sentence report (PSR), previous convictions, sentence plan.

<sup>13</sup> However, due to short sentences, time spent on remand, prisoners being transferred in from other establishments for short periods of time, prisoners being moved within the prison and staff shortages there is very often not a member of staff who knows the prisoner well enough.

If the inmate is found suitable for HDC, the prison notifies him/her and the relevant agencies (i.e. the monitoring contractor, the home probation service and the National Identification Service) of their imminent release. If the prisoner is refused HDC, s/he is informed and given the reasons for the refusal. Prisoners can appeal to the main Governor against the decision and, if successful, will be released.

### Who is eligible for HDC?

Most prisoners aged 18 or over serving sentences of three months or more but less than four years are eligible for Home Detention Curfew. However, some prisoners are excluded from the scheme in statute. These are summarised below.

#### *Statutory exclusions*

- (i) Violent and sex offenders currently serving an extended sentence.<sup>14</sup>
- (ii) Offenders who are required to register under the Sex Offenders Act, 1997.<sup>15</sup>
- (iii) Prisoners currently serving a sentence for failing to return to custody following a period of temporary release.
- (iv) Prisoners currently subject to a hospital order, hospital direction or transfer direction under the Mental Health Act 1983.
- (v) Prisoners currently serving a sentence imposed for a breach of a curfew order.
- (vi) Prisoners who have at any time been recalled to prison from a Home Detention Curfew for failing to comply with their curfew conditions.
- (vii) Prisoners subject to deportation action (i.e. prisoners liable for removal from the United Kingdom under section 46 of the Criminal Justice Act, 1991).
- (viii) Prisoners who have, during their current sentence, been released on Home Detention Curfew or given early compassionate release and have been recalled to prison under section 39(1) or (2) of the Criminal Justice Act, 1991 for not complying with their general licence conditions.
- (ix) Prisoners who have at any time been returned to custody for committing an offence before the at risk period of their sentence has expired<sup>16</sup>.
- (x) Fine defaulters and prisoners serving a sentence for contempt of court.
- (xi) Prisoners subject to a Drug Compensation Order.

14 Under section 58 of the Crime and Disorder Act, an extended sentence can be applied when a court which proposes to impose a custodial sentence for a sexual or violent offence considers that the period for which the offender would be subject to a licence would not be adequate for the purpose of preventing further offences or securing the offender's rehabilitation.

15 At the time of writing, Parliament was debating legislation (the Criminal Justice and Court Services Bill) which, if passed, would exclude sex offenders subject to the 1997 Act from the HDC scheme altogether. Prior to this, those required to register under the Sex Offenders Act could be considered for HDC only in exceptional circumstances.

16 Under Section 40 of the Criminal Justice Act, 1991 both short-term and long-term prisoners can be returned to custody to serve the remainder of their sentence if they commit a further imprisonable offence before their sentence expiry date.

### Exceptional circumstances

There are also certain categories of prisoners who are not statutorily excluded from HDC but nevertheless are considered unsuitable. However, prison governors have the discretion to consider prisoners for HDC in these categories if they believe there are exceptional circumstances which may warrant the prisoner's release. These are summarised in the table below (see Appendix Two for fuller details).

#### *Prisoners only to be considered for HDC in exceptional circumstances*

- (i) Offenders who have at any time previously been recalled to prison under section 39 of the Criminal Justice Act 1991 whilst on HDC.
- (ii) Category A Prisoners.
- (iii) Prisoners subject to any other custodial requirements (e.g. prisoners who are subject to consecutive default terms or who are remanded on other charges) for which there is clear evidence that they are likely to become eligible<sup>17</sup>.
- (iv) Prisoners given a restricted transfer to another UK jurisdiction.
- (v) Prisoners who have been unlawfully at large.

Prisoners serving sentences imposed by court martial and subject to the same sentencing framework under Part II of the Criminal Justice Act as prisoners who have not been sentenced by non-military courts should be assessed for HDC on the same basis as other prisoners.

### Calculating the eligibility date

Following reception the establishment should calculate a prisoner's Home Detention Curfew eligibility date at the same time as calculating their Conditional Release Date (CRD) or Automatic Release Date (ARD), and inform the prisoner of both dates simultaneously.

The HDC eligibility date is determined by the length of sentence, as set out below.

Sentence length	Requisite period to be served before the HDC Eligibility Date
3 months or more but less than 4 months	30 days
4 months or more but less than 8 months	One quarter of the sentence
8 months or more but less than 4 years	60 days less than half the sentence

<sup>17</sup> For example, the prisoner is clearly in the process of paying off the fine and so the default term is unlikely to come into effect. See Appendix Two for further details.

Prisoners cannot be discharged on HDC until the requisite period has been served. If a prisoner's HDC eligibility date falls on a weekend the prisoner must not be released until the following Monday rather than the preceding Friday. Similarly a prisoner whose HDC eligibility date falls on a bank holiday must not be released until the next working day.

Police custody and remand time which is taken into account in calculating a prisoner's other release dates must also be taken into account in calculating the HDC eligibility date.

Once calculated the eligibility date should trigger a reminder at the point at which the risk assessment process needs to begin. This should be at least ten weeks before the HDC eligibility date, or the maximum period possible where the eligibility date is less than ten weeks from the time of calculation<sup>18</sup>.

The table below outlines some of the good practice points and suggested improvements in identifying prisoners who are eligible for HDC, along with the benefits which should follow from them.

<i>Good practice suggestion</i>	<i>Benefit</i>
The prison should calculate a prisoner's Home Detention Curfew eligibility date when calculating their conditional or automatic release date, and inform the prisoner of both simultaneously.	Helps to streamline administrative procedures.
Where the prisoner appears to be eligible for HDC, the prison must acquire records of previous convictions as soon as possible, and check the prisoner's past custodial history in order to confirm eligibility. This should include checking whether the inmate is required to register under the 1997 Sex Offenders Act and those who may be excluded from the scheme because of a previous recall to custody from HDC. If the prison has direct access to Phoenix it should not transfer the prisoner to another establishment until this information has been recorded.	Allows for a thorough risk assessment to be carried out. Ensures that assessments only proceed on those prisoners who are actually eligible for the scheme. Enables other establishments to carry out the HDC risk assessment without unnecessary delays.

<sup>18</sup> See Appendix One for timetable of the assessment process.

Once the eligibility date is calculated the risk assessment process must commence at least ten weeks before the HDC eligibility date, or the maximum period possible where the eligibility date is less than ten weeks away.

Allows sufficient time (or as much as possible) for the risk assessment exercise to be carried out before the prisoner's HDC eligibility date.

If a prisoner is informed that s/he is eligible for HDC but is subsequently discovered to be covered by one of the statutory exclusions, the prisoner must be informed in writing.

Prisoners understand more clearly the reasons for their exclusion from the scheme.

Prisoners whose eligibility date falls on a weekend or bank holiday must only be released after that date. Prisoners should never be released before their eligibility date.

Ensures that prisoners are not released earlier than permitted.

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**Confirmation by prisoners of application for HDC**

The Home Detention Curfew process starts in prison, with the identification of eligible prisoners. Once this has been done, prisoners are asked whether they wish to apply for HDC and, if so, to name a suitable address where they will be able to spend their curfew period. This information is recorded on the HDC2 form. Prisoners should be asked to provide only one address at a time so as to avoid unnecessary work later for home probation services.

If the prisoner indicates that s/he does not wish to apply for HDC then the assessment process is terminated. Prisoners do not have to give an indication of why they do not wish to be considered, though it could be useful to know reasons so as to provide better information on HDC to future prisoners and to help assess the extent of problems with such matters as accommodation.

Although the HDC2 form asks prisoners to state whether there is a telephone at the address they specify, it does not ask them whether it is actually connected. Some establishments already ask prisoners about this and pass this information on to the home probation service for them to check as part of the assessment of home circumstances (see next chapter). By doing this, prisons and probation services ensure that the electronic monitoring contractors have sound information about the presence of a telephone line and as much notice as possible if they need to arrange connection or installation of a line.

This is supposed to happen ten weeks before the prisoner's HDC eligibility date. However, in a number of the prisons visited, this was not necessarily the case. In some instances this could be explained directly by many prisoners having short time remaining to be served (e.g. if the prisoner had spent time on remand or been transferred in from another establishment within the ten-week time frame); in other cases there was obviously a knock-on effect from such cases which meant there was often less time available for what should have been non-urgent cases. Added to these pressures in some establishments are delays caused by poor administrative procedures (especially with regard to tracking progress of cases).

There appears little that can be done at present to deal with the cases of prisoners who have been held on remand and who have only a short time left to serve after sentencing (i.e. less than the ten weeks stipulated for the risk assessment and notification to contractors

to take place). The Narey measures on speeding up the criminal justice process (by reducing the length of time from charge to conviction) could yield some benefits in easing these problems and could help to increase slightly the numbers being placed on HDC.<sup>19</sup>

Local prisons, particularly those regularly operating with spare capacity, appear to be hit hardest by the problems of transfers in. Some prison staff interviewed felt that they were being sent prisoners who were likely to create the most work, whether because they were perceived as being “difficult” inmates, or because there were time-consuming administrative tasks to deal with, such as sentence planning or HDC assessments.

It may be possible for establishments to reduce number of inmates transferred to another prison inside the ten week period in which the HDC assessment is due to take place, although clearly there will be instances where overcrowding makes this unavoidable. When this really cannot be avoided, all paperwork and background information relating to HDC and sentence planning should either be faxed or sent by registered post to the receiving prison’s HDC team as soon as possible.

There is also a case for better forward planning, which could entail beginning non-urgent cases more than ten weeks prior to the eligibility date if possible, avoiding where possible the transfers of prisoners within the ten week period (though problems caused by overcrowding may make this difficult) and improving administrative procedures. There have been some improvements already, with changes to the Local Inmate Database System (LIDS) helping to streamline the assessment process. To make the most of these and to help with tracking cases and monitoring outcomes, it is important that progress on the HDC assessment is entered in full on the system, including those who decline to be considered.

### **Comments by prison staff and collection of risk assessment information**

The HDC1 form is then used for the main part of the initial assessment of suitability. An appropriate member of the prison staff who has regular day-to-day contact with the prisoner, such as his/her personal officer or an officer on the prisoner’s wing, provides information on any factors that relate to the prisoner’s suitability for HDC. These factors include whether the offender has had a successful history of Release on Temporary Licence (ROTL), the progress s/he has made in addressing offending behaviour and his/her attitude and behaviour whilst in prison. This information is recorded on the HDC1 form. Also noted on the HDC1 form are the prisoner’s risk prediction scores – the statistical probability of an offender with that history of offending being reconvicted of a sexual, violent, or other offence within two years of release, or of being re-imprisoned within the same period.

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19 The Narey initiative was rolled out nationally in November 1999.

At the next stage of the process, the HDC manager (usually – but not always – a seconded probation officer or governor grade) then completes the information on the HDC1 form and obtains relevant information from elsewhere. Ideally the information on the HDC file should include the full list of previous convictions; the pre-sentence report (PSR) – if one exists; risk prediction scores; and the prisoner’s sentence plan (if one has been prepared), though it is not unusual for one or more of these to be missing. If key information is missing, the HDC staff will need to contact the relevant authorities (e.g. the police liaison officer for previous convictions or the home probation service for PSRs) as appropriate, which inevitably builds in a delay to the system and puts further pressure on an already tight timetable. Other external information which may be included are the court notes and CPS papers and, from within the prison, reports are obtained, where possible, from wing officers, sentence planning, prison work and education programmes and from courses addressing offending behaviour and criminogenic need.

There is clearly the opportunity for establishments to integrate the collation of information for HDC with that required for other activities, such as initial categorisation and classification and sentence planning. Much of the same information is required for these and a relatively simple system for tracking, chasing up and storing these documents could save time and effort in the longer term.

### **Initial scrutiny of documents**

Once all this information has been compiled, the HDC manager can conduct an initial scrutiny of the documents available (e.g. pre-sentence reports, previous convictions, risk predictors, etc.) to determine whether there are any immediate issues on which the prison staff or home probation service should be invited to comment. If there are mental health issues, prison health care staff may also be consulted.

This process can become complicated, with several different pieces of information being requested from different people or organisations. The establishments that appeared most able to cope with the workload of HDC assessments tended also to be those with a detailed tracking system, whether computerised (e.g. a spreadsheet) or paper-based (progress sheets or T-cards). Such a system enables managers and officers to check progress on an assessment and to see what information is outstanding and from whom, and also makes it easier to integrate the information needs of HDC with other processes (e.g. sentence planning). Changes to LIDS have made some of this possible on that system, though an additional tracking system which does not require access to LIDS would be preferable and would allow more information to be recorded on progress.

The need to contact police liaison officers for previous convictions was raised as an issue at a number of prisons lacking their own Phoenix terminals, and some HDC staff indicated that this task was taking up to a week. Although the position has improved (particularly among local and open prisons), there are still some prisons whose HDC work is hampered by the lack of direct access to Phoenix terminals. As this information is essential to the risk assessment process, procedures need to be agreed with the relevant police forces for swifter turnaround times for such requests.

The risk-related information used in this initial review includes most, if not all, of the following:

- interview with the prisoner by governor grade or probation officer;
- pre-sentence report
- previous convictions
- sentence plan
- Prison Service risk predictor<sup>20</sup>
- comments from wing officer(s) or other staff in regular contact with the inmate
- feedback from any programmes attended in the prison
- reports from the sentencing court
- Crown Prosecution Service papers.

Some prison service staff interviewed reported that HDC had brought about a cultural shift in their establishments – there was now a clear link between an inmate's behaviour and attitude in prison and the prospect of his/her early re-entry into the community through HDC. It also emphasises that inmates are inside because they have committed crimes and that they may be refused HDC because of public protection issues. Prisoners are aware that their attitude in prison, and willingness to work well, undertake relevant courses or education/training opportunities, or taking up initiatives to help prepare them for release can all have a bearing on their being considered suitable for HDC (these are discussed further in the chapter on enhanced assessments). Also, some governors argued that the notion of risk management is now more consistently applied to all prisoners sentenced to under four years as a result of HDC.

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20 Note that the risk scores produced give the probability that an offender with that history of offending will be reconvicted within two years. It does not give the probability that the individual prisoner will be reconvicted. Prison Service Order 2200 provides more information.

Not all establishments routinely interview all prisoners as part of the assessment process. Interviews with prisoners can provide an excellent way of informing them about HDC and also provide an opportunity to discuss particular questions or concerns. Interviews should be in addition to showing videos and distributing written information about the scheme. Additionally, three of the institutions visited had produced their own information sheets on HDC to reinforce to inmates what it involved, what it would be like, what difficult choices they would face if they did get HDC and outlining various scenarios they might face. Information from the electronic monitoring contractors confirmed that well-informed curfewees and families were very important in ensuring the successful completion of HDC. Establishments may wish to consider providing such material, ideally in the context of the interview to discuss the application, in addition to ensuring that all eligible prisoners have an opportunity to see the video explaining HDC.<sup>21</sup>

While it is not always possible to release staff, establishments could give some thought to encouraging their HDC staff to visit the monitoring centres so that they are better informed about what actually happens after release and can pass this on to future applicants for HDC. The monitoring companies will generally welcome such requests for visits and, where they have happened, they seemed to have been useful for staff of all agencies.

Use of information from the police (for example, using the HDC10 form) is relatively unusual, unless information is already on the file. However, two governors interviewed cited examples of the police being consulted where this gave a better context to the assessment decision. The main reason for not contacting the police routinely is the lack of time and the fact that it does not seem to be warranted for the majority of cases, which are relatively straightforward. While it would not be feasible for the police to be contacted about every application for HDC, there is clearly scope for use of police intelligence in some cases where there may be cause for concern but where there is no direct evidence available to HDC staff.<sup>22</sup>

The prison staff member then carries out an initial review of the papers and highlights areas on which the home probation service will be asked to comment (assessments of home circumstances are dealt with in the following chapter). The HDC3 form (or alternatively the PD1 form for those sentenced to 12 months or over) is sent to the home probation service for completion. If the prisoner is clearly unsuitable for HDC then the officer can decide not to

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21 A survey of curfewees indicated that they wanted more information on HDC, especially in the form of a video or on a one-to-one basis. The results of this survey will be summarised in the main HDC evaluation report which will be published in early 2001.

22 A separate analysis by the Home Office of cases where curfewees were recalled following a domestic violence incident established that in about half the cases, the police were aware of a background of domestic violence.

request input from the probation service in the prisoner's home area. The reasons for this must be recorded on the HDC1 form and the decision must be kept under review and the case referred to the enhanced board.

In the early months of HDC, some prisons were sending all, or virtually all, cases to probation services for the assessment of home circumstances (using the HDC3 or PD1 forms). Filtering is much better now and keeps probation workload down. However, the extent of filtering still varies widely. Probation services rarely receive the full 14 days notice stipulated before HDC3 reports are due back, though with current release rates this does not appear to be causing major difficulties.

When all the HDC3/PD1 information has been returned to the prison, the reviewing officer (usually the HDC manager) goes through the papers on the file in the light of comments from the probation service and from staff within the prison before completing the final sections of the HDC1 form. S/he then makes a decision on whether to refer the case to the senior governor for consideration for HDC, or to refer the case to an enhanced assessment.<sup>23</sup> A small proportion of cases may be deemed to be suitable immediately and can go straight to the countersigning governor (usually grade 4) for his/her decision. This can either be to recommend release on HDC or to refer the case for enhanced assessment.

Suggestions for good practice and possible changes to the initial assessment of suitability and the benefits that might follow from them are set out in the table below.

<i>Good practice suggestion</i>	<i>Benefit</i>
On the HDC2 form, ask prisoners to confirm first their decision on whether to apply for HDC, before supplying details of a proposed curfew address.	Saves time being wasted while the prisoner supplies an address on the front sheet of the form.
Consider asking prisoners declining HDC why they make this choice.	Better understanding of why prisoners choose not to apply for HDC. Potential for better information provision in the future.

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<sup>23</sup> Enhanced assessments are mandatory for prisoners who are serving a sentence of 12 months or more and do not have a history of successful release on temporary licence (ROTL), or whose risk predictor score falls in the statistically high risk category

Ask prisoners whether any telephone line at the nominated address is actually connected. Ask home probation service to check as part of the assessment of home circumstances.

Information can help monitoring companies plan installations or connections of telephone lines in time for the release date or as soon as possible afterwards.

Begin non-urgent HDC assessments more than ten weeks before the prisoner's HDC eligibility date if possible.

Builds in a 'safety margin' to ensure that more assessments are completed ten working days before the eligibility date to allow full notice to contractors.

Avoid transfers of prisoners within ten weeks of their HDC eligibility date wherever possible. Where transfers take place unavoidably, the HDC paperwork should be faxed or sent by registered post to the receiving establishment as soon as possible.

Avoids delay caused by obtaining HDC paperwork from originating prison, or by re-starting the assessment process.

Integrate the collation of information for HDC with other processes, such as sentence planning and initial categorisation and classification.

Allows for more efficiency in administrative procedures and could reduce the amount of administrative input required for assessments.

Set up a tracking system (separate to LIDS) for the assessment process using spreadsheet, progress sheets, T-cards, etc.

Enables staff to keep track of progress, to see what information has been requested, what is outstanding and from whom.

Record all the assessment details on LIDS, including for those who decline HDC, as well as all final decisions, even for those who are refused HDC.

Allows full checking of the eligible population and recording of decisions. Enables remote aggregate monitoring of HDC cases across the country. Enables better feedback to establishments and Prison Service managers.

Establishments should provide inmates with fact sheets to inform them of what HDC involves in practice, and give all eligible prisoners the opportunity to see the video on HDC, preferably before they decide whether to apply for release on the scheme.	Better informed curfewees who understand what is required of them. Greater likelihood of successful completion of the curfew period.
Wherever possible, interview the prisoner to discuss HDC.	Better understanding of HDC by prisoners. Potentially, fewer subsequent problems during the curfew period, greater compliance and fewer recalls.
Establish protocols with police forces for guaranteed turnaround times for requests for previous convictions.	This would speed up the assessment process.
Consider increasing the use of police intelligence in carrying out assessments (where time allows and where the information could have a genuine bearing on the outcome).	Better informed assessment decisions.
Where possible, encourage HDC staff to visit the nearest monitoring centre to see what is involved after the prisoner is released on HDC.	Better informed staff who are subsequently better able to answer questions from prisoners about HDC.

Prisoner Administration Group at the Prison Service HQ continues to work with area managers and establishments to maintain and improve the quality, effectiveness and consistency of assessments, and has already issued a revised Prison Service Order 6700 on HDC updating some of the assessment and related administrative procedures.

The home probation service assesses the suitability of the proposed curfew address and, if possible, provides information on domestic circumstances, victim issues and the suitability of the prisoner for HDC.<sup>24</sup> The prison can also request the probation service to comment on further particular issues. The probation service completes their assessment on the HDC3 (or PD1) form which they return to the prison.

Outside probation input should only be requested by the prison if the inmate has a realistic chance of getting HDC. If the initial assessment shows that the inmate is definitely unsuitable for HDC, the prison should not waste outside probation resources by asking them to comment on suitability for HDC. A sensible approach to this is essential in ensuring that probation services can concentrate on delivering high quality assessments for cases where their input is important and that they do not become overloaded by unnecessary work.

Overall, establishments were happy with the input from probation services, though there was considerable variation, from excellent well-focused assessments detailing all the information requested, to some which were felt to be of little use in aiding the HDC decision. A number of prisons complained about the poor quality and timeliness of some HDC3 assessments carried out by probation services. In contrast, a number of probation services visited were also critical of establishments for their timeliness in sending out the forms (services are supposed to have 14 days to turn around the HDC request). In part, these issues reflect the unavoidably tight time scales for some of the HDC assessments being carried out by staff in prisons and probation services.

### How are HDC3 assessments organised?

The organisation of assessments differs according to whether the offenders are subject to post-release supervision by the probation service (as is the case for all young offenders – i.e. those aged under 21 on release – and all offenders sentenced to 12 months or more in custody). In addition, different probation services have adopted different organisational arrangements, ranging from dedicated HDC teams to assigned HDC officers, or distributing HDC work among existing staff. There is no best way for organising these tasks, and services have adopted whatever has been most practical for their particular area.

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<sup>24</sup> The role of probation services in the HDC process is set out in Probation Circular 44/1998.

### ***Offenders subject to post-release supervision by the probation service***

Offenders sentenced to serve 12 months or over in custody are eligible for automatic conditional release (ACR). These prisoners, as well as all young offenders, are subject to post-release supervision by the probation service as laid down in National Standards. With the introduction of HDC, probation areas decided that it was logical for the HDC3/PD1 assessment to be carried out by the probation officer handling the throughcare case, who would usually also be the officer responsible for post-release supervision. Except for the additional home visit as part of the assessment of circumstances, HDC should have little impact on post-release supervision as the offender receives no additional probation service supervision as a result of HDC.

However, one probation officer (PO) interviewed commented that the early home visit did allow him to get to know the family a little better, and this could aid supervision plans. There is therefore an opportunity for officers to use the information collected on the home visit for improving the quality of post-release supervision.

### ***Offenders not subject to post-release supervision by the probation service***

The situation is different for offenders sentenced to less than a year and aged 21 or over at release, who are eligible for automatic unconditional release (AUR). The Probation Service has no statutory responsibility to provide any post-release supervision; consequently there are no organisational structures in place to deal with such cases (i.e. probation services would not ordinarily have been in contact with these individuals). Many probation services have dealt with this by delegating the home circumstances assessments to Probation Service Officers (PSOs) within post-release teams. PSOs are auxiliary staff, without a probation or social work qualification, who assist main grade staff (i.e. those with such a qualification) in a variety of tasks. As a general rule, PSOs have less training, particularly in the key area of risk assessment, though this does not mean that they cannot provide establishments with a clear well-focused assessment of home circumstances.

Only one of the areas visited had made any large scale organisational changes to deal with HDC. They set up a specialist curfew unit, staffed by four PSOs, to handle all AUR and a small number of ACR cases. One area had recruited a probation officer to handle all AUR assessments for the county and another area had one PO for both ACR and AUR cases. These areas differ from the other areas in that they employ staff who only carry out HDC3 assessments, whereas in the other areas it is just one task amongst many others by all members of the throughcare team.

## Home visits and information sources used to make assessments

The prison decides which prisoners eligible for HDC need outside probation input as part of their HDC risk assessment. For those cases sent to the outside probation service, home visits are almost always carried out – the main exceptions are when the offender’s proposed address is well known to the probation service (for example, if a member of staff has recently visited in connection with other supervision arrangements). In such cases, some services regard a telephone call as sufficient, though staff in some establishments expressed unease about this. Home visits are also sometimes not carried out if the proposed curfewee is the sole occupant or the landlord is not available.

Home visits need to be agreed with the occupants of the property, and this can be a cause of delay if the officer is unable to make contact with them, or if there is no-one in when they visit at a previously agreed time. These problems are unavoidable and obviously can impact upon the service’s ability to return the assessment to the prison by the set date.

Whilst on a home visit the probation service are looking to comment on a number of factors affecting the decision to release a prisoner on to HDC, including: domestic circumstances; the position of known victims; and evidence concerning the prisoner’s suitability for HDC (such as risk to victims and members of the public, risk of reoffending and the probability of the prisoner’s complying with the curfew conditions). The prison may also ask (on the HDC3 or PD1 form) for the probation service to comment on further specific issues which are of particular importance or on which they have inadequate information.

As well as assessing suitability, the probation staff should also spend a considerable amount of time on the visit explaining both the technicalities of electronic curfew and the implications for everyday life of the offender’s being inside the home for (typically) 12 hours a day, for up to 60 days. This is partly to obtain the family’s views on whether the offender could cope with the regime, but also to make the family aware of the effect the curfew could have on their own lives and give them the opportunity to refuse to have the offender stay with them. Home visits therefore play an important role in ensuring that cohabittees, as well as curfewees, are well briefed on what to expect. The electronic monitoring contractors all commented on the importance of this for the smooth running of the curfew, and cited lack of understanding of the scheme as being associated with higher levels of curfew violations and breaches.

Probation staff are conscious of relatives being pressured into accepting individuals whom they ordinarily might not welcome. It is important that probation staff have the opportunity to find out when this is the case (for example, if there is a history of domestic violence or the

potential for it) and that they can communicate this information effectively without jeopardising the position of the potential victim. Whilst on the home visit probation also check to make sure that there is a phone line and whether it is connected. Home visits seem to vary in length and the issues they cover, though most staff take a checklist to ensure that they cover all the necessary ground.

In addition to the home visit, probation services tend to use whatever information is 'on the file' to make the assessment, such as pre-sentence reports, supervision plans for community sentences, Crown Prosecution Service (CPS) papers, police information, attendance and breach records and medical/psychiatric reports. Once they have completed their assessment the probation service return the HDC3 form to the prison.

### **Availability of appropriate information**

Although probation staff interviewed felt generally confident that they had enough information to make what they considered to be a sufficient assessment, they did pinpoint a few areas where information was lacking. Firstly, information is less likely to be available for Automatic Unconditional Release and first-time offenders, some of whom may be unknown to probation services.

Secondly, a number of staff commented on the lack of information on local victims. For example, one PO said that she recommended against release in one case because she knew from personal knowledge of the area that the victim happened to live around the corner from the proposed address. However, this information was not included in any documentation.

Thirdly, it can be difficult to gain information on whether the prisoner has a history of domestic violence. A small-scale exercise was carried out to ascertain whether police records of domestic violence could be of use.<sup>25</sup> Nineteen curfewees for whom domestic violence had been a factor in their recall to prison were checked against police records and seven were found to have a recorded history of domestic violence.

It would be useful if prisons and probation could request information from the police on domestic issues. However, there are a number of practical difficulties. Firstly, the time scales involved could present problems. Secondly, Domestic Violence Units often file information under the name of the victim, rather than the offender, and information is often held on a divisional rather than on a force wide scale. Therefore, considerable historical information would need to be collected on a curfewee's previous relationships and addresses.

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<sup>25</sup> Bullock, 1999 (internal Home Office report).

Nevertheless, probation services and prisons should try to liaise with the police and explore ways in which the police may be able to provide information, focusing on those cases where there is genuine concern but a lack of evidence. Developments within the probation service information systems may enable relevant information to be more accessible in the longer term.

In a survey of probation service attitudes towards the use of HDC carried out by Lilly & Nellis (2000b) in the north of England, probation service teams commented that it would be useful if the prison checked more information with the prisoner before asking for an assessment. They complained of not receiving sufficient information sometimes ( e.g. previous convictions) to make their assessment, and where risk has been identified, they consider that some information on the prisoner's behaviour in prison would be helpful. Some probation officers noted that information from the prisons could be particularly scant for offenders serving less than one year (AUR cases). One service noted that easily accessible, prior documentation was often not available for short-term prisoners and finding it can make the assessment process more time consuming.

### Quality of assessments

*In general*, prison and probation staff seemed to be happy with HDC3/PD1 assessments, though there were a few areas of concern. One area visited had undertaken a systematic quality review of HDC3 reports. The review author (a Senior Probation Officer – SPO) concluded that the assessments carried out by PSOs were more consistent in quality than those completed by POs (the PSOs in the unit only carried out HDC3 assessments, so quality may well have improved with practice). This view was echoed by some other probation staff. However, a number of prison staff interviewed commented adversely on the quality of some HDC3 forms completed by PSOs in some probation areas. For example, they tended not to comment on some of the criteria listed on the form, with little or no insight into the risk factors such as victim issues and likelihood of reoffending, but instead gave only a description of the accommodation.<sup>26</sup>

There may be a need for greater dialogue between prisons and probation services about home circumstances reports. Some of the problems might also be addressed by PSOs receiving risk assessment training, or by having formal quality assurance (“gatekeeping”) procedures for producing HDC reports (i.e. the reports are checked by a more senior officer before being returned to the prison). However, there was a common view among probation staff that the assessments they are required to carry out for HDC are essentially data

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<sup>26</sup> Lilly and Nellis (2000a) found similar issues about prison staff's views on the timeliness and quality of home circumstances reports carried out by probation services.

collection exercises rather than risk assessments. One SPO stated that *“the avoidance of a risk assessment of the offender and the high quality of the reports answer any residual concerns about whether this task [the report on home circumstances] was appropriate for the PSO grade”*. This view was not always held by prison staff.

The quality of home circumstances assessments varied amongst PSOs and POs – some were high quality, in-depth and addressed the relevant risk criteria and issues specified by the prison; others might only consist of a couple of lines and did not address the relevant factors. Apart from occasional examples of best practice in specific local teams, there is typically little or no gatekeeping, which is possibly a function of the probation service view that the home circumstances assessment is mainly a data collection exercise, and also of the workloads of probation services. Some team managers (SPOs) said they occasionally ‘glanced at a few HDC3s’, but that was the extent of quality control for most. Work should be done with probation services to ensure that those carrying out HDC3 assessments have the necessary skills, and that there are proper quality control procedures in place such as systematic gatekeeping and local auditing. There are examples of prisons and probation services communicating with each other about the format and content of home circumstances reports, and other establishments and services could consider adopting this good practice measure.

Although carrying out HDC3 assessments involves basic data collection, probation services need to ensure that there is sufficient focus on the factors prisons require to complete a full risk assessment. This would be helped by ongoing liaison between prisons and probation services over the requirements for the HDC3 assessment.

## Monitoring

At present monitoring throughput is difficult, partly due to changes occurring in IT and monitoring systems within the probation service. However, two of the probation services visited systematically recorded the number of assessments they have completed and some information on the resources used in undertaking home visits (see resources section below). Other areas had not made any record of throughput and had only a vague idea of the number of assessments they had carried out. Many probation services do at least keep a basic record of the number of assessments that they have undertaken even if these are simple and paper-based. Such measures do not have to be sophisticated and the information can help the service to monitor team and individual caseloads.

## Resource issues

One probation service had been collecting resource information on an ongoing basis and had carried out some limited activity sampling. They estimated that a home visit took one officer at PSO level approximately one hour to complete, excluding travel time or reporting time. Another service carried out a two-week activity sampling exercise which showed that each home circumstances assessment took 4 hours 15 minutes to complete, with the average officer spending a third of their time on HDC-related work. The breakdown of average time spent was:

- 47 minutes travelling time
- 41 minutes direct contact with family/friends of prisoner
- 23 minutes contact with other agencies
- 2 hours 24 minutes reading papers, drafting/typing reports and associated tasks.

In a survey carried out by Lilly and Nellis (2000b), probation officers complained about “tight and unrealistic” time scales for carrying out assessments. For this practitioner guide, staff in all probation areas visited reported often having less than ten working days to complete and return HDC3 forms, but they felt that this had not (yet) led to any significant problems in either being unable to complete HDC3s or to return them on time. However, some of the prisons visited noted that late return of home circumstances reports was an ongoing problem.

There is no evidence that areas without specialist units have encountered any significant difficulties, although staff in most areas said that if the number of assessments increased significantly there could be problems. While most areas have said they were able to cope with the current HDC workload, all felt that a significant increase (e.g. to the levels expected before the scheme went live) would entail real difficulties.

There is some evidence that many prisons, particularly in the early stages of the scheme, were wasting probation service time and resources by requesting HDC3 assessments for offenders who were very unlikely to get HDC and who therefore should have been filtered out at the HDC1 stage (see the chapter on initial assessments). Similar comments about the lack of filtering in prison were also made by Lilly and Nellis (2000b). Although accounts were largely anecdotal, one area was able to produce figures: in the first six months of the scheme 400 HDC3 requests were received in one area, 75 per cent of which resulted in the address being judged as suitable. However, only around 20 per cent were subsequently released.

It should be noted, however, that prison and probation staff felt that this problem had greatly reduced over the first few months of the scheme's operation, and that the filtering process seemed to be successfully weeding out cases where there was no real prospect of HDC being granted. However, it does point to the usefulness of a continuing liaison between practitioners in prisons and probation services to ensure that both are clear about the kind of information that is required from an assessment of home circumstances, and about what is possible.

On the whole, relationships between probation services and HDC contractors seem to have been good. The role of the contractors' liaison officers seemed to be an important factor in this, and highlights the benefits that can result from enabling direct personal contacts between the different HDC agencies. Relationships were particularly strong where the contractors had been involved in the trials of curfew orders with electronic monitoring since 1995.

The table below summarises the good practice points in carrying out reports on home circumstances and the benefits that might result from them.

<i>Good practice suggestion</i>	<i>Benefit</i>
Whilst on a home visit the officer should not only carry out an assessment of the suitability of the address/curfewee, but also provide the occupants with information about HDC.	Residents understand the implications of HDC so that they can make an informed decision and reduce the likelihood of unforeseen problems in the curfew period.
Officers should be provided with a checklist of the areas that need to be covered on the home visit.	Ensures that the PO/PSO covers all the necessary ground to produce a thorough assessment.
Information collected during home visits should be used to inform post-release supervision of ACR cases by probation services.	Improved quality of post-release supervision.

POs/PSOs should address the points set out in the criteria laid out on the form and the particular issues the prison has specifically requested information on, if possible.

This will provide the prison with the information they particularly need to make the final decision.

Staff on home visits should try to find out when residents feel under pressure to accept a curfew, or whether there is a potential for domestic violence. Such matters need to be handled sensitively and in such a way as to protect potential victims.

Improved quality of HDC decisions and reduced likelihood of domestic violence and curfew breaches.

The quality of HDC3 assessments should be monitored (e.g. through gatekeeping or internal audits).

Ensures that HDC3 reports are of a consistent standard and quality.

Provide risk assessment training for PSOs where possible.

This will enable PSOs to address and comment on issues such as risk of reoffending rather than providing a description of home situation only.

The probation service should try to keep a record of the number of assessments that they have undertaken (and the resources involved) even if these records are only paper based.

Monitoring will provide information about workload, resources being used and resources that are needed. It could also provide an insight into how well prisons are filtering cases.

Services should enter into a dialogue with prisons about the format and content of home circumstances assessments.

Promotes better understanding by probation services of what prisons need from the HDC3/PD1 form. Better understanding by prisons of what is involved for probation services and the implications for assessments.

Probation services should explore opportunities for liaison with the police to obtain useful information for the assessment (e.g. on domestic violence and victim issues).

Provides a fuller risk assessment and minimises the possibility of releasing prisoners on curfew who are not suitable (e.g. prisoners with a history of domestic violence).

Where possible, officers involved in HDC3/PD1 assessments should visit the regional monitoring centre.

Better understanding of what is involved in HDC which can be passed on to family members and other residents at the time of a home visit.

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On the basis of the available information, the prison HDC staff make a final recommendation to the governor responsible. These decisions are made following an enhanced board to consider HDC cases, where all of the evidence and previous recommendations are reviewed and discussed before the final recommendation is recorded on the HDC 4 form. Enhanced assessments are required for all prisoners being recommended for refusal of HDC, as well as for the great majority of those who are subsequently released early. The enhanced boards usually comprise a governor (normally G5 grade) and a seconded probation officer, but may also include one or more others. In some establishments wing officers are routinely invited to attend, and with the small number of prisoners aged under 18 but who will reach 18 before their eligibility date, a social worker is also present. There may be some scope for integrating the work of HDC enhanced boards with that of boards convened for other purposes, such as deciding on Release on Temporary Licence.

In a small number of establishments, the inmate is present at the HDC enhanced board with full speaking rights; some other establishments permit the inmate to attend the board if s/he wishes; an officer at one establishment visited noted that longer term offenders who tended to be better known to staff were more likely to attend the board, which may be unfair on those inmates who have spent less time in that particular establishment. In most establishments, however, the inmate is not personally involved in the enhanced board. Arguments for inmate attendance at boards centre round the fact that the process is more transparent, and gives the inmate a chance to have his/her say and to ask any questions they may have. Staff at one establishment where all inmates going forward for enhanced assessment attended the board cited their very low appeal rate against HDC decisions as evidence of the value of involving prisoners in the board.

Arguments against inmate attendance at enhanced boards are generally to do with the practicalities of getting the offender to wherever the board is being held, or the board members to the wing where the inmate is being held – in large prisons in particular, it would be very difficult to organise. Other arguments centre on the value of the prisoner's presence. It is arguable that by inviting the inmate to attend, his/her expectations may be raised, even though there may be no realistic chance of their being granted early release.

It is for individual establishments to decide whether the logistical problems of having prisoners attend enhanced boards are outweighed by potential benefits. However, if prisoners are routinely invited, there should be a clear understanding about what the benefits are for that establishment, and prisoners should be reminded beforehand that their attendance at the board is not an indication that they will be granted HDC.

The board considers all the evidence collected from the documentation and, where relevant, the interview with the prisoner and the assessment of home circumstances. Reaching a recommendation can be a complex process and the outcome inevitably involves weighing up a number of risks and any evidence that the prisoner is committed to starting a law-abiding life on release. In addition to the previous convictions and risk predictor scores discussed in the chapter on the initial suitability assessment, other factors come into play. Some such issues and offence-related factors are listed below, along with views offered by prison HDC staff on how these might impact on an offender's suitability for release on Home Detention Curfew.

***Positive factors that can increase the likelihood of HDC being granted:***

- a history of good behaviour in prison
- a clean record of mandatory (and voluntary) drug tests
- a history of work or training or other constructive use of time in prison
- confirmation of offer of employment on release will tend to count in the offender's favour, though establishments are wary of vague promises from relatives
- a clear plan of how the offender intends to try to find appropriate work or training
- a clear sense of how the offender intends to fill his or her spare time
- an awareness of the likely pressures of being on HDC (e.g. peer pressure, boredom, tensions with family, etc.) and some idea of how to cope
- clear support from family or partners, and a stable home.

***Negative factors that can make it less likely that HDC will be granted:***

- a chaotic lifestyle (mentioned particularly in relation to young offenders, though they are not ruled out)
- offenders who seem to be in an active phase of their criminal careers (again more likely to be young offenders)

- a pattern of drug-related crime
- the prisoner states that s/he will continue to take drugs, or will resume taking drugs after release
- a recent history of failed mandatory drugs test
- sex offenders are very unlikely to be granted HDC, save in exceptional circumstances <sup>27</sup>
- drink drivers are less likely to be granted HDC if there is a pattern to the offending, reflecting the attitude of the courts
- a current offence or recent history of domestic burglary (again, reflecting the seriousness with which the courts view such crimes)
- a history of domestic violence (unless the prisoner is going to a different address)
- a pattern of ABH/GBH
- a pattern of taking vehicles without consent
- a history of breach of previous community sentence or failure to surrender to bail, especially if this is related to the current sentence.

These are just some of the factors that establishments will be taking into account, and not all of them will be important or relevant to every case coming to an enhanced board.

Once the board has made its decision, the recommendation and the reasons for it are recorded on the HDC 4 form. The recommendation of the board is then passed to a more senior governor (usually grade 4) for a final decision. According to the staff interviewed, it is rare for this governor to make a decision that contradicts the view of the board. In these relatively few cases, there have examples of governors changing decisions in both directions – to approve release on HDC and to reject it.

After this, the HDC5 or HDC6 form is used to inform the prisoner of, respectively, acceptance or refusal of home detention curfew. Reasons for refusal are included on the form given to the prisoner, though this does not always give all the reasons that may have been discussed at the enhanced assessment (e.g. where victim issues or domestic violence issues may be exacerbated by giving such details).

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27 At the time of writing, changes to the Home Detention Curfew scheme in the Criminal Justice and Court Services Bill would mean that all offenders required to register under the Sex Offenders Act 1997 would be ineligible for HDC.

One criticism of the HDC 4 form was that it did not require the names and grades of those attending the board who made the decision, nor whether the offender was present, to be recorded. These should be incorporated to improve accountability for decisions, particularly in the case of appeals.

While prison governors take the final decision, there appears to be more scope for HDC staff to accept the recommendations of originating prisons when inmates are transferred, provided that the paperwork is available. At least, it ought to be possible for establishments to agree to accept each other's recommendations, subject to a review of the HDC documentation. Under such a situation, it would only be necessary to seek further information from other agencies, interview the prisoner or hold an enhanced board if there were good reason to doubt the decision of the transferring prison, or if the inmate's circumstances had changed. However, the final decision rests with the releasing governor, and s/he will ultimately need to decide whether to accept the work and decision of another establishment.

What is clear from interviews with governors, seconded probation staff and inmates is that it is very important for those turned down for HDC to have the reasons for that decision explained. Where an inmate attends the enhanced board there is an opportunity to give him/her an indication of whether they will be granted HDC (subject to the agreement of a more senior governor) and the reasons for this. However, in the majority of prisons staff will need to ensure that prisoners are informed as soon as possible, and preferably face-to-face. Staff also spoke of the importance of reminding prisoners who had been told they were being granted HDC that their early release was dependent on their continuing good behaviour in prison and that HDC could be withdrawn if, for example, there were any subsequent adjudications against the inmate.

Once the decision has been confirmed (subject to any appeal), the HDC administrative staff fax the HDC7 notification to contractors and other agencies. This now incorporates a photograph, though once this has been photocopied and faxed it is often of no practical use to contractors, though an original photograph (which is affixed to the prisoner's copy of the licence) helps in confirming the identity of the curfewee at installation.

Details of releases on HDC are supposed to be faxed to contractors ten working days (14 calendar days) before the release date. However, in a large proportion of cases this is not achieved, and there were even cases cited of electronic monitoring contractors receiving notifications the day before release or even on the day of release. Where there is no telephone line in the proposed address, the contractors need to arrange an installation of

one, and this can take about a week. Until then the contractors have to monitor the curfewee using random alternative monitoring (RAM) whereby the monitoring staff have to drive to the property and use mobile receivers to check the presence or absence of the curfewee.

Thus, late notifications of release can have implications for contractor costs and for the monitoring process. While it is often not possible for establishments to give contractors the full notice, every effort needs to be made to finalise HDC decisions within the set timetable and to notify the monitoring companies of releases.

### Recording and monitoring

It is important that all of the HDC assessment fields are completed on the Local Inmate Database System (LIDS), even when the prisoner is refused HDC. For those who are released on HDC, it is important that this is correctly recorded as the reason for release. A large minority of cases still have missing or incomplete assessment records on LIDS, particularly when the application for early release is turned down. This makes it impossible to assess accurately the number of assessments taking place and at what stage they are being filtered out.

### Appeals

If a prisoner is refused Home Detention Curfew (i.e. s/he will be released at the Automatic or Conditional Release Date), s/he has a right of appeal to a more senior governor (usually the governing governor). In these circumstances the whole file and paperwork is passed to the governor so that s/he can review the decision and either uphold or reject the appeal.

At one establishment visited, prisoners refused HDC were asked whether they intended to appeal against the decision. If a prisoner indicated that s/he did wish to appeal, the governor who sat on the enhanced board would offer to discuss with him/her the reasons for the decision. This offer was taken up regularly and led to many prisoners deciding against a formal appeal.

In another establishment, it was found that, in some circumstances (e.g. if the governing Governor was on leave), the appeal was decided by the same governor who had taken the decision to turn down the prisoner's HDC application. While that establishment argued that this had actually resulted in some instances of the governor overturning his/her own decisions, it was not an ideal situation. Although it may not always be practicable, establishments should try wherever possible to ensure that the governor hearing the appeal is not the same governor who has previously turned down the prisoner's application for early release on HDC.

### Amendments to the HDC licence

Prisons also have to make decisions on applications for variation to curfew times and changes to the curfewed address, with input from the home probation service if required. Deciding on these changes can be time-consuming and bureaucratic, with very tight time scales for turning the decision around. There have also been complaints that contractors do not always return the amended licences to the prison, though this now seems to happen less frequently than was the case in the early months of the scheme.

Some of the good practice points relating to enhanced assessments and appeals are contained in the table below, together with the possible benefits that might follow from them.

<i>Good practice suggestion</i>	<i>Benefit</i>
Establishments may wish to consider whether to allow or encourage inmates to take part in the enhanced boards. There should be clear guidelines in each establishment on whether prisoners should be invited to take part and if so, under what circumstances this would happen.	Clearer understanding by inmates of reasons for refusing HDC. Potential for fewer appeals against refusal of HDC.
Establishments could consider accepting recommendations from transferring prisons, rather than beginning the assessment process again, provided that all the paperwork is provided.	Avoids time wasted repeating all or part of a risk assessment for prisoners transferred in from other establishments.
HDC 4 forms should incorporate the names of all those attending the board.	Allows proper accountability of those making the decisions.
Inmates being recommended for release on HDC should be reminded that their early release is dependent on their continued good behaviour in prison.	Reminds prisoners of the link between their behaviour and the HDC decision.
Full assessment details should be recorded on LIDS for all HDC applications, including those refused HDC. All stages of the assessment and the decision should be recorded.	Allows proper estimation of assessment workloads and progress, and monitoring of stages at which cases are filtered.

Establishments should try to ensure that a decision to turn down a prisoner's HDC application is explained to him/her in person, or to provide an opportunity for a personal discussion about the decision.

Better understanding by inmates of the reasons for the decision to refuse HDC. Potential for fewer appeals against the decision.

Wherever possible, establishments should give contractors the full ten working days notice of releases, or else as much time as possible.

Better preparation for contractors, more time to install telephone lines where required, and more rigorous monitoring.

Wherever possible, appeals should be heard by a different governor to the one responsible for the decision to refuse HDC.

A more transparently fair approach. Would remove a potential criticism of the HDC process.

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## **Eight      The post-release Home Detention Curfew process**

### **Monitoring of curfewees**

Once the prisoner is released, private sector electronic monitoring contractors are responsible for monitoring their compliance with the Home Detention Curfew and for notifying the Prison Service if the offender breaches his/her curfew conditions. There are three monitoring companies covering England and Wales:

- Securicor Custodial Services cover the Northern region
- Premier Monitoring Services cover the Midlands & Wales and London & Eastern regions
- GSSC cover the Southern region.

The contractors fit a Personal Identification Device (PID or tag) to the offender, usually around the ankle, or to the wrist in certain circumstances. This tag communicates electronically with a monitoring unit which is installed in the offender's home, and is adjusted so that it will detect whether the relevant PID is at the place of curfew. The monitoring unit is connected to the telephone line<sup>28</sup> and communicates with a central computer system which notifies the monitoring staff of any infringements of the curfew hours or any attempt to interfere with the monitoring equipment. If the computer system does detect a violation, the contractors telephone the offender and, if necessary, make a home visit to confirm whether a violation has occurred. If confirmed, the contractors may issue a warning to the offender or, if the violation is serious enough (either by itself or in conjunction with previous violations), contact the Prison Service's Sentence Enforcement Unit who are responsible for amending or revoking a curfew licence and recalling offenders back to prison.

### **Changes in licence conditions**

A prisoner who has been released on HDC can apply to have their curfew conditions varied. Some one-off variations to the licence conditions can be handled by the contractor (e.g. for a doctor's appointment), but other one-off variations and any permanent changes to licence conditions (e.g. as a result of finding a job or losing existing curfew address) must be made by the Governor of the discharging establishment on behalf of the Secretary of State.

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<sup>28</sup> The contractors are responsible for arranging the installation of a telephone line with BT if one is not already available at the curfew address. To be sure of installation on or before the release date the contractors require eight days' notification from the prison. However, due to tight timescales this is not always possible.

If the establishment receives a request for a change of address which merits consideration, it must send form HDC8 to the home Probation Service to seek their comments on the proposed new address. In some cases, where the prisoner is unable to continue living at the present curfew address, a swift authorisation may be required. If the home probation service consider that an adequate assessment cannot be carried out in time then the licence must not be changed.

When permanent changes to the curfew conditions are made, a new licence together with form HDC11 must be sent to the contractor and copies sent to the home probation service, the National Intelligence Service (NIS) and the home police force<sup>29</sup>. The contractors will arrange for the offender to sign the licence and will then return the licence to the establishment. Wherever possible the establishment should provide contractors with at least 24 hours' notice of an address change during normal working days. They should also indicate on the HDC11 form the date on which a change of address is to take place and whether there is a phone line at the new address. This will give contractors time to plan for a change of address, make arrangements for a phone line to be connected (if necessary) and avoid having to employ Random Alternative Monitoring (RAM) as far as possible<sup>30</sup>.

Curfewees must be notified of the reasons for any refusal. The establishment must inform the contractor of the application, whether this is successful or not. If the curfewee is subject to probation supervision, the supervising probation service must also be informed. The offender may appeal to the governing governor against a decision not to vary the licence conditions<sup>31</sup>.

### Recall decisions

If the Sentence Enforcement Unit (SEU) decides that a violation (singly or cumulatively) constitutes a breach of the HDC licence conditions, the licence will normally be revoked and the prisoner will be returned to custody where (subject to any appeal) they will serve the remainder of their sentence up to their automatic or conditional release date<sup>32</sup>. Curfewees can also be recalled if it is no longer possible to monitor their whereabouts (e.g. if the monitoring equipment fails or the offender loses their curfew address); if they pose a risk of serious harm to the public; or if they are charged with a further offence whilst on HDC. Although it is usually the contractor who sends a request to the Sentence Enforcement Unit for a recall, on some occasions it may be the police or the probation service.

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29 Form HDC11 must also be sent out if the Governor authorises a one-off variation to the curfew conditions but in these cases the licence does not have to be altered.

30 Contractors employ RAM to monitor curfewees when a phone line has not yet been connected.

31 Further guidance regarding changes in curfew conditions can be found in Prison Service Order (6700)

32 Prisoners recalled to prison under section 39 of the Criminal Justice Act (1991) may serve up to the three-quarter point of their sentence.

The contractor should send the details before 10.00 am in the morning and the Sentence Enforcement Unit then has 24 hours to deal with that case. The contractor should send information about the alleged breach, the curfewee's whereabouts during the curfew period and a copy of the curfew licence. The Probation Service, police and prison do not automatically send information, but if it is required the officer handling the case will contact them.

The SEU officer makes a recommendation, based on the information, and refers the case to his/her manager for a final decision. If it is decided that the curfewee should be recalled, the officer completes a form revoking the licence containing the reason for recall and the relevant information for the police. The agencies involved (contractors, local police, NIS and the prison HDC clerk) should be faxed the information and should also be telephoned.

### **The return of recalled prisoners to custody**

The police force HDC liaison officer will receive notification of a revocation from the Sentence Enforcement Unit and will pass the information down to the relevant division.<sup>33</sup> In general, the police will pick up a curfewee whose licence has been revoked quickly (often the same day as notification), but how quickly will depend on workload, the number of officers available and the seriousness of the case. The police should aim to pick up recalled curfewees as soon as possible because until they are returned to prison they are unlawfully at large.

A number of police forces contact the electronic monitoring contractors to inform them when they are going to pick up a curfewee. This enables the contractors to accompany the police and pick up their equipment safely. Where this does not occur the contractors may have difficulty retrieving their equipment so, if possible, police forces should try to make it common practice to keep contractors informed.

The curfewee is usually taken by the police to the police station and from there they are picked up by the custody escort services and taken to the nearest prison or remand centre categorised as a local for prisoners of that type (adult males, females or young offenders). The police should telephone the prison to let them know that a curfewee is on their way. The establishment must notify the Sentence Enforcement Unit when they receive recalled curfewees. They cannot refuse any prisoner recalled from HDC unless they are not taking any new receptions due to accommodation problems. In these cases the prison must contact the National Operations Unit at Prison Service Headquarters for an alternative establishment to be identified. It is not the responsibility of the Prison Escort and Custody Service or the police to find an alternative establishment.

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33. The role of the police in the HDC process is set out in Home Office Circular 51/1998.

Police forces should always inform the Prison Service's Sentence Enforcement Unit and the electronic monitoring contractors when they arrest and/or charge an individual with a further offence whilst on HDC. They should check all arrestees going through custody on the Police National Computer to ascertain whether they are on HDC. As a safeguard against under-reporting, other agencies (contractors, prisons, probation) should also contact SEU if they become aware of a curfewee who has been arrested or charged with a further offence.

### Appeals against recall

The Sentence Enforcement Unit sends the appeals package to the prison which contains a form that the prisoner fills out to inform SEU whether they intend to appeal, a copy of the revocation dossier and an additional copy of the reasons for revocation for the prisoner to keep. The prison sends back the appeals forms and if the curfewee intends to appeal the Sentence Enforcement Unit sends the information to the Appeals Section. The section operates at arms length from the rest of the unit to ensure impartiality in the appeals process.

Decisions have to be turned around within 72 hours of receipt and centre on whether the decision to recall was correct. There is little use of discretion as the main purpose is to decide whether the decision to recall was right. The focus is on whether the offender breached the curfew as set out in the file, and whether that decision was reasonable, taking into account any further information or evidence provided.

The decision to recall can be upheld (i.e. the appeal fails), or alternatively, if it is felt that a mistake has been made, the appeal can be allowed and the offender allowed back on HDC (if there is time left before the end of the sentence). One further alternative is that the reason for recall can be changed. For example a curfewee may have been recalled for breaching their curfew conditions, and would thereby be ineligible for HDC in the future. However, on appeal, it could be decided that while the decision to recall was correct, the reason recorded may have been wrong, for example it should have been on the (less serious) grounds of inability to monitor (e.g. where the curfewee lost his/her accommodation). In such a situation, the offender, though recalled to prison for this sentence, could be considered for HDC in the future.

The table following contains suggestions for good practice in the post release phase of HDC along with the potential benefits which might come from these actions.

<i>Good practice suggestion</i>	<i>Benefit</i>
<p>Wherever possible, inmates should have an opportunity to see the HDC video and discuss potential HDC problems in a one-to-one interview before release.</p>	<p>Better informed and better prepared curfewees. Fewer unanticipated problems on release, better compliance and fewer curfew violations.</p>
<p>Establishments should inform contractors when authorised changes of address will occur and whether there is a telephone line at the new address.</p>	<p>Allows contractors to plan effectively for changes of address and to arrange a telephone line to be connected (if necessary).</p>
<p>Establishments should, wherever possible, give contractors at least 24 hours' advance notice of a change of address.</p>	<p>Allow contractors to have a new phone line connected (if necessary) as soon as possible to minimise the use of RAM.</p>
<p>Police forces should work closely with contractors to retrieve monitoring equipment from recalled curfewees' homes.</p>	<p>Will reduce the amount of equipment lost by contractors.</p>
<p>Police forces should always inform the Sentence Enforcement Unit and contractors when they arrest and/or charge an individual with a further offence whilst on HDC. They should check all arrestees on the PNC to ascertain whether they are on HDC. Other agencies should also notify SEU if they are aware of a curfewee who has been arrested or charged with a further offence.</p>	<p>The SEU and contractors will be aware of the curfewee's whereabouts and therefore what action needs to be taken. The number of offenders charged with a further offence whilst on HDC can be properly recorded by SEU.</p>



The role of Prison Service establishments in the HDC assessment process is detailed in Prison Service Order (PSO) 6700 (chapter 5, page 2). This is reproduced below.

<i>Timing</i>	<i>Action</i>
Post sentence	Prisoner encouraged to address offending behaviour and to locate suitable accommodation
Ten weeks before HDC eligibility date (HDCED)	(i) Prisoner completes form HDC2, giving details of his/her proposed address (ii) Member of prison staff's comments to be entered in part 2 of HDC1 form
Nine weeks before HDCED	Initial read-through of papers
Eight weeks prior to HDCED	HDC3 (or PD1) form sent to home probation service for return within ten working days
Five weeks prior to HDCED	HDC1 form completed
Three weeks prior to HDCED	HDC4 form completed if required
Two weeks prior to HDCED	Prisoner (and where required, other agencies) to be informed of decision on HDC
HDCED	If approved for HDC, prisoner released on HDC



1. Prisoners who have at any time previously been recalled to prison under section 39(1) or (2) of the Criminal Justice Act 1991 (by the Sentence Enforcement Unit or Parole Board) whilst on HDC are not statutorily excluded from HDC but should not be granted HDC save in exceptional circumstances.<sup>34</sup>
2. Prisoners who are required to register under the Sex Offenders Act 1997 are not eligible for HDC except in exceptional circumstances<sup>35</sup>. If an establishment does identify a prisoner with exceptional circumstances they should alert the Area Officer and Prisoner Administration Group as soon as possible. It is important that Headquarters are given as much notice as possible so that they can assist in preparing the case for the Director General's consideration. No such offender will be released without consultation with the home police service and other local agencies as appropriate.
3. Category A Prisoners serving a sentence of under four years are not statutorily excluded from HDC, unless they are subject to a statutory exclusion. However, such prisoners have already been assessed as presenting a serious risk to the public. Establishments should not embark upon a HDC risk assessment for such prisoners but prepare to release them on their ARD or CRD date. If the prisoner appeals and requests consideration for HDC, the Governor must consider whether there are exceptional circumstances to merit initiating the risk assessment.
4. Prisoners subject to other custodial requirements may occasionally become eligible for HDC. In order to be placed on HDC, prisoners must not be subject to any other custodial requirements. Therefore prisoners who are subject to consecutive default terms (e.g. for contempt of court, for fine defaulting or because of an outstanding confiscation order) or who are remanded on other charges should not be assessed for HDC. Exceptionally, an assessment may, however, be initiated if there is clear evidence that a prisoner is likely to become eligible and still be in a position to serve a

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<sup>34</sup> Prisoners who have during their current sentence, been released on HDC or given early compassionate release and been recalled to prison under section 39(1) or (2) of the Criminal Justice Act, 1991 are statutorily excluded from HDC.

<sup>35</sup> At the time of writing, Parliament is debating legislation (the Criminal Justice and Court Services Bill) which, if passed, will exclude sex offenders subject to the 1997 Act from the scheme altogether.

curfew of at least 14 days (for instance because the prisoner is clearly in the process of paying the fine and so the default term is unlikely to come into effect). In such cases governors have discretion to initiate the assessment.

5. Prisoners given a restricted transfer to another UK jurisdiction are still eligible to be considered for HDC within England and Wales. However, the prisoner will normally have been transferred to assist in their resettlement or for the maintenance of their family ties. Therefore, unless there are good reasons why the prisoner wishes to return to England and Wales (e.g. because the prisoner is based in England but was transferred in order to be closer to a seriously ill relative who has subsequently died), s/he should not normally be considered for HDC. If the prisoner makes an application to be considered, can nominate a suitable address in England and Wales and gives evidence that s/he intends to settle there, then the Governor of the establishment from which s/he was transferred must consider whether an assessment should be undertaken. If an assessment is undertaken, it will be the responsibility of that establishment to assess the offender, taking into account reports prepared by the prison service of the other jurisdiction.
6. Prisoners who have been unlawfully at large are eligible for HDC, although the fact that they have been unlawfully at large will be highly relevant in assessing their suitability for HDC. This is the case even where a prisoner has only become eligible for HDC by virtue of the time spent unlawfully at large. In such, cases, however, HDC will clearly be unsuitable.

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