

Home Detention Curfew

What is Home Detention Curfew?

HDC, more commonly known as “tagging,” is the means by which some prisoners may spend a proportion of their sentence confined to their home during a specified period of the day, usually for 12 night time hours. The prisoner on HDC will have to wear an electronic tag, normally around an ankle for the duration of the HDC. The tag emits an electronic signal which is monitored by a private company contracted to the Prison Service to ensure the prisoner does not breach the curfew.

How do I know if I am eligible for release on HDC?

Prisoners serving sentences of 3 months or over but less than 4 years under the Criminal Justice Act 1991, or Standard Determinate Sentences of any length under the CJA 2003, are eligible to be considered for HDC. However there are several qualifications to this. Some groups of prisoners are ruled out of the system altogether and are ineligible to apply. Others are ‘presumed unsuitable’ and will only get HDC in ‘exceptional circumstances’ (see PSI 31/2003).

At the other end of the spectrum, some low-risk prisoners are presumed to be automatically suitable for HDC unless there are compelling reasons why it should not be granted (see PSI 19/2002 and 39/2002).

Ineligible prisoners

- are convicted of a violent offence and currently serving a sentence which requires extended supervision
- are serving a sentence for failing to return to custody following a temporary release

- have failed to comply with a requirement of a curfew order
- have at any time been recalled to prison from a HDC (except in the case of a successful appeal)
- have less than 14 days left before the halfway point in their sentence.
- have at any time been returned to prison under Section 40 of the CJA 1991 (return to custody for committing an offence before the at risk period of the sentence has expired).

Presumed unsuitable unless there are ‘exceptional circumstances’

Current convictions:

- Homicide including attempted murder, threats to kill, conspiring, aiding or inciting murder and death by reckless driving
- Causing explosions, placing explosives, possessing explosives
- Possession of offensive weapons
- Possession of firearms with intent
- Cruelty to children
- Racially aggravated offences
- Terrorism (added by PSI 08/2008)
- Sentence length of 4 years or more under CJA 2003

Current or past convictions:

- Any sexual offence (excluding prostitution, soliciting and consensual adult homosexual activity in a non-public place)

Presumptive HDC

Applies to prisoners with short term sentences (i.e. 3 months to under 12 months) who do not have a history of violent, sexual, or drugs offending.

There is a presumption that all prisoners meeting the eligibility criteria for the scheme will be released on HDC at their normal eligibility date – unless there are exceptional and compelling reasons not to do so.

Risk assessment

Unless they have requested not to be considered, prisoners must normally be released on HDC unless there are substantive reasons for retaining the prisoner in custody until his or her conditional or automatic release date.

These reasons must fall under one of the five headings below:

- (i) an unacceptable risk to the victim or to members of the public;
- (ii) a pattern of offending which indicates a likelihood of re-offending during the Home Detention Curfew period;
- (iii) a likelihood of failure to comply with the conditions of the curfew;
- (iv) lack of suitable accommodation for HDC;
- (v) shortness of the potential curfew. (PSO 6700)

HDC in situations where you are serving more than one sentence

Under the CJA 1991 if you are sentenced to two or more short sentences, these are aggregated together to form a ‘single term’ and if this term is less than four years you are entitled to apply for HDC on the total sentence.

Unlike CJA 1991 sentences, where there are two or more consecutive and/or concurrent CJA 2003 sentences, no single term is formed. Concurrent sentences will be calculated individually and will run parallel to one another, with each sentence having its own release dates, including HDC eligibility dates. Custodial periods of consecutive sentences are, however, then aggregated for the purposes of

determining the eligibility date and release period.

However CJA 1991 and CJA 2003 sentences cannot be made into a single term with one another. In such cases you will only be eligible for HDC on the sentence deemed by the court to be served *last* and not on the total sentence.

[More detail on this can be found in Prison Service Instruction 31/2006.]

Appeals against refusal of HDC

There is no specific appeals procedure for those unhappy with a decision regarding a HDC application. However an appeal may be pursued via the Complaints system – form COMP1 and COMP1A, then to the Prisons and Probation Ombudsman, Ashley House, 2 Monck Street, London SW1P 2BQ (who has agreed to treat such appeals as urgent.) It is also possible in some circumstances to judicially review a refusal to grant HDC.

In order to prepare an appeal you are entitled to a copy of the reasons for the HDC refusal and copies of all reports upon which the decision was made.

PRISONERS' ADVICE SERVICE PO BOX 46199 LONDON EC1M 4XA TEL: 020 7253 3323 / 0845 430 8923
--