

If you fail to comply with licence conditions or commit an offence on licence, you are liable to be recalled to prison.

Common reasons for recall are:

- a) failing to attend probation appointments
- b) allegedly committing a new offence whilst on licence (which breaches the requirement to be of good behaviour and not to do anything that undermines the purpose of being on licence)
- c) exhibiting behaviour suggesting an increased risk to the general public

This is a decision made by your supervising probation officer, who completes a breach report for the Public Protection Casework Section (**PPCS**), who can respond by recommending recall.

- 1) where a prisoner is not serving a sentence for a violent or sexual offence; nor serving an extended sentence of imprisonment; nor someone having already received early release on compassionate grounds and this is their first recall on that particular sentence, the PPCS decides whether or not to recall an offender only for a fixed period up to 28 days (**Fixed Term Recall**)
- 2) prisoners not eligible or suitable for Fixed Term Recall will be given a **Standard Recall**. This will entail the prisoner remaining in custody until their sentence expiry date (**SED**)

You have a right of Appeal to the Parole Board, and even if you chose not to exercise that right, the Parole Board will nevertheless scrutinise all recall decisions, to ensure that they are fairly taken. You should be issued your recall dossier within 24 hours, and thereafter you have 5 days to decide whether or not to make representations against the decision to recall.

Whether deciding on Appeal against recall, or checking the validity of a recall decision, the Parole Board will consider the issue of re-release, and will either set a re-release date, or a date for reconsidering re-release.

Additionally, if you are on Home Detention Curfew and your whereabouts can no longer be electronically monitored, you can be recalled to prison.

The electronic monitoring contractors (G4S) will advise the PPCS, and PPCS decides whether or not to recall.

You should be issued with a representations pack within 48 hours of recall due to breach of HDC conditions. If you make representations against recall,

Once a decision has been made to recall you, there is legal power to arrest you and take you to prison. A person recalled on licence, if at liberty, will be unlawfully at large from the date the decision was made to recall his licence until the date of return to prison, and that time will be added on to any sentence.

You will be taken to your nearest remand prison, in category B conditions.

A person recalled has to be informed of the reasons for recall, and can make written representations about it.

- a) Normally representations are made to the Parole Board
- b) However if only a Home Detention Curfew condition has been breached – then the Release and Recall Section deal with any appeal

You are given a time limit to make representations, however you can still put in representations after this time has expired, provided that the Parole Board has not already made its decision.

Your probation officer will have prepared a risk management plan, setting out proposals for further licence conditions if the Parole Board decides to release you.

A decision should in theory be made by the Parole Board within 20 days of recall, however normally there are delays.

If the Parole Board accepts the representations, then you will be released and supervised in the community on the original licence. However in some cases the Parole Board may decide to impose additional licence conditions.

If the Parole Board decides to uphold the decision to revoke, you will be advised of your post-recall release date, which is the same as your original licence expiry date (plus any time spent unlawfully at large added).

Recalled prisoners must be provided with guidance on the procedure for making representations to the Parole Board and arrangements for the Parole Board to hold an oral hearing at which the prisoner is entitled to be present, to call witnesses, and to be legally represented. This “reps pack” (your Recall Dossier) should be made available to you within 24 hours of a return to custody. If mislaid, a copy is available from the parole clerk of your prison.

- An initial decision will be made on the papers taking into account any written representations made on your behalf
- CDS2 funding is available to provide you with help from a solicitor drafting representations to the Parole Board up to a limit of £300
- If you are unhappy with the decision, you can ask the Parole Board to reconsider the decision at an oral hearing
- Further funding may be available to you to provide you with representation at such a hearing up to a limit of £1,500
- Please note that this assistance is means tested, however.

When considering representations, the Parole Board must determine:

- a) if your liberty would present an unacceptable risk of further offences being committed
- b) if the object of supervision has been undermined, by you failing to comply with one or more licence requirements
- c) if you have breached the trust placed in you by the Secretary of State, by failing to comply with licence conditions or in some other way
- d) if you are likely to comply with licence conditions in the future

Pleased be warned, however, that recall decisions are not always easily challenged. Successful challenges by way of Judicial Review to recall decisions are very infrequent.

In the key case of Regina –v- Gulliver (2007), Mr Gulliver was recalled to prison following an alleged breach of licence, namely failing to comply with his electronic tag. It then turned out that the equipment was faulty, and he had not breached the terms of his licence at all. Nonetheless, the Parole Board STILL refused to release him, as he was deemed to be a continuing risk to the public and because the original decision to recall was reasonable *on the evidence available at the time*.

The role of the Parole Board is to “consider whether or not it is safe to release the prisoner” – even if the original licence breach was unfounded. The role of the Parole Board is NOT just to review the original recall decision.

This means that you can be recalled to prison on a supposed breach that is then shown not to be true, but STILL kept in prison if the Parole Board deem you a continuing risk to the public.

If you are recalled, you must serve the unexpired portion of your sentence, and you are entitled to unconditional release at your sentence expiry.

*Dunn & Baker – Here to help you*

*Disclaimer: The material contained in this fact sheet is for general guidance only. It is specific to the law of England and Wales, and represents a brief outline of the law current as at the date of the fact sheet. It is not intended to constitute, or to be a substitute for, legal advice specific to your case. Dunn and Baker will be responsible only for advice specifically given to you.*