

## Your Questions Answered

- Q.** Why have I been recalled from HDC?
- A.** You will have been recalled for one or more of the following reasons:
- Level 1 Breach**
- Serious intentional damage to equipment
  - Absence of more than 6 hours in one curfew period
  - Physical assault on contractor's staff
  - Threat of violence towards contractor's staff
  - Two negative 'drive-bys' during a 24 hour period
  - Withdrawal of consent to a licence condition
  - Failure to be present for installation of equipment
  - Refusal to allow replacement equipment to be installed during licence period
- Level 2 Breach**
- Absence of 2 or more (but less than 6) hours in any curfew period
- All other absences where no acceptable explanation has been given within 3 days, including:
- a cumulative total of 5 absences in any 28 day period
  - a cumulative total absence of more than 1.5 hours in any 28 day period
  - a cumulative total absence of more than 3 hours in any 84 day period
- Level 3 Breach**
- Offender being present at a place / location from which he/she is restricted

**Q.** May I appeal against my recall?

**A.** Yes. You may complete the appeal form HDC 8a(ii). You should ask your gallery staff for this form. On this form you should clearly state why you think that the recall should not have taken place. You will need to provide evidence to back your appeal. You may appeal through Polmont or direct to the Parole Board.

**Q.** What happens to my appeal paperwork?

**A.** Within 5 days the staff at Polmont will prepare a file that will be submitted to the Parole Board. It will contain at least:

- HDC Community Assessment Report
- HDC Licence
- HDC Recall Notification
- Serco's Breach Report
- Your appeal form

**Q.** Who deals with my appeal?

**A.** The Parole Board for Scotland will deal with your appeal. The Scottish Prison Service has no authority in the appeal process.

**Q.** Will I be able to attend the hearing?

**A.** The Parole Board normally deal with appeals by correspondence though they may call you to present your case.

**R.** What happens if I win my appeal?

**A.** The decision is legally binding and if you win your case Polmont will implement this decision.

**INFORMATION**  
for  
**Young Offenders,  
Visitors and Staff**

**Recall**  
**from HDC**

**HM YOI POLMONT**

**This leaflet explains about  
your recall from Home  
Detention Curfew (HDC)**

## Recall to custody

When a prisoner breaches his licence conditions, SPS has the authority to revoke the HDC licence and recall the prisoner to custody. The decision to recall must be made by the establishment that released the prisoner on HDC (and holds the warrant). Should the decision to recall the prisoner be made, immediate notification should be issued to the relevant Police Force.

For practical reasons, it may not be possible to return the prisoner to the establishment from which he was released on HDC. If this is case, a suitable establishment should be identified and the Police should be notified.

In practice, most - if not all - serious breaches will result in the prisoner being recalled. However, in cases where breaches are less serious, SPS may still recall the prisoner should a pattern of non-compliance with the HDC licence become apparent.

When a prisoner has been recalled from HDC licence, he must remain in prison until the Earliest Date of Liberation has been reached. A recall from HDC will effectively exclude the prisoner from any

future release on HDC licence as the recall will become a Statutory Exclusion in terms of future assessment, except where the licence has been revoked due to an inability to electronically monitor the prisoner at the curfew address.

The Police will treat recalls from HDC as a matter of priority. A recalled prisoner is treated as 'unlawfully at large' from the date the recall notice is signed. When the prisoner is returned to custody, all days where the prisoner was unlawfully at large shall be added to the original EDL.

Upon re-admission to an SPS Establishment, the prisoner must receive written notification of the reason for the recall (form **HDC 5b**).

### Appeal against recall

Prisoners whose HDC licence has been revoked, have the right of appeal against the decision to return them to custody. The prisoner should be given a copy of the recall notice immediately upon return to custody. Should the prisoner wish to appeal, he must make written representation to Scottish Ministers (in practice, the SPS) who must refer all appeals to the Parole Board for Scotland.

Where the prisoner notifies SPS of his intention to appeal the recall, a copy of all assessment, release and recall paperwork should be sent to the Parole Board within five working days. Where the prisoner has approached the Parole Board directly, this paperwork should be sent within five working days of the Parole Board's request. As a minimum, copies of the following should be supplied:

- HDC Assessment Dossier;
- Community Assessment Report;
- HDC licence;
- Recall Notification (sent to Police at time of recall);
- Recall Notification (given to prisoner upon return to custody); and
- Serco's breach report

The holding establishment must supply this paperwork. If the holding establishment is different to the releasing establishment, all HDC paperwork must be passed to the HDC administrator within the holding establishment as a matter of priority.

It should be noted that SPS has no authority over appeals and SPS is legally required to carry out the directions of the Parole Board in the case of all appeals.