

# HOME DETENTION CURFEW

## What is it?

The Criminal Justice Act 1991, as amended by the Crime and Disorder Act 1998 enables some prisoners to be released early subject to a curfew which requires them to be electronically tagged for a minimum of nine hours a day. It allows them to live at home, or at an alternative approved address and is designed to help prisoners prepare for life after their release. Home Detention Curfew (HDC) is also known as 'electronic tagging'. It has been in operation since January 1999.



## How does it work?

A small electronic 'tag' is fitted to the ankle. The tag sends a regular signal to a monitoring centre that confirms the presence of the person in their place of curfew. If they are absent or try to tamper with the equipment the monitoring centre is alerted and the breach investigated.

## Who is eligible?

Prisoners serving sentences of between three months, and less than four years,

They will not be eligible if they are:

- Serving an extended sentence.
- Serving a sentence for any sexual offence past or current offence.
- Serving a sentence for a current offence of 'Firearms With Intent'
- Serving a sentence of any crime that is racially aggravated as a current offence.
- Serving a sentence for Child Cruelty as a current offence.
- Liable for deportation.
- Serving a sentence imposed under paragraph 3(1)(d) or 4(1)(d) of Schedule 2 to the Criminal Justice Act 1991 in a case where the prisoner had failed to comply with a requirement of a curfew order.

- Prisoners released on HDC and then recalled to prison under section 39 of the Criminal Justice Act will not get HDC on that sentence.
- Prisoners who have at any time been returned to prison under Section 40 of the Criminal Justice Act 1991, as amended by Section 116 of the Powers of Criminal Courts Act 2000.
- Civil prisoners, ie in prison for fine default or contempt of court.

Prisoners must have enough time left before the half way point of their sentence to allow for a minimum period of 14 days HDC and must have a suitable address to go to.

Prisoners serving sentences for certain offences are 'presumed unsuitable' for HDC, and will not be released unless the Governor agrees to their exceptional circumstances. This rule also applies to prisoners with any history of sexual offending who are not already statutorily excluded from the scheme.

### **How long does Home Detention Curfew last?**

HDC lasts between 14 days and 135 days, dependent on the length of sentence. Time spent on remand counts towards the calculation of the HDC eligibility date.

### **If they meet all the criteria will they automatically get HDC?**

No. HDC is not an entitlement and can only be granted subject to prisoners meeting the eligibility criteria and passing a risk assessment, including a home circumstances check. The prison and probation service have input into the risk assessment and sometimes doctors, social services and the victims can also be involved but it is the Governor of the prison who decides whether to release a prisoner on HDC. The risk assessment takes into account their prison record, previous convictions and the suitability of their home address. If HDC is refused, the person will be told this and given the reasons why.

### **Can they appeal against a refusal?**

Yes. They can do so either through the official Requests and Complaints Procedure or outside the system, through their solicitor, for example. These complaints should be dealt with as a matter of priority.

### **Does the prisoner have to do anything?**

No. They should be told when they arrive at prison that there is a possibility that they may be eligible and a risk assessment should begin approximately 10 weeks in advance of their HDC date, if they are eligible. The prisoner will be given a form to complete with the address they wish to be tagged to. The risk assessment will consist of a report from outside Probation and a report on the prisoner from staff from within the prison. All the paperwork is given to a committee of people, referred to as 'The Board' they make a recommendation as to whether the prisoner should be released on tagging. Their recommendation then goes to the Governor who makes the final decision.

### **What is a suitable home address?**

The probation service on the outside will be asked to check the address the prisoner has given, and this will form part of the risk assessment. They may want to visit the family to assess the effect HDC might have on them and to ensure that everyone living at the address is aware of all the implications of having someone on HDC living there. A supportive family can help a great deal towards the successful completion of a sentence.

There are some technical requirements for the system to work, but most homes will meet these. There needs to be an electricity supply and a telephone line, or the possibility of installing one. If you do not have a telephone, the contractor who provides the tags will arrange for one to be installed.

It will be enabled only for calls to the monitoring centre and the emergency services and will be disconnected at the end of the sentence. A fixed or metered electricity supply is also necessary.

### **Do they have to stay at the same address?**

The duration of the curfew must be spent at the same address. Variations in the order are only granted in exceptional circumstances and at the discretion of the governor. The new address will be subject to the same suitability checks and the person must not move until the variation has been approved.

What if they have to be absent from home during curfew hours for some reason?

HDC contractors may grant 'one-off' absences for special circumstances such as:

- Attending weddings or funerals of close relatives
- Unexpected medical appointments
- Job interviews or attendance at job club or benefit office
- Attendance at court as witness or defendant.

The person will have to provide proof of the reason for their absence.

Regular commitments such as attending a place of worship, shift work or education may be accommodated and should be taken into account when the curfew hours are initially set. The Governor must authorize any permanent variation to the licence conditions and any other one off absences, if there is a need at a later date.