

Tel: 0131-244 5434
Fax: 0131-244 3548
E mail: Wilma.Dickson@scotland.gsi.gov.uk

CIRCULAR JD/4/2008

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Our ref: F1451858

1 May 2008

Dear Colleague

STATUS: IMMEDIATE – ACTION REQUIRED – IMPLEMENTATION FROM 1 JUNE 2008

THROUGH-CARE LICENCE BREACH REPORT – NEW STANDARD FORMAT

I am writing to inform you of a change to the structure of throughcare breach reports. After consultation with the Association of Directors of Social Work, the Parole Board Executive and the Scottish Government's Parole and Life Sentence Review Division, it has been agreed to standardise the format for providing throughcare licence breach reports. These reports currently come in many different formats and there is often a wide disparity in the information that has been provided by the responsible local authority. There is therefore a need to adopt a more consistent approach to these reports, which will improve the processing of breach applications and enhance the throughcare process.

Appendix 1. contains a copy of the new standard Throughcare Breach Report template. It should be used from 1 June 2008 onwards, when reporting breaches of licences to the Parole and Life Sentence Review Division. Local authorities are asked to ensure that this template is incorporated onto their existing letter headed papers. Appendix 2. contains relevant practice guidance which should be referred to when completing these reports.

I would be grateful if you would distribute this circular to those staff involved directly in the supervision of offenders subject to statutory throughcare licences, and to those who may have an interest in this area of work.

Should you have any further queries on the **practice guidance**, please contact:

- Paolo Mazzoncini, Professional Advisor: Throughcare
(paolo.mazzoncini@scotland.gsi.gov.uk, tel. no. 0131 244 5356)

or

- Christine Thomson
(christine.thomson@scotland.gsi.gov.uk, tel. no. 0131 244 4250)

For queries relating to **specific throughcare cases**, please contact:

- the Parole & Life Sentence Review Division on the following numbers:

0131 244 8537 (for licensees with surnames beginning A-Ge)

0131 244 8530 (for licensees with surnames beginning Gf-Mc/Mac)

0131 244 5744 (for licensees with surnames beginning M-Z]

Yours sincerely



MRS WILMA DICKSON CBE
Deputy Director

THROUGH-CARE LICENCE BREACH REPORT

SECTION 1. RECOMMENDATION ON RECALL

Immediate recall (usually within 24 hours):	Yes/No
Reference to Parole Board to consider recall:	Yes/No
Warning letter:	Yes/No
Date of request of revocation:	

SECTION 2. SUPERVISING OFFICER DETAILS

Name:
Authority:
Address:
Telephone Number Direct Line/Mobile No:
Fax Number:

SECTION 3. POLICE DETAILS

Police Single Point of Contact:
Police Force:
Address:
Telephone Number Direct Line/Mobile No:
Fax Number:

SECTION 4. OFFENDER DETAILS

Name:	
Date of Birth:	
Prison No:	
Last Known Address and Address Released to (if different):	
Index Offence(s):	
Date of Offence(s):	
Sentencing Court:	
Length of Sentence:	
Releasing Prison:	
Date of Release:	
Licence Type:	
Licence Expiry Date:	
Sentence Expiry Date:	
Risk of Re-offending: (DATE)	
Risk of Serious Harm: (DATE)	
Information on Previous Offending History:	

Is the Offender Subject to the MAPPA arrangements?	
MAPPA Category and MAPPA Risk Level	

SECTION 5. PURPOSE OF REPORT

The purpose of this report is:

- to notify the Scottish Ministers of a breach of licence;
- to make a recommendation as to action to be taken following this breach; and
- to inform the Parole Board's decision making process.

The report contains an assessment of the risk of re-offending and risk of serious harm posed by the offender. The information contained within the report is intended to assist Scottish Ministers and the Parole Board in deciding whether to recall the offender (as appropriate) and/or re-release them or review their release at a future date.

SECTION 6. BASIS OF THE REPORT

(For Completion by Report Writer – Refer to Practice Guidance)

SECTION 7. THE CIRCUMSTANCES AND DETAILS OF THE BREACH AND THE LICENCE CONDITIONS THAT HAVE BEEN BROKEN.

(For Completion by Report Writer – Refer to Practice Guidance)

SECTION 8. THE OFFENDER'S GENERAL RESPONSE TO SUPERVISION

(For Completion by Report Writer – Refer to Practice Guidance)

SECTION 9. OTHER OFFENDER DETAILS RELEVANT TO THE ASSESSMENT AND MANAGEMENT OF RISK

(For Completion by Report Writer – Refer to Practice Guidance)

SECTION 10. RISK ASSESSMENT AND RISK MANAGEMENT PLAN

(For Completion by Report Writer – Refer to Practice Guidance)

Name (supervising officer):	Name (line manager/senior officer):
Signed:	Signed:
Date:	Date:

Form PR3

PAROLE BOARD (SCOTLAND) RULES

Non disclosure of information

I[insert full name] state my opinion to the Scottish Ministers that the enclosed report

.....
.....

[give signatory, date and other identifying information] contains "damaging information" as defined in the Parole Board (Scotland) Rules which should not be disclosed to the prisoner [give full name of prisoner and address below].

Prisoner.....
Address.....

The grounds on which disclosure would be likely to be damaging are, in my opinion that the information would be likely to

[tick the grounds which apply]

- (a) adversely affect the health, welfare or safety of that person or any other person; [checkbox]
(b) result in the commission of an offence; [checkbox]
(c) facilitate an escape from legal custody or the doing of any act prejudicial to the safe keeping of persons in legal custody; [checkbox]
(d) impede the prevention or detection of offences or the apprehension or prosecution of suspected offenders; [checkbox]
(e) otherwise to damage the public interest. [checkbox]

[Please give below any additional information which is relevant, e.g. the identity of any person whose welfare could be affected adversely by disclosure.]

I understand that if the Scottish Ministers refer the report to the Parole Board they will require to provide a written notice to the prisoner informing them that certain information which has been sent to the Parole Board has not been sent to him/her because either Scottish Ministers, or the Parole Board, consider that the information would be likely to be damaging in one or more of the grounds set out above (and advising the prisoner which of these grounds apply in their case) and giving so far as is practicable without prejudicing the purposes for which the information is not disclosed the substance, or gist, the damaging information. A copy of the written notice must be provided to the Parole Board.

In giving the substance or gist in so far as is practicable without prejudicing the purposes for which it is not disclosed, of the information, the Scottish Ministers should use the form of words below:

[Give form of words]

Please note that Rule 6 of the Parole Board (Scotland) Rules does not apply to those cases which require a Tribunal of the Board to consider the case. A tribunal of the Board is required to consider the release of life sentence prisoners, and the re-release of life sentence prisoners and extended sentence prisoners who have been recalled to custody. The effect of this is that the non-disclosure provisions do not apply in such cases and the prisoner is required to see all information that is provided to the Board.

Signed..... Position

Date.....

PRACTICE GUIDANCE

The following information provides contextual practice guidance, which should assist in the completion of the standard template. Additional guidance is also available in the *National Objectives for Social Work Services in the Criminal Justice System: Standards – Throughcare*¹. Chapter 7 of these Standards is especially relevant as it deals with breach, enforcement and recall issues.

SECTION 1. RECOMMENDATION ON RECALL. This section specifically asks the report writer to identify which option they are recommending in terms of the breach of the throughcare licence and the possible recall of the offender to custody. The three options require a Yes/No answer. It is worth stressing that whichever option is recommended, there should be clear evidence of why this option has been chosen in Sections 7, 8, 9 and especially 10.

The Date of Request of Revocation refers to the date the breach report has been written and submitted.

SECTION 2. SUPERVISING OFFICER DETAILS. The supervising officer's details (i.e. name, office address, local authority, contact number/fax etc.) should be provided in this section. In the event that the report author is not the supervising officer, (e.g. in circumstances where the supervising officer is off work due to ill health), then this should be clearly noted, and the reasons explained, in Section 6. Basis of Report.

SECTION 3. POLICE DETAILS. Police contact details (i.e. Single Point of Contact, Police Force name, address, telephone and fax number, etc.) should be provided in this section, where applicable.

SECTION 4. OFFENDER DETAILS. Key information relating to the offender should be recorded in this section. Particular attention is drawn to the following:

- *Last known address/Address released to* – practitioners should record the last known address for the offender and also note whether this is different from that to which the offender was released. This information will be useful if a warrant is issued for the offender's recall to custody. Issues relating to homelessness/frequent changes of accommodation/problems with resettlement should be detailed in Section 9. Other Offender Details Relevant to the Assessment and Management of Risk.
- *Is the Offender Subject to the MAPPA*² – Practitioners should make clear whether the offender is:

(1) presently subject to the MAPPA arrangements because they are a registered sex offender

¹ *National Objectives for Social Work Services in the Criminal Justice System: Standards – Throughcare* is available on the Scottish Government's website at <http://www.scotland.gov.uk/Publications/2004/12/20473/49294>

² The latest version of the MAPPA guidance (JD Circular 3/2008) is available on the Scottish Government's website at <http://www.scotland.gov.uk/Publications/2008/04/18144823/0>

- (2) not currently subject to the MAPPA though they will be in the future when the MAPPA is introduced for Category 2 (violent) and Category 3 (other offenders)
- (3) not subject to the MAPPA arrangements at all.

Only if the offender is currently subject to the MAPPA arrangements, should the appropriate MAPPA information be recorded as detailed in the next bullet point.

- *MAPPA Category and MAPPA Risk Level* – The specific MAPPA details should be recorded in this part. In order to avoid confusion, practitioners should clearly state in full the MAPPA Category and Level information, e.g. Category 1: Registered Sex Offender and MAPPA Level 3: managed by the Multi Agency Public Protection Panel
- *Risk of Re-offending/Risk of Serious Harm* – The outcomes of the most recent structured risk assessments should be noted in this section and the date when these were carried out should be recorded in brackets. This should be in the appropriate format of whichever tool has been used, but will most commonly make reference to risk in terms of low, medium, high, very high categorisations. Practitioners will give more detail from the risk assessments in Section 10 Risk Assessment and Risk Management Plan.

SECTION 5. PURPOSE OF THE REPORT. This section requires no additional information. It should be included in every report as it is currently set out. It is an aide-memoire for practitioners and managers on the report's function within the breach process.

SECTION 6. BASIS OF REPORT. Practitioners should clearly indicate the sources of information used in compiling the report. This should include the details of those individuals with whom they have discussed the offender's case, and notably whether it includes the offender's comments.

SECTION 7. THE CIRCUMSTANCES AND DETAILS OF THE BREACH AND THE LICENCE CONDITIONS THAT HAVE BEEN BROKEN. The specific details relating to the breach should be set out as should the offender's response to the breach. Examples of two types of breach scenario (non-compliance and further offending) are described below³

- A non compliance case – Mr X has breached condition (insert specific number of the condition on the licence) which states that (insert details of condition(s) breached). This is evidenced by his failure to attend the following appointments which I arranged with him: (insert dates of missed appointments). His failure to attend his appointment on (insert date) led me to issue a formal warning on (insert date) and when he again failed to attend his appointment with me on (insert date) a second and final formal warning was sent to him (insert date). These warnings were sent to Mr X by recorded delivery mail on (insert dates). Mr X's failure to attend the appointment on (insert date) has led to these breach proceedings being initiated Mr X has provided no acceptable reason for his missed appointments⁴

³ These examples are illustrative.

⁴ It should be noted that there is no legal requirement to issue "warnings" to offenders who fail to comply with licence conditions. However it is recognised as established practice in cases which do not constitute a risk to the community or to the offender themselves. In more serious cases, where the individual has re-offended or where they present a serious risk to the community or themselves, then breach proceedings should be initiated immediately.

- A further offence case – Mr X has breached condition (insert specific number of the condition on the licence) which states that “you shall be of good behaviour and keep the peace”. He was convicted at Edinburgh Sheriff Court on (insert date) of Breach of the Peace and was fined £100. He appeared on summary procedure and the complaint against him was that on the (insert date) he did “shout and swear and place the lieges of Princes St, Edinburgh in a state of fear and alarm”. Mr X has informed me that he had been drinking alcohol following a football match and this led to the offence occurring. He has expressed his sincere regret for his actions, understands the negative impact that his behaviour has had on the public and he recognises that there will be implications in terms of his licence.

SECTION 8. THE OFFENDER’S GENERAL RESPONSE TO SUPERVISION. The supervision action plan and the specific work that has been undertaken on this should be outlined in this section. Details should be provided on any particular strong points or problem areas that have had a bearing on the success of the action plan: notably, the efforts to motivate the offender to change unacceptable behaviour, their willingness to comply with licence conditions, their acceptance of personal responsibility etc. Where there is joint working with other service providers/agencies, this should be clearly noted and explained. This section should also include details of warnings issued prior to the current breach, earlier breaches and the action taken, and previous recalls.

SECTION 9. OTHER OFFENDER DETAILS RELEVANT TO THE ASSESSMENT AND MANAGEMENT OF RISK. Where the offender is a MAPPA offender or is subject to any other orders of the court (e.g. bail conditions), or is required to notify their details to the police under relevant legislation, this should be noted in this section. The social worker providing information to Scottish Ministers and the Parole Board should include information from MAPPA meetings where applicable and where that information is relevant to the Board’s consideration of risk. For example practitioners may wish to indicate that the offender’s case has been discussed at a MAPPA meeting and may wish to summarise any relevant points. Moreover, it will assist the Parole Board’s deliberations if the social worker makes explicit the relationship between the risks of re-offending/serious harm and the MAPPA level at which the offender is being managed. This will help clarify any apparent discrepancies between risk levels; for example, where an offender who is deemed to be at low risk of reoffending is being managed at the Level 3 (MAPPP) because it is an exceptional case which has attracted heightened media attention and there is a need to ensure that public confidence in the criminal justice system is sustained.

However, as a matter of routine, MAPPA minutes should **not** be attached to the breach report, as firstly they are confidential and may contain sensitive information, and secondly, if attached, the information may be disclosed to the offender at a later date. It should be noted that whilst in some cases (non-tribunal cases) Rule 6 of the Parole Board Rules provides for the non disclosure of damaging information to the prisoner, **this Rule does not apply to considerations for life-sentence prisoners, and to re-release considerations for life prisoners or extended sentence prisoners and all material provided to the Parole Board must be disclosed to the prisoner.**

Whilst information from MAPPA meetings may be relevant in individual cases, the risk assessment and risk management plan belongs to the supervising officer, who represents the local authority, and is responsible for the liaison with the Parole Board/Parole and Life Sentence Review Division of the Scottish Government.

Finally if there is information in relation to other areas of criminogenic need (e.g. accommodation, drug misuse, etc.), which has not been outlined in Section 8, then this should be recorded here.

SECTION 10. RISK ASSESSMENT AND RISK MANAGEMENT PLAN. It should be remembered that where recall is an option, the Parole Board is looking at the case afresh and in its totality. The Parole Board's decision on recall will be based on the current assessment of the risk of re-offending and risk of serious harm posed by the offender. The Parole Board will also need to make a determination in relation to the licence conditions. These conditions must be necessary to successfully manage the risks and proportionate to the risks posed. To assist the Parole Board in its deliberations, and to avoid the unnecessary use of custody, practitioners should include the following information in this section:

- (i) A brief analysis of the index offence, the behaviour surrounding the offence and any pattern of offending.
- (ii) An assessment of the likelihood of any re-offending during the licence period, using relevant risk assessment tools.
- (iii) An explanation of the underlying factors that increase the likelihood of the individual re-offending, the circumstances in which it is more likely and any immediate triggers.
- (iv) An assessment of the risk of serious harm posed by the offender.
- (v) The identification of potential victims.
- (vi) A risk management plan that clearly sets out what action will be taken, by which organisation(s), and in what timescales, to manage these risks, should the Board decide to allow the offender to remain at liberty. This plan should also explain what licence conditions are necessary and why these are required.

SIGNATURES

The report should be signed by the report author, who in the vast majority of cases will be the supervising officer, dated and be countersigned by their line manager.