

Home Detention Curfew

What is Home Detention Curfew (HDC)?

HDC, often called 'tagging', is the means by which some prisoners on standard determinate sentences (SDS) over 6 weeks can be released early with an electronic tag, usually attached to their ankle. They must spend a set period of at least 9 hours in every 24 hours confined to their home. This is usually 12 hours over night.

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. Sometimes the tag can monitor your location as well as compliance with the curfew.

The HDC Policy Framework sets out full guidance.

The general rule is you must serve half of the requisite custodial period of your sentence, and a minimum of 28 days before you can be considered for release under HDC. The maximum HDC period is 365 days.

Where remand time is to be taken into account, the law requires that you serve at least 14 days in custody post sentence before you can be released on HDC.

Can I be released on HDC?

The first stage in deciding whether to release a prisoner on HDC is to check if they are ineligible for HDC or 'presumed unsuitable' unless there are 'exceptional circumstances'.

For SDS prisoners serving 6 weeks or over, eligibility and suitability for HDC will be considered automatically. You should not need to apply.

The prison must establish your eligibility for HDC within 5 working days of your sentence calculation and should inform you of this in writing using the HDC Eligibility Notification Forms.

Prisoners should not be released on HDC if

- it is not possible to manage the offender safely on early release at the proposed address; or
- there are fewer than 10 days remaining to CRD (day of release to CRD inclusive)

Ineligible prisoners (statutorily excluded)

- Anyone sentenced to less than 6 weeks
- Those serving a sentence subject to two thirds release.

- Those whose sentence has been referred to the Parole Board by the Secretary of State under section 244ZB of the Criminal Justice Act 2003.
- Sex offenders required to register
- Those convicted of violent or sexual offences currently on an extended sentence.
- Those on a sentence for specific terrorist or terrorist connected offences.
- Those on a sentence for ROTL failure to return
- Those on a sentence for breach of the curfew requirement of a Community Order
- Those who have ever been recalled to prison for failing to comply with HDC curfew conditions within 2 years of the date of sentence for the current sentence.
- Those currently serving a recall from early release on compassionate grounds
- Those imprisoned for fine default or contempt
- FNPs who are liable for removal, ie those who:
 - are liable for deportation under the Immigration Act 1971, s.3(5) and have been notified or under s3 (6) and deportation was recommended
 - have been notified of a decision to refuse leave to enter
 - are an illegal entrant
 - do not have leave to enter or remain and are therefore liable for removal under s.10(1) of the Immigration and Asylum Act 1999
- Those serving a sentence where release is governed by the preserved Criminal Justice Act 1991 release provisions for long-term prisoners.

Presumed unsuitable unless there are 'exceptional circumstances'

Anyone currently serving a sentence of imprisonment for any of the following:

- Homicide (including death by reckless, dangerous or careless driving, aggravated vehicle-taking resulting in death)
- Explosives related charges
- Terrorism
- Possession of offensive weapons
- Possession of firearms with intent
- Cruelty to children
- Offences aggravated on the grounds of race, religion or sexual orientation
- stalking, harassment, coercion and control, non-fatal strangulation and suffocation offences including breach of restraining or non-molestation orders, and disclosing private sexual photos and films with intent to cause distress

Also presumed unsuitable:

- anyone with a history of sexual offending but not currently required to register (this includes current offences where the registration threshold has not been met)
- anyone with a history of terrorist or terrorist connected offending
- anyone who has been recalled during a previous HDC period HDC for reasons not linked to curfew breach
- Category A prisoners
- anyone on standard or fixed term recall during the HDC period
- anyone who has been recalled during a previous period of HDC for reasons not linked to curfew breach
- Foreign nationals liable for deportation but not yet served with a decision to deport

Multiple sentences

If any of the sentences you are serving is for an ineligible offence then you cannot be released during the sentence for that offence and will be presumed unsuitable for the remainder of the sentence. (But see below for default terms)

If one of your sentences is an EDS or SOPC this will be treated as an ineligible SDS and you will be presumed unsuitable.

Default terms for confiscation orders

Prisoners with confiscation order default terms are ineligible for HDC on the default term but can get HDC on their main sentence in some circumstances.

I am eligible and not presumed unsuitable. What happens next?

You should receive an Address Form at least 15 weeks before your HDC eligibility date (HDCED), or sooner if serving a very short sentence. This allows you to nominate a proposed address for release. You should be encouraged to complete it and if you have no address to nominate you should be encouraged to consider CAS2 accommodation as an alternative. You may also opt out of the HDC process at this point.

A risk assessment and address checks will then be completed and a decision will be made about whether any reasons exist to refuse or postpone your HDC.

Assessment and decision

Once the Address Checks form has been returned, information must be requested from police and children's services about domestic abuse and child welfare. Your POM must be asked for information about your current progress in custody. Release will be authorised unless the following apply.

- There is no suitable release address
 - It is not considered possible to safely manage your early release in the community
 - There are less than 10 days to your CRD
- . HDC may also be refused if the Governor considers it would seriously damage public confidence.

The HDC decision must be postponed where:

- specific public protection measures have been identified and planned to manage risk in the community but they are not yet in place;
- you have been referred to the police or other law enforcement agency or to the independent adjudicator (IA) in relation to an alleged offence committed during the current sentence and the matter remains unresolved;
- you are subject to a confiscation order and the decision-maker thinks there is an unacceptable risk of you frustrating the court order if released on HDC.
- There is an outstanding application under the undue leniency scheme.

If you are segregation (except for own protection), you will not be released on HDC until compliance has been tested on ordinary location for at least 7 days prior to release, and the Governor has approved.

Release

Although release should occur on or as soon after HDCED as possible, it is often delayed. This is generally not challengeable. In the case of *McCreaner v MOJ* [2014] an ex-prisoner was awarded damages for 6 weeks detention after he should have been released where the prison had been negligent in failing to give his application the appropriate priority.

Revocation of HDC

HDC may be revoked and you will be recalled to prison if, whilst the curfew condition is in force, it appears that you have failed to comply with any condition included in your licence, or your whereabouts can no longer be electronically monitored at the place or for the time specified in the curfew condition.

Appeals against refusal of HDC

There is no specific appeals procedure; however, appeals may be pursued via the internal complaints system, up to the Prisons and Probation Ombudsman, who will treat such appeals as urgent. For your appeal you are entitled to the reasons for refusal and copies of all relevant reports.

PRISONERS' ADVICE SERVICE
PO BOX 46199, LONDON EC1M 4XA
Advice Line: TEL: 020 7253 3323
Mondays - Wednesdays - Fridays 10.00am - 12.30 pm and 2-4.30pm