

The Change to Some Offenders' Automatic Release Dates

FAQ

What is the change?

1. What has been announced and why?

- The male prison estate is almost full. To make sure suspects can continue to be arrested, held in custody, and sent to prison if they are convicted, we need to free up capacity. The disgraceful thuggery and criminality seen in the recent riots shows the importance of creating a robust criminal justice system.
- This is why the Government has announced a change to the point when some prisoners serving Standard Determinate Sentences¹ are released from prison to serve the rest of their sentence in the community. This is known as 'the automatic release point'. The automatic release point was triggered when 50% of the sentence had been served in prison and will now be triggered at 40% of the sentence.
- The rest of the individual's sentence will then be served on licence in the community as per previous standard processes, which means that offenders must abide by certain conditions which, if breached, could result in being recalled to prison.
- To free up enough capacity, this change will be applied to current and newly sentenced prisoners from September, but not all eligible offenders already in prison will be released at the same time.

2. Does this mean the offender will not serve their full sentence?

- No. The full sentence will still be served: the change is to how much time is served within prison, compared to within the community under licence conditions.

¹ When imposing a custodial sentence, the courts have several options depending on the offence, its seriousness, and whether the offender is judged to be 'dangerous'. The most serious and dangerous offenders can receive a Life sentence, an Extended Determinate Sentence (EDS), or a Sentence for Offenders of Particular Concern (SOPC) – all of which involve release at the discretion of the Parole Board following a detailed risk assessment. The most common type of custodial sentence is a Standard Determinate Sentence (SDS) which involves automatic release at a given point.

- This change will mean an additional 10% of the sentence is served in the community rather than in prison. Offenders can still be recalled to prison at any point during the full sentence period if they breach their licence conditions or probation consider it is necessary for public protection.

3. I am worried about this announcement, what can I do?

- If you have been affected by this announcement and what it might mean for you, please be aware that free, confidential, and independent support is available to help you. You can find out how to access support at: <https://victimandwitnessinformation.org.uk/find-support>.
- If you are already receiving support from a victim support service, you can also contact them as they may be able to assist you.
- If you are a victim of domestic abuse, there are national helplines that you can also contact for more immediate help and support, which do offer translation services if your first language is not English. They also operate live chat and text services.
 - 24-hour National Domestic Abuse Helpline: 0808 2000 247.
<https://www.nationaldahelpline.org.uk/>
 - Men's advice line for domestic abuse: 0808 8010 327.
<https://mensadvice.org.uk/>
 - 24-hour National Domestic Abuse and Sexual Violence helpline in Wales: 0808 8010 800.
<https://www.gov.wales/live-fear-free/contact-live-fear-free>

In Warwickshire, you can contact the Warwickshire Domestic Violence and Abuse Service (Refuge) on 0800 408 1552 or by emailing DVSW@refuge.org.uk.

For a full range of support services available to victim-survivors in Warwickshire, visit <https://www.talk2someone.org.uk/support-services>.

- If you were eligible for and have opted-in to the Victim Contact Scheme or Victim Notification Scheme you should contact your Victim Liaison Officer. Contact details are provided in the letters that Victim Liaison Officers send to victims. If you were contacted by a Victim Liaison Officer but decided to opt-out of either Scheme, you can change your mind and opt-in. To do so, you can email vcenquiries@justice.gov.uk.

4. I don't know if the offender in my case is eligible for early release. Who does this change apply to?²

- The decision is made based on the offence type, and the sentence type, which means certain offences are not eligible for early release.
- It is important to know that this change in release point does not apply to:
 - any Standard Determinate Sentence which previously had a 50% release point for sex offences or offences relating to national security irrespective of length.
 - a Standard Determinate Sentence which previously had a 50% release point for a violent offence of four years or more.
 - a Standard Determinate Sentence which previously had a 50% release point for certain offences that are frequently used to tackle domestic abuse, irrespective of length, which are:
 - Stalking offences
 - Controlling or coercive behaviour in an intimate or family relationship
 - Non-fatal strangulation and suffocation
 - Breach of Restraining Order
 - Breach of Non-Molestation Order
 - Breach of a Domestic Abuse Protection Order
- These changes also do not apply to any Standard Determinate Sentences with a release point of 67% or any sentence that only allows for release at the discretion of the Parole Board. This includes serious sexual, violent and terrorist offences.
- These changes do not apply if an offender has been recalled to prison.

5. Does this mean all domestic abuse perpetrators are excluded?

- The law excludes certain offences and sentences from early release but does not exclude types of offenders. Because domestic abuse perpetrators may be charged with many different offences, it's not possible to exempt all offences that may relate to domestic abuse.
- For example, driving offences or criminal damage are not excluded, and there could be some cases where this is related to domestic abuse.

² The full list of excluded offences is at Annex A.

6. What if the offender is in prison for multiple offences? Could they still be released early?

- Each sentence is considered separately when determining whether they are eligible for release at the 40% point. If an offender is serving multiple sentences and the change in release point applies to some but not all of their offences, they could still be released early. Examples of how this might work are below.

Example 1

If an offender is serving an SDS of 5 years for a sex offence (which is ineligible for 40% release) and an SDS of 3 years sentence for a theft offence (which is eligible for 40% release), the earlier release point would apply to the sentence for the theft offence but not to the sentence for the sex offence.

If the sentences are being served at the same time (concurrently), the prisoner's release date will not change as the release point for the longer sex offence is determining the release point.

In this example, the prisoner will be released after two and a half years to serve the remaining two and a half years on licence in the community.

Example 2

If the sentences are being served one after the other (consecutively, with the sex offence to be served first), they would first need to have served 50% of their custodial sentence for the sex offence. They would then be released earlier in relation to their second sentence as they would need to serve 40% of their custodial sentence for the theft offence.

In this example, the prisoner will serve two and a half years in prison for the sex offence (50%), and then serve one year and two months (40%) rather than one year and six months (50%) in prison for the theft offence. They will then serve the remainder of their sentence on licence in the community.

7. What if the offender was transferred to hospital under the Mental Health Act 1983? Could they be released early?

- If an offender is serving their sentence in hospital the same eligibility for early release applies. However, if their sentence is eligible, this does not mean they are automatically discharged from hospital. Their discharge from hospital (either back to prison or into the community) is based on whether they require treatment.

- Unless they are excluded because of their offence or sentence, they will be released into the community on licence after the 40% point as soon as they no longer require treatment as per the usual process. They can remain in hospital for the duration of their licence period if they still require treatment.

When does this change come into effect?

8. How long have probation had to prepare? Are they ready for the change?

- An 8-week implementation period was set to make sure the probation service had enough time to prepare for prisoner releases.
- The service is nationally monitoring the case preparation for the releases, particularly around, victim contact for relevant cases, completion of domestic abuse and safeguarding checks and licence conditions being finalised.
- The Ministry of Justice has also been working with other Government departments and partners, including the victim support sector, where appropriate.

9. When will prisoners start being released?

- Offenders already in custody will start being released from September 2024. The initial releases, where prisoners will already have served the 40% and so be eligible straightaway, will be split into two cohorts to manage the flow of released offenders. These cohorts have been split by sentence length.

10. How will the releases of the two cohorts be managed?

- The first cohort will include those serving sentences of less than five years and who have already passed the 40% point of their sentence. They will be released on the 10 September. After the 10 September, when an eligible prisoner serving a sentence of less than five years reaches the 40% point, they will be released.
- The second cohort will include those serving five years or more and who have already passed the 40% point of their sentence. They will be released on the 22 October. After 22 October, when an eligible prisoner serving a sentence of five years or more reaches the 40% point, they will be released.

How are probation practitioners preparing for an offender's release?

11. I am worried about safety. What protections and support will be in place?

- In all cases, offenders will be released on licence into the community under the management and supervision of probation. This means they are under a set of conditions that must be met, for example the requirement to stay in contact with their probation practitioner in line with their instructions.³ If the conditions are not met, the offender can be recalled to prison.
- Every case will also be considered by the assigned probation practitioner to decide what is needed to support the offender's safe release into the community. This will determine whether there are additional conditions that are required to manage specific risks. For example, this could include prohibiting contact with a specific individual, electronic monitoring, home detention curfew, setting an exclusion zone or requiring treatment for alcohol misuse.
- Probation practitioners will also consider whether additional multi-agency engagement is required.
 - Some offenders being released will be automatically subject to Multi-Agency Public Protection Arrangements (MAPPA)⁴. Other offenders can be referred to MAPPA where their offending shows they require it. This means that probation will work with police and other agencies such as health or housing to assess and manage their risk.
 - Multi-Agency Risk Assessment Conferences (MARAC) are run locally and can be put in place for the management of the highest risk domestic cases. This is a meeting where information is shared between police, probation, other agencies and Independent Domestic Violence Advisors. This will result in a co-ordinated action plan that focuses on the victim's safety.
- If you are worried about your safety, you should contact the police.

12. My case didn't result in a conviction, but the perpetrator is in prison for another offence. Will my case still form part of the offender's history for probation's risk assessment?

- Yes, if probation has information about the abuse. Probation practitioners conducting risk assessments must search for any available indicators of domestic abuse in all cases.
- They may use information from victim statements, witness statements or previous assessments. This information will be considered regardless of

³ In all cases this requires offenders to not commit a further offence; keep in touch with and receive visits from their probation practitioner as instructed; only reside or undertake improvement as approved by their probation practitioner; not travel outside of the United Kingdom, Isle of Man or the Channel Islands without permission from their probation practitioner; inform their probation practitioner if they use an alternative name, or of any changes to their contact details; and be of good behaviour.

⁴ This includes offenders convicted of murder or specified violent and other sexual offences. Details of automatic and other referrals can be found here: 6. Identification and Notification of MAPPA Offenders (updated 2022) - Multi-Agency Public Protection Arrangements - MAPPA ([justice.gov.uk](https://www.justice.gov.uk)).

conviction. They must also seek information from agencies such as the police, Children's Services, and other partnership agencies in contact with the victim.

13. Where will offenders who are released be housed? What protections are in place if they used to live with me?

- An offender's accommodation will be considered as a part of their release plan. Probation practitioners will check proposed addresses to:
 - Assess the potential risks to any person living at that address. This can result in refusal to allow co-habitation with a victim of domestic abuse, even where the person on probation and that individual are in a relationship, including marriage.
 - Make sure the address does not conflict with court order requirements or other licence conditions.
 - Where a victim is eligible for and has opted into the Victim Contact Scheme or Victim Notification Scheme, contact the Victim Liaison Officer responsible for that case.

14. I am concerned about protecting my children following the release of an someone who offended against my family. How can I access additional protections for them through the family court?

- If you are concerned for your child's safety, you can apply for a child arrangements order, prohibited steps order or specific issue order using the C100 application form. Details of the process can be found [here](#). The form enables you to flag allegations of harm and urgency. The form C100 may also be used to apply to vary an existing order. Help with court fees may be available if you are in receipt of certain benefits or on a low income.
- If you are a victim of domestic abuse or at risk of being abused legal aid is available for child arrangements orders, prohibited steps orders and specific issue orders. Funding is subject to providing the required evidence of domestic abuse and passing the means and merits tests.
- It's also possible for you to apply for a non-molestation and/or occupation order to protect your own safety and that of your children. The form is available [here](#). No fee is payable for this form.
- Emergency representation is available for the purpose of obtaining urgent protection, such as non-molestation orders. We understand how important it is that anyone who needs a protective order can access legal advice and representation quickly, whatever their means. Therefore, if you are a victim of domestic abuse applying for an injunction or other protective order, you can receive legal aid even if you would not otherwise pass the means test, though you may then have to pay a financial contribution towards your legal costs later.

15. I am in prison, and I have been a victim of domestic abuse. What support can I expect to receive after being released from prison?

- Your sentence plan should consider your needs. This includes identifying if you are a victim of domestic abuse. The sentence plan can then include referral to local services for specialist support and if relevant referral to Commissioned Rehabilitative Services⁵.
- Where both the perpetrator and victim are under supervision of probation, plans should be put in place to avoid contact at probation venues. You can ask your probation practitioner about this.

16. Do probation staff understand domestic abuse?

- HMPPS has introduced new domestic abuse training to improve the understanding of the complexity of domestic abuse and its impact on victims (including children). New learning has also been introduced on additional civil orders placed by the courts, including restraining orders. This aims to improve the understanding of their significance.
- There is also an annual national domestic abuse awareness campaign consisting of presentations from academics, subject matter experts and those with lived experiences to probation staff.
- In July 2024 Women's Aid delivered two webinars available to probation staff about the value of multi-agency work in victim safeguarding and understanding Coercive and Controlling Behaviour.

Communication

17. Will I be told about changes to release dates and any licence conditions?

- If you are part of the Victim Contact Scheme or Victim Notification Scheme, you will be informed about a change to an offender's release date. Victim Liaison Officers have begun to contact affected victims.
- If you are in the Victim Contact Scheme or the Victim Notification Scheme, you will be able to discuss licence conditions that you would like to be in place (such as an exclusion zone so that the offender cannot go near where you live or work). Your Victim Liaison Officer will inform you of the conditions that are agreed.

⁵ CRS providers are commissioned by Regional Probation Directors to deliver services such as employment, training and education, accommodation, or services related to personal wellbeing.

18. I have been contacted about a release and I believe it's a mistake, who should I speak to?

- If you have been contacted by a Victim Liaison Officer about an offender being released early and you have questions about this, you should discuss this with the person who contacted you.
- Contact details are provided in the letters that Victim Liaison Officers send to victims. If you don't have your letter, you can email vcenquiries@justice.gov.uk.

19. How does the Victim Contact Scheme and Victim Notification Scheme work?

- When an offender receives a custodial sentence, if you meet the eligibility criteria for the Victim Contact Scheme or the Victim Notification Scheme, your contact details will be forwarded by the police to the probation service's Victim Liaison Unit.
- Victim Liaison Officers will then contact you to ask you if you wish to receive the service which would provide information at key points during the offender's sentence. This includes:
 - updating you about any changes to the sentence,
 - updating you about the release of an offender and
 - supporting you to request licence conditions on the release of the offender.

20. What if I decided to opt-out of the Victim Contact Scheme or Victim Notification Scheme?

- If you were contacted by a Victim Liaison Officer but decided to opt-out of either the Victim Contact Scheme or Victim Notification Scheme, you can change your mind and opt-in. To do so, you can email vcenquiries@justice.gov.uk.

21. Who is eligible for the Victim Contact Scheme and Victim Notification Scheme?

- You are eligible for the Victim Contact Scheme if you are a victim of a sexual, violent or terrorism offence where an offender receives a specified custodial sentence of 12 months or more or is detained in a hospital for treatment under the Mental Health Act 1983 with or without restrictions.

- You are eligible for the Victim Notification Scheme if you are a victim of a stalking or harassment offence regardless of the length of the custodial sentence. This includes breach of a restraining order.

22. What if I am not eligible for these schemes? Will I still be told?

- If you are not eligible for either of these schemes, you would not have been proactively contacted about an offender's release prior to this policy being announced. You will not be contacted if the offender's release is brought forward by this change.
- However, even if you are not signed up to the Victim Contact Scheme or the Victim Notification Scheme, the probation practitioner should consider your protection as part of the preparation for release, and can, for example, consider including licence conditions as necessary, to protect you, such as a no contact condition.
- If the police identify that you may be at serious risk, and if appropriate to do so, they may notify you even though you are not eligible or have opted out of the schemes.

Annex A: Full List of Excluded Offences

Sexual Offences

- An offence under the Sexual Offences Act 1956.
- An offence under the Sexual Offences Act 2003.
- An offence in Part 2 of Schedule 15 of the Criminal Justice Act 2003.

Offences that may relate to Domestic Abuse

- An offence under section 42A of the Family Law Act 1996 (breaching non-molestation order).
- An offence under section 2A of the Protection from Harassment Act 1997 (stalking).
- An offence under section 4A of that Act (stalking involving fear of violence or serious alarm or distress).
- An offence under section 29 of the Crime and Disorder Act 1998 (racially or religiously aggravated assaults), where the offence that was racially or religiously aggravated was an offence under section 75A of the Serious Crime Act 2015 An offence under section 32 of the Crime and Disorder Act 1998 (racially or religiously aggravated harassment), where the offence that was racially or religiously aggravated was an offence under section 2A or 4A of the Protection from Harassment Act 1997.
- An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).
- An offence under section 76 of that Act (controlling or coercive behaviour in an intimate or family relationship).
- An offence under section 363 of the Sentencing Code (breaching restraining order).
- An offence under section 39 of the Domestic Abuse Act 2021 (breach of domestic abuse protection order).

Violence (Excluded if the sentence length is 4 years or more)

- An offence in Part 1 of Schedule 15 of the Criminal Justice Act 2003.

National Security

- An offence under the Official Secrets Act 1911.
- An offence under the Official Secrets Act 1920.
- An offence under the Official Secrets Act 1989.
- Additional national security offences agreed in conjunction with the Home Office.