

Extended supervision: practice note for youth offending teams

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Background – changes to legislation

- 1.1 Following commencement on 1 February 2015 of the relevant provisions of the Offender Rehabilitation Act 2014 (ORA 2014), changes have been made with respect to arrangements for the supervision of young adults who attain the age of 18 **at the halfway point of the term of a Detention and Training Order (DTO)**. This practice note sets out the requirements relating to extended supervision of those persons.
- 1.2 The ORA 2014 makes amendments to the current legal framework in the Criminal Justice Act 2003 and the of Criminal Courts (Sentencing) Act 2000) to create a new period of supervision for adult offenders serving less than 2 years. This new period of supervision also applies to offenders in respect of whom a DTO has been made who are 18 or over the half-way point of their DTO, the DTO is of less than 24 months and the DTO was imposed for an offence committed on or after the relevant provisions of the ORA 2014 come into force ie on 1 February 2015. (See in particular section 6(4) of the ORA 2014 which inserts a new section 106B to the Powers of Criminal Courts (Sentencing) Act 2000 to provide that the changes relating to supervision made by the ORA 2014 apply in relation to DTOs.)
- 1.3 The extended supervision period begins at the end of the DTO and ends 12 months after the half-way point of the DTO. This means that a young adult who is released at the halfway point of the DTO serves the first half of their DTO in custody, the second half in the community, with the extended supervision period then applying until the young adult has spent 12 months in the community from the halfway point of their DTO.
- 1.4 The following are illustrative examples of how these provisions will apply for different DTO terms, compared with the position under the law before amendment.

Term imposed by court	Current custodial period	Custodial period from 1 February 2015	Current arrangements on release	Arrangements on release from 1 February 2015
4 month	2 months	2 months	2 months in community, with supervision requirements	2 months supervision requirements, 10 months extended supervision
6 month sentence	3 months	3 months	3 months in community, with supervision requirements	3 months' supervision requirements 9 months' extended

				supervision
12 month sentence	6 months	6 months	6 months in community, with supervision requirements	6 months' licence 6 months' extended supervision
18 month sentence	9 months	9 months	9 months in community, with supervision requirements	9 months' supervision requirements 3 months' extended supervision
24 month sentence	12 months	12 months	12 months in community with supervision requirements	No change

1.5 The changes made by the ORA 2014 require offenders to comply with supervision requirements during the supervision period (except at any time when the offender is subject to DTO supervision – see section 256AA(2)). The supervision requirements are to be specified in a notice given to the offender by the Secretary of State.

Purpose of period of extended supervision

2.1 The purpose of the supervision period is the rehabilitation of the offender (see new section 256AA(5) Criminal Justice Act 2003). The legislation requires the supervisor of the offender to have regard to that purpose when carrying out functions in relation to the requirements. In the context of DTO supervision, the "supervisor" must be an officer of a provider of probation services, which may be a public or private sector provider, or a member of the youth offending team (YOT) established by the local authority in whose area the offender resides. Community Rehabilitation Companies (CRCs) therefore can undertake this work.

2.2 YOTs, as potential supervisors, should note the rehabilitative purpose of the extended supervision requirement and requirements should allow flexibility for supervisors over how best to use them in order to rehabilitate the young person. **The focus of the extended supervision will be on resettlement and support, not compulsion**, and YOTs should devise packages of support for over 18s which meet their needs, engage their interests and offer support which will contribute to their rehabilitation. Extended supervision should be a positive, supportive process for young adults (similar to that previously offered with resettlement and aftercare provision and intensive resettlement support).

Post sentence supervision and transfers to National Probation Service

- 3.1 As stated above, the period of extended supervision begins at the end of the DTO and ends 12 months after the half-way point of the DTO. This has the effect that the combined length of the DTO supervision period and the post-DTO supervision period will always be 12 months for any young adult who is aged 18 or over at the halfway point of the DTO and is serving a DTO of less than 2 years (see table above).
- 3.2 This means that depending on the length of the DTO, the length of the supervision period can vary significantly.
- 3.3 YOT workers should identify young adults who would fall into the category requiring extended supervision as early as possible and an assessment of the impact of this should be included within pre-sentence reports and any recommendations made for sentencing.
- 3.4 YOTs will want to consider, with National Probation Service (NPS) colleagues who is best placed to supervise the young adult during the period of extended supervision. For example, it is unlikely that a young adult who has an 18 month DTO would benefit from a transfer to NPS or a CRC for the last 3 months of their extended supervision period, particularly where YOTs have had a longer period of time in which to address resettlement needs. When considering transfers to NPS/CRCs for the period of extended supervision due consideration should be given to the level of support the young adult will require, their levels of maturity and any special educational needs or disabilities they have.
- 3.5 Where possible, cases identified as being subject to extended supervision should be allocated to the seconded Probation Officer. Since the changes through the government's Transforming Rehabilitation programme, the YOT to Probation case transfer process requires the YOT to make a recommendation to NPS on where the case should be transferred, ie: retain with YOT, to be held by the NPS or transferred to a CRC. Allocation to the seconded Probation Officer may facilitate this process.
- 3.6 The National Offender Management Service (NOMS) guidance on transitions identifies that a young adult serving a DTO transferring to a young offender institution for young adults will usually be retained by the YOT but this decision should be made on an individual basis for those subject to extended supervision and decided locally with clear recording and audit trail to evidence defensible decision making.
- 3.7 Young adults should be involved and informed of the requirement for the extended supervision prior to sentencing and the consequences of breach made clear from the outset. It is critical that those who are affected by this legislation understand the expectations of them and that

their sentence may appear substantially different from co-defendants who are younger than they are.

- 3.8 The YOT worker should work with the case worker in custody so that the requirement for extended supervision is identified when drafting a transition plan in custody and planning for this begins as early as possible.
- 3.9 The only extended supervision requirements that the Secretary of State may specify are in a list specified in the Criminal Justice Act 2003, as amended by the ORA 2014. New section 256AB sets out 10 requirements of the offender that may be specified by the Secretary of State during the supervision period. They are:
- to be of good behaviour and not behave in a way that undermines the rehabilitative purpose of the supervision period
 - not to commit any offences
 - to keep in touch with the supervisor
 - to receive visits from the supervisor
 - to reside permanently at an address approved by the supervisor and to obtain prior permission for any stay of one or more nights at another address
 - not to undertake work, or a particular type of work, unless it is approved by the supervisor and to notify the supervisor of any proposal to undertake work
 - not to travel outside the British Islands except with prior permission of the supervisor or to comply with a legal obligation (for example, deportation or extradition)
 - to participate in activities in accordance with instructions given by the supervisor. (there is flexibility in what these activities may be but their purpose should be the reintegration of young people into their community)
 - a drug testing requirement
 - a drug appointment requirement.
- 3.10 Requirements for the supervision period must be agreed prior to release, at the final DTO planning meeting when the DTO supervision conditions are agreed. In young offender institutions the governor of the releasing prison sets the supervision conditions and the extended supervision requirements. For those who are in secure training centres (STCs) or secure childrens homes (SCHs) extended supervision arrangements will be approved by NOMS.
- 3.11 Minimum contact levels may be all that is required of young adults who are assessed as being well resettled at the point at which extended supervision commences. This could be phone contact with the supervisor.
- 3.12 Where the supervisor considers it appropriate to amend or remove any of the supervision requirements, this request must be made to the person responsible for setting the conditions in the particular case for approval by that person.

- 3.13 Extended supervision requirements must be necessary and proportionate, and only included for the purpose of rehabilitation (see paragraph 2.2 above).

Breach

- 4.1 Young adults who fail to comply with the terms of their extended supervision may be returned to court for breach where they could face penalties for their failure to comply.
- 4.2 YOTs should ensure that they have the right steps in place to secure the engagement and motivation of the young adults to participate in their extended supervision
- 4.3 When considering enforcement action it will be expected that a review of risk will have been undertaken and that discussions will be held with NPS with regard to recommendations.
- 4.4 Section 3 of the ORA 2014 adds a new section 256AC to the Criminal Justice Act 2003 to provide for breach of a requirement of the extended supervision period to be heard by a magistrates' court. Both the decision on whether a young adult has failed to comply with a supervision requirement, and what if any sanction there should be for that breach will fall to the court. Breach packs should be prepared as YOTs would normally do for breaches of other orders.
- 4.5 The court has the following options where it is proven to the reasonable satisfaction of the court that a person has failed without reasonable excuse to comply with a supervision requirement:
- no action – the offender continues with the requirements of supervision
 - fine - not exceeding level 3 on the standard scale
 - committal to prison for up to 14 days
 - impose a supervision default order (SDO). This can impose on the person either an unpaid work requirement (minimum 20 hours, maximum 60 hours) or an electronically-monitored curfew (with a minimum of 20 days and no longer than the end of the post-sentence supervision period).
- 4.8 Supervisors should take note of the rehabilitative focus of the post-sentence supervision period and view any non-compliance within this rehabilitative framework. There are a number of reasons why offenders fail to comply. Clearly, every effort must be made by the supervisor to explore reasons for non compliance and to allow the young adult to provide reasonable grounds for non-compliance, where these exist. Supervisors should also consider how they may have been better able to secure compliance and we would recommend that all cases are considered by local engagement and compliance panels where they are

in place. However, supervisors must consider initiating breach proceedings where there is repeated non-compliance, and should be guided by the principles of failure of the offender to comply which are:

- the failure to comply is indicative of a serious, gross, wilful or fundamental failure to comply or;
- a significant rise in the risk of serious harm or likelihood or re-offending is presented by the young adult.