

## Joint National Protocol:

# The management of individuals unlawfully at large following a release in error



HM Prison &  
Probation Service



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## 1. INTRODUCTION

- 1.1 This protocol sets out the respective responsibilities of individual agencies in the management of individuals who are deemed unlawfully at large following a release in error from prison<sup>1</sup>. This protocol applies to individuals who are released too early from their custodial sentence and are required, in line with Prisons Act 1958, to be brought back to prison custody to serve the remainder of their sentence.
- 1.2 The overriding objective of the protocol is to create a standardised process for the sharing of information to enable the quick and efficient rearrest of individuals released in error from prison to protect the public.
- 1.3 The protocol has been produced by the Release Accuracy Support Unit within His Majesty's Prison and Probation Service (HMPPS) and the National Police Chief's Council (NPCC). Therefore, the processes documented within the protocol reflect agreed practices from both organisations and should be adhered to accordingly.

## 2. GEOGRAPHICAL SCOPE

- 2.1 This protocol is to be adopted across HMPPS and Youth Custodial Service (YCS) settings, which includes prison and probation services, as well as establishments within the privately managed prison estate and Home Office which includes Immigration Removal Centres (IRC). It should also be adopted by all police forces, the Police National Computer Bureau and the Ministry of Justice.
- 2.2 This protocol does not cover instances where the Prisoner Escort & Custody Services (PECS) have released an individual in error. PECS already have an established process for returning individuals to custody reflected within the contract management of relevant suppliers.

## 3. COMMENCEMENT, INTERPRETATION AND AMENDMENT

- 3.1 This protocol will commence from 01 April 2025 and will be reviewed routinely and revised as necessary by HMPPS in consultation with other signatory agencies.

## 4. LOCAL SYSTEM

- 4.1 The protocol is intended to provide each signatory with a minimum set of expectations of partner agencies. All local systems should accord with these minimum expectations.

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<sup>1</sup> All references to "Prison" within this protocol also refer to Young Offenders Institutes (YOI) who are covered by the processes detailed within this protocol.

4.2 Where differences of interpretation arise locally, those local agencies will also be responsible for defining the areas of disagreement and agreeing measures for their resolution.

## 5. LOCAL MONITORING

5.1 Adherence with the protocol within HMPPS will be managed by the Release Accuracy Support Unit who are under the leadership of an Area Executive Director with responsibility for releases in error across the agency. This includes the monitoring of those who remain unlawfully at large following a release in error.

5.2 Police Adherence with the protocol will be managed by the Criminal Justice Co-ordination Committee through monitoring compliance with the expectations set out in this protocol.

## 6. SIGNATORIES

The signatories agree to implement the provisions of the National Protocol and the local arrangements set out in the following document.



HM Prison &  
Probation Service

**For His Majesty's Prison and Probation Service (which includes HM Prison Service, HM Probation Service, Youth Custody Service and Prison Escort Custodial Services):**

Name: Phil Cople

Position: HMPPS Director General Operations

Date: 28 March 2025

**For the Police:**

Name: Gavin Stephens QPM

Position: Chair of the NPCC

Date: 24/03/25



## 7. ROLES AND RESPONSIBILITIES OF ALL AGENCIES INVOLVED IN THE JOINT PROTOCOL

### 7.1 Aim

This document is intended to provide a protocol for partner agencies to communicate and work together to effectively manage unlawfully at large individuals following a release in error from a prison/YCS secure setting. It intends to increase efficiency across the criminal justice system by creating a standardised process, better information flows and reducing duplication. It will also help to ensure that public protection objectives are upheld and that individuals are returned to prison custody at pace to serve the remainder of their custodial sentence. Thereby, the protocol will serve to protect the public and victims of crime and support prevention of further offending.

### 7.2 Objectives

The Joint National Protocol (JNP) aims to ensure effective and timely communication between partner agencies when an individual is released in error from a prison/YCS secure setting. It provides an overview of the roles and responsibilities of each of the agencies involved in line with relevant legislation and policy areas.

### 7.3 Process

An individual is released in error when they are released from HMPPS or HMCTS custody when they should have otherwise remained in custody. Legally the individual is still required to be in custody, therefore the release is deemed a release in error and they are unlawfully at large (UAL). Anyone deemed UAL due to a release in error should be rearrested and returned to prison custody in accordance with Section 48 of the Prison Act 1952:

*“Any person who, having been sentenced to imprisonment or custody for life or ordered to be detained in youth detention accommodation or in a young offenders institution, or having been committed to a prison or remand centre, is unlawfully at large, may be arrested by a constable without warrant and taken to the place in which he is required in accordance with law to be detained.”*

In summary the process for rearrest of an individual unlawfully at large following a release in error from prison is:

- When it is discovered that a release in error has occurred the prison should confirm if the individual is at that time unlawfully at large in the community (as releases in error can be found when an individual is in custody). If this is the case, the prison should make the necessary internal notifications, making the Duty Governor (or equivalent in YCS secure setting) and prison Control Room aware.
- The prison should then complete the “Prisoner RiE and UAL – Rearrest Request Form”, this form can be accessed internally and will include details of the individual and their offences and other key information that may assist in the timely rearrest.

- The prison should identify the responsible police force, this will be the force aligned with the managing Probation Delivery Unit (PDU)<sup>2</sup> or Youth Justice Service (YJS). The prison should then email the completed rearrest request form to both the correct police force and PNC Bureau mailbox, copying in the HMPPS Release Accuracy Support Unit.
- The prison should inform relevant probation practitioners or YJS case manager of the release in error and complete the mandatory internal incident reporting procedures. In the case of children, the relevant director of children's services from the home area should be informed as there may be safeguarding concerns.
- Upon receipt of the completed rearrest request form the PNC Bureau will update the PNC to note the individual as an abscondee, also completing relevant information and referring that the individual is a release in error from prison. This should be completed within 12 hours.
- Police forces receiving the rearrest request form should take immediate action to raise an incident within their call handling system to allocate and prioritise attempts to locate and arrest the individual who is unlawfully at large. The relevant force should aim to arrest cases within 48 hours.
- If it subsequently established that the individual is known to be living at an address within a different force area, it is the responsibility of the originally notified police force to ensure the arrest attempt is successfully transferred and accepted by the correct force.
- Once arrested for being unlawfully at large the individual should be taken to a police custody suite and booked in as per standard procedure. The responsibility of moving individuals from police stations to courts and prisons lies with Prisoner Escort and Custody Services (PECS). These movements are requested by way of a Prisoner Transfer Request (PTR) through the HMPPS Digital Service in the standard way. Should the individual release in error be under 18, Police should inform the home Youth Justice Service (YJS) and call the YCS Placements Team to notify them that a placement will be required. YCS will confirm which setting the child is to be taken to.
- The force arresting the individual is responsible for updating the PNC that the individual has been detained.
- The HMPPS Release Accuracy Support Unit will check prison systems routinely and upon return to prison custody the PNC Bureau will be notified so that the abscond marker can be removed from the individuals PNC record.
- HMPPS (or the Sentence and Release Team if applicable) will then complete a sentence calculation of the individual within two days of their return to custody. Release dates will then be calculated and checked by a second member of staff within five working days. This calculation will take in to account any unlawfully at large time that needs to be added to the individuals time in custody.
- The individual does have the right to apply to the Secretary of State, under section 49(2) of the Prison Act 1952, to ask for the time spent unlawfully at large to be considered as time served.

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<sup>2</sup> A full list of Police forces for the relevant PDUs can be found on the Case Administrator Knowledge Hub.

## 7.4 Roles and responsibilities

7.41 HM Prison service and YCS has a duty to implement custodial sentences issues by the Courts. Where it has transpired that an individual has been released too early from their custodial sentence **and remain unlawfully at large**, the Prison service has the following roles and responsibilities:

- The staff member discovering the release in error will immediately inform the Duty Governor and the releasing Prison. Where the release in error has occurred from an Immigration Removal Centre (IRC), this would be the Prison which released the individual to the IRC.
- The discovering Prison will initiate the process to have the individual rearrested through completing the “Prisoner RiE and UAL – Rearrest Request Form”. The letter is required to be signed off by the Duty Governor, Head of OM or OMU Hub Manager and issued via email to the police force that corresponds with the PDU responsible for the management of the individual released (this is because the prison’s local force may not be best placed to rearrest). When a child has been RiE, the Director of Children’s Services will need to be informed.
- The email will copy in the Metropolitan Police PNC Bureau functional mailbox and the HMPPS Release Accuracy Support Unit functional mailbox. Police and PDU details are available on the Case Administrator Knowledge Hub.
- The prison will inform the individual’s Prison Offender Manager (POM)/Community Offender Manager (COM) that they have been released in error and that a recall does not need to be issued. Where an individual is UAL the Press Office should also be notified with the individual’s details and information where there is known media interest in the case.
- It can be the case that the prison who identifies the release in error was not the prison who released the individual. Either the releasing or “finding” prison can complete National Incident Management Unit telephone reporting and the DD for Prisons Proforma, however the releasing prison must complete the Incident Reporting System (IRS) report. All three reporting mechanisms are required within 24 hours of the release in error being discovered.
- UAL will be tracked centrally by the HMPPS Release Accuracy Support Unit. Where the release in error occurred following an immediate release, the Release Accuracy Support Unit will inform the Victims Policy team to consider if victim notification is appropriate. Where the individual released in error is a Foreign National Offender, Home Office Immigration Enforcement will be informed via email.
- Should there be no response from the local Police force to confirm attempts to rearrest the individual released in error, the Head or Deputy Head of the Release Accuracy Support Unit will escalate the matter with the relevant Police force.
- Should the individual who is unlawfully at large not have been rearrested within 28 days, the HMPPS Release Accuracy Support Unit will consider escalating the matter with the National Police Chiefs Council via email.
- Once the individual has returned to prison custody, their calculation must be carried out within 2 days of their return to custody as per the Sentence Calculation Policy Framework. UAL should be calculated from the day after the

release in error took place to the day before the individual was arrested. More information is available in the Sentence Calculation Policy Framework operational guidance.

- If a release in error is discovered during the calculation following a recall, then there is a possibility that the recall needs to be rescinded. Where this is the case prisons should email the MoJ Release Policy Team and the PPCS Recall team to confirm the release in error and have the recall rescinded.
- The Release Accuracy Support Unit will track UAL individuals and inform the PNC Bureau when they are returned to custody so that PNC markers can be removed.

7.42 Police forces are responsible for apprehending individuals who have been released in error and who are thereby unlawfully at large in the community. The Prison Act 1952 explicitly covers the re-arrest of individuals who have either escaped lawful custody or been released by mistake. The Police service has the following roles and responsibilities:

- Once the release in error has been discovered, the releasing Prison will inform the relevant force by issuing Annex D of the operational guidance. Police forces receiving the release in error arrest request, will take immediate action to raise an incident within their call handling system to allocate and prioritise attempts to locate and arrest the individual who is unlawfully at large. If it is subsequently established that the individual is known to be living in a different force area, it is the responsibility of the original force emailed to ensure the arrest attempt is successfully transferred and accepted by the new force.
- The relevant police force may consider contact with the Probation Service/YJS to assist in the apprehension of an individual who has been released in error.
- Once arrested for being 'Unlawfully at Large', the individual should be taken to a police custody suite and booked in as is standard procedure. Arrangements should then be made with the local Prisoner Escort Custody Service (PECS) to transfer the individual direct to the required prison for processing. Should the individual release in error be under 18, Police should inform the home Youth Justice Service (YJS) and call the YCS Placements Team to notify them that a placement will be required. YCS will confirm which setting the child is to be taken to.
- The Police force arresting the individual is responsible for updating PNC that the individual has been detained.
- Each police force must maintain a list of all UAL individuals in their areas and should frequently review the intelligence on each individual in conjunction with Probation Service/YJS to secure their apprehension.

7.43 The Probation Service and Youth Justice Services (YJS) has the statutory duty to supervise all individuals released from prison on licence. Where an individual has been released in error, the Prison are responsible for informing the POM/COM/YJS worker. The local Police force may consider keeping Probation/YJS informed as to its progress in apprehending the individual. The Probation service and YJS has the following roles and responsibilities in the process:

- If a Probation Practitioner (PP)/YJS worker has concerns that an individual has been released in error, i.e., that there is a potential discrepancy with the Conditional Release Date or the individual has unexpectedly attended the

Probation office; they should inform the SPO (or YJS equivalent) and contact the releasing prison as soon as possible to establish if this is the case and if necessary enact the release in error process.

- If it is established that this is a release in error the PP must activate the Risk Management plan, this could include contacting the Victim Liaison Officer, contacting MAPPA, liaison with the police or an Approved Premise to arrange their safe and quick return to custody.
- The Probation Service/YJS will provide the local police force with any available information and intelligence about the individual's whereabouts if requested, in order to assist the police force in apprehending the individual as quickly as possible. This includes providing the police force with up-to-date information regarding the individual's behaviour whilst on licence to assist the police force in identifying any threat to the public or specified individuals and any risk to police officers when seeking to apprehend the individual.

7.44 The Metropolitan Police Service (MPS) PNC Bureau are responsible for ensuring the need for the individual to be rearrested is reflected on the Police National Computer. The Metropolitan Police PNC Bureau has the following roles and responsibilities:

- Once the email request to arrest the individual has been received, the MPS PNC Bureau will update PNC to identify that the individual needs arresting and returning to prison. The notification will identify the individual as "abscond" but with details to explain that they have been released in error. These updates will be made within 12 hours of receipt.
- Once the email from the Release Accuracy Support Unit advising that the individual has returned to prison custody has been received, the MPS PNC Bureau PNC marker will be removed within 12 hours to prevent the unlawful rearrest of anyone previously released in error.

7.45 Where an individual is a Foreign National Offender and meets the deportation criteria, the Foreign National Offender Returns Command are responsible for facilitating the deportation of individuals with no legal right to remain in the United Kingdom. Where an individual has been transferred to an IRC pending deportation which later does not occur, the Home Office is required to return the individual to the custody of a Prison establishment if the individual is still serving their custodial sentence. Should the Home Office incorrectly bail the individual, the Home Office has the following responsibilities:

- Immediately inform the National Incident Management Unit and the prison who the transfer under the Early Removal Scheme was received from so the steps in section 7.41 can be instigated.

## 8. Useful Point of Contacts

**HM Prison Service-** Contact necessary prison establishment for assistance- [HM Prison Service - GOV.UK](#)

**The Police-** [info@npcc.police.uk](mailto:info@npcc.police.uk)

**Home Office-** [Home Office - GOV.UK](#)

**The Probation Service-** [Probation Service - GOV.UK](#)

**The Youth Justice Services-** [Youth justice services contact details - GOV.UK](#)

## 9. Quick Reference Guide to Policy Frameworks and Useful Documents

For more information on any of the Policy Frameworks or processes linked within this protocol, please find the necessary web links below.

[Early removal scheme and release of foreign national prisoners PSI 04/2013](#)

The above protocol sets out the respective responsibilities of individual agencies in the management of individuals who are deemed unlawfully at large following a release in error from prison. This protocol applies to individuals who are released too early from their custodial sentence and are required, in line with Prisons Act 1958, to be brought back to prison custody to serve the remainder of their sentence. This protocol does not apply to the process for recalling offenders to prison custody using executive powers. The protocol which does apply to the recall process for offenders subject to Licence can be accessed below.

[Joint National Protocol for the Recall Process for Offenders Subject to Licence](#)

For more information and guidance for calculating the release dates of determinate sentences imposed by the courts, the Sentence Calculation Policy Framework can be accessed below.

[Sentence Calculation Policy Framework: determinate sentenced prisoners - GOV.UK](#)