

England and Wales

1) Judgements and, where applicable, probation decisions entering into the scope of this Framework Decision (Article 2)

a) Member States are asked to describe the judgments and, where applicable, probation decisions, as defined in Article 2, which have to be recognised by a Member State.

In this regard, Member States are asked to make a separated table for **each** judgement and **each** probation decision, entering into the scope of the Framework Decision and indicate for each one the following information.

COMMUNITY ORDER	
Name of the judgement or the probation decision	Community order
Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation decision	Section 177 of the Criminal Justice Act 2003
Definition of this judgement or the probation decision	Upon conviction for an appropriate offence, the court has powers to impose one or more of a range of community requirements.
Legal Conditions of this judgement or the probation decision	<p>This sentence can only be given for offences which carry a custodial sentence (in England and Wales law some lesser offences are only punishable by fines). There are no legal requirements relating to the offence type or the criminal record.</p> <p>Offender's consent is required for some of the community requirements, namely:</p> <ul style="list-style-type: none"> - Mental health treatment requirement, - Drug rehabilitation requirement, - Alcohol treatment requirement.

<p>Type of probation measures</p>	<p>England & Wales legislation provides the Courts with the authority to impose a community order with a variety of defined requirements depending on the seriousness and purpose of sentencing. Some requirements need additional assessments and confirmation of suitability or availability prior to being imposed. The requirements are found in Section 177 of the Criminal Justice Act 2003:</p> <ol style="list-style-type: none"> 1. Unpaid Work Requirement - Can be given as stand alone requirement or combined with other requirements. Minimum of 40 hours - maximum of 300 hours. Requires the offender to complete a minimum of 6 hours socially useful work per week. The total number of hours must be completed within 12 months. 2. Activity Requirement - Can be a stand alone requirement though tends to be combined with a supervision requirement. No minimum - maximum needs to be specified but can be up to 60 days. Requires the person to attend a place or places and participate in activities as specified (could include community drug treatment centre, education or basic skills or reparation to the victim). Would depend on availability and targeting of provisions in each Probation Trust or Region. 3. Programme Requirement - Recommended to be combined with a Supervision Requirement. Length would need to be specified in number of programme sessions. Targeted accredited programmes to address thinking skills, substance abuse or domestic abuse or sexual offending. Assessment regarding suitability and availability required from relevant Probation Trust. 4. Prohibited Activity Requirement - Length can be specified in terms of a date or dates or for a period of time (must be within the period of the order). Requires the person to refrain from participating in activities specified in the order. Consultation with relevant Probation Trust required confirming suitability. 5. Curfew Requirement - Can be stand alone or combined with other requirements. Length is up to six months and for between 2 to 12 hours per day. Requires person to stay at a certain location for the stated hours during the day or night. Would normally be electronically monitored. 6. Exclusion Requirement - Can be stand alone or combined with other requirements. Length can be up to 24 months (must be within the period of the order). Prohibits the person entering a place or area as specified. It may also be applied to different places or different periods or day. 7. Residence Requirement - Can be stand alone, would normally be combined with Supervision Requirement. There is no lower minimum - maximum is 36 months (24 months for Suspended Sentence Order). Requires a person to reside at a specified place. The person can be given permission to reside elsewhere with the prior approval of their Offender Manager. If residence is at approved premises or other institution then the relevant Probation Trust must be consulted confirming suitability. 8. Mental Health Treatment Requirement - Can be stand alone, would normally be combined with Supervision Requirement. There is no lower minimum - maximum is 36 months (24 months for Suspended Sentence Order). Requires the persons consent and an assessment by a registered medical practitioner or chartered psychologist confirming that treatment is suitable and available. 9. Drug Rehabilitation Requirement - Can be stand alone, would normally be combined with Supervision Requirement. Minimum length is 6 months - maximum is 36 months (24 months for Suspended Sentence Order). Requires the persons consent and an assessment by substance misuse treatment provider. Consultation with relevant Probation Trust required confirming suitability and availability. There are different degrees of requirement - low, medium and high intensity dependant on seriousness of offence and treatment needs. The level of intensity would need to be agreed as part of the
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	<p>assessment.</p> <p>10. Alcohol Treatment Requirement - Can be stand alone, would normally be combined with Supervision Requirement. Minimum length is 6 months - maximum is 36 months (24 months for Suspended Sentence Order). Requires the persons consent and an assessment by alcohol treatment provider. Consultation with relevant Probation Trust required confirming suitability and availability.</p> <p>11. Supervision Requirement - Can be given as stand alone or combined with other requirements. There is no lower minimum - maximum is 36 months (24 months for Suspended Sentence Order). A person is required to attend appointments with an Offender Manager. The focus of supervision and frequency of contact are specified in the sentence plan.</p> <p>12. Attendance Centre Requirement - Can be given as stand alone or combined with other requirements. Length minimum 12 hours - maximum 36 hours. For person under the age of 25 years only. They are required to present themselves at an attendance centre for a minimum of 3 hours over a set period of time. Consultation with relevant Probation Trust required confirming suitability and availability.</p>
<p>Combination of sanctions or measures</p>	<p>A community order may be imposed together with financial penalties but cannot be combined with a custodial or suspended sentence.</p>
<p>Authority responsible for taking such a decision</p>	<p>The court must make the decision to impose a community order, and as to the community requirements.</p>
<p>Authority responsible for supervising</p>	<p>The National Offender Management Service (NOMS) is an executive agency of the Ministry of Justice and is responsible for the commissioning and delivery of adult offender management services in England and Wales. There are a total of 35 Probation Trusts who are directly responsible for the assessment, risk management and supervision of offenders based within their geographical boundaries.</p> <p>The person is assigned an Offender Manager from the Probation Trust which covers the geographical location of their address.</p> <p>If the person does not have an address in England or Wales then the responsibility for the supervision falls to an Offender Manager from the Probation Trust which covers the geographical location where the offender first appears in Court.</p> <p>The role of the Offender Manager is to have operational responsibility for the offender/sentence. They are accountable for assessing the criminogenic needs of the offender and delivering the objectives of the sentence plan. They review the progress and continually monitor the risks presented by the offender.</p> <p>The Offender Manager can return the offender before the court to request amendment or substitution of requirements which may be necessary due to changes in circumstance of the person. They can also request the early revocation of a community order if it is assessed that the work to protect the public and reduce the risk of re-offending has been completed.</p>
<p>Authority responsible in case of infringement</p>	<p>The Offender Manager returns the order to the Magistrates Court covering the local justice area where the offender resides. Orders may also need to be returned to the Crown Court if enforcement action or where the review of progress has been reserved to the higher court.</p>

	<p>The Offender Manager ensures that a summons or warrant requiring the offender to appear before the court and submits relevant evidence. Where an offender pleads guilty or is found guilty of a breach (failing to comply) then the Court may;</p> <ol style="list-style-type: none"> a. amend the order to impose additional requirements (from the list of those within it sentence provisions) rendering the order more onerous, b. May revoke the order and resentence the offender to any community sentence which could have been imposed at the time of conviction, or c. Where there has been wilful and persistent failure to comply, revoke the order and resentence to a custodial sentence. <p>The Offender Manager will be responsible for advising the court of the progress made by the offender during the sentence. The Court needs to take account of the offenders progress when considering the action to be taken.</p>
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SUSPENDED SENTENCE OF IMPRISONMENT	
Name of the judgement or the probation decision	Suspended sentence of imprisonment
Classification of this judgement or the probation decision	Alternative sanction
Legal basis of this judgement or the probation decision	Section 189 of the Criminal Justice Act 2003.
Definition of this judgement or the probation decision	This section provides that where a court gives a short custodial sentence (no more than 1 year) it may suspend that sentence. This means that the court will set a supervision period during which time the offender will need to comply with community requirements. If the offender fails to comply, or commits a new offence, they will be returned to court. The court then has powers to activate the original custodial sentence; or alternatively to substitute a shorter custodial sentence; or to make the community requirements more severe.
Legal Conditions of this judgement or the probation decision	<p>This sentence can only be given for offences which carry a custodial sentence (in England and Wales law some lesser offences are only punishable by fines). There are no legal requirements relating to the offence type or the criminal record but the sentence must be at least 14 days and not more than 12 months.</p> <p>Offender's consent is required for some of the community requirements, namely:</p>

	<ul style="list-style-type: none"> - Mental health treatment requirement - Drug rehabilitation requirement - Alcohol treatment requirement
Type of probation measures	The community requirements available under this sentence are the same as for community orders.
Combination of sanctions or measures	The suspended sentence order may be combined with financial orders (such as a compensation order) but not a community or immediate custody order.
Authority responsible for taking such a decision	The court must make the decision to suspend the sentence, and as to the community requirements.
Authority responsible for supervising	<p>The role of the offender manager is to have operational responsibility for the offender / sentence. They are accountable for assessing the criminogenic needs of the offender and delivering the objectives of the sentence plan. They review the progress and continually monitor the risks presented by the offender.</p> <p>The Offender Manager can return the offender before the court to request amendment or substitution of requirements which may be necessary due to changes in circumstance of the person. In the case of suspended sentence orders they can request the removal of the supervision or other requirements although the operational period remains in force for the length of the order.</p>
Authority responsible in case of infringement	<p>The offender manager ensures that a summons or warrant requiring the offender to appear before the court and submits relevant evidence. Where an offender pleads guilty or is found guilty of a breach (failing to comply and / or being convicted of a new offence) then the Court may:</p> <ol style="list-style-type: none"> a. order that the whole period of custodial sentence which had been suspended comes into effect, b. order that a modified part of period of custodial sentence which had been suspended comes into effect, or c. amend the order by imposing more onerous community requirements and / or extending the period of supervision or the operational period of the order. <p>The offender manager will be responsible for advising the court of the progress made by the offender during the sentence. The Court needs to take account of the offender's progress when considering the action to be taken.</p>

DEFERRED SENTENCE	
Name of the judgement or the probation decision	Deferred sentence
Classification of this	Alternative sanction

judgement or the probation decision	
Legal basis of this judgement or the probation decision	Section 278 and Schedule 23 of the Criminal Justice Act 2003.
Definition of this judgement or the probation decision	Sentence can be deferred by a Crown or Magistrates Court for a period of up to 6 months to allow consideration to be given to the offender's behaviour after conviction (including where appropriate making reparation for the offence) or changes in circumstance. The Court can appoint a representative of the local Probation Trust to act as a supervisor during the period of deferment. It can also request another person to act as supervisor during the period but only with that person consent. During the period of deferment the Court can set requirements on the offender to which they consent and agree to comply with.
Legal Conditions of this judgement or the probation decision	The offender must consent, and must undertake to comply with any requirements. There are no specific conditions as to offence type etc but the court must take the view that deferment is in the interests of justice.
Type of probation measures	<p>There is not an explicit list of requirements in statute but they could include:</p> <ol style="list-style-type: none"> a. attendance at a substance misuse agency and complying with drug treatment or testing, b. attendance at appointments with mental health agencies and compliance with an assessment or treatment, c. complying with appointments with an offender manager. <p>Offenders subject to deferred sentences are expected to complete the undertakings agreed by them during the period of deferment. They will then be sentenced when they return before the court on the date set.</p>
Combination of sanctions or measures	Deferred sentence could not be combined with other orders.
Authority responsible for taking such a decision	The court is responsible for making the decision to defer sentence.
Authority responsible for supervising	The role of the offender manager would be to assess the extent to which the offender has complied with the undertakings made by them to the court. It is to liaise with other agencies about progress or changes made during the period of deferment and provide a report to the Court to assist with the sentencing decision.

Authority responsible in case of infringement	The offender manager or person appointed to act as a supervisor is responsible for monitoring the compliance of the offender with the undertaking given to the Court. In the case of any breach of undertaking the offender manager is expected to notify the court. The Court can decide to deal with the offender prior to the end of the period of deferment where an offender subsequently appears before the court for new offences. In either case there is an expectation that the offender manager or supervisor provides updated information to the court to assist with sentencing.
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RELEASE ON LICENCE UNDER SUPERVISION	
Name of the judgement or the probation decision	Release on licence under supervision
Classification of this judgement or the probation decision	Conditional release
Legal basis of this judgement or the probation decision	<p>Those sentenced to under 12 months imprisonment are released unconditionally; ie not on licence, and therefore not covered by this measure.</p> <p>Section 244 of the Criminal Justice Act 2003 requires the release on licence, at the half-way point of the sentence, of prisoners sentenced to standard determinate sentences of 12 months' imprisonment or more.</p> <p>Section 247 of the Criminal Justice Act 2003 (as amended by the Criminal Justice and Immigration Act 2008) requires the release on licence, at the half way point, of prisoners sentenced (since 14 July 2008) to extended sentences for public protection (EPPs) imposed under section 227 of the Criminal Justice Act 2003. Those sentenced to EPPs prior to 14 July 2008 may be released on licence from the halfway point, subject to a risk assessment but may remain in prison for the whole sentence.</p> <p>Schedule 2 of the Crime Sentences Act 1997 (as amended by the Criminal Justice Act 2003) allows for the release on life licence from the point of tariff expiry subject to a risk assessment of prisoners sentenced to life imprisonment or to indeterminate sentence for public protection (see section 225 of the Criminal Justice Act 2003).</p>
Definition of this judgement or the probation decision	Conditional release on licence
Legal Conditions of this judgement or the probation	<p>The length of the licence is determined by the length of the sentence, rather than the nature of the offence. Determinate sentences will carry determinate licence periods and indeterminate/life sentences means that the offender will be on licence until death.</p> <p>As identified above, release is automatic with determinate sentences whereas with indeterminate/life sentences, and certain extended sentences</p>

decision	for public protection release is subject to risk assessment by an independent body - the Parole Board. Compliance with the licence and its conditions is obligatory and failure to comply can lead to recall to prison to serve up to the remainder of the sentence.
Type of probation measures	See Standard Conditions, and additional options that may be added.
Combination of sanctions or measures	Generally not as a planned measure but it is possible for offenders being supervised on licence to receive further sentences including fines or even community orders where there is only a short period of licence remaining. Any offending on licence might very well lead to revocation of licence and recall to prison.
Authority responsible for taking such a decision	Release is always on the authority of the Secretary of State but, in those cases where release is not automatic, the Parole Board makes a recommendation which is binding upon the Secretary of State.
Authority responsible for supervising	The Offender Manager.
Authority responsible in case of infringement	The Offender Manager will in the first instance notify the case to the Secretary of State for recall to prison where deemed necessary. Except in instances where the statute provides for automatic re-release after 28 days, or a new offence is committed and the offender is taken to court, the Parole Board (a judicial authority) will decide on how much of the offender's sentence will be served in prison following breach of licence.

HOME DETENTION CURFEW (HDC)	
Name of the judgement or the probation decision	Home Detention Curfew (HDC)
Classification of this judgement or the probation decision	Conditional release
Legal basis of this judgement or the probation decision	There are 2 very similar statutory schemes operating alongside each other. One under the Criminal Justice Act 1991 (as inserted by s.34A of the Crime and Disorder Act 1998), and the other under section 246 of the Criminal Justice Act 2003.

Definition of this judgement or the probation decision	<p>Home Detention Curfew ("HDC") is a form of discretionary early release subject to electronically monitored curfew, usually for 12 hours per day. Suitable prisoners may be released up to 135 days earlier than their "normal" release date (ie at the halfway point of the sentence imposed by the court). The discretion is exercised by the prison governor on behalf of the Secretary of State.</p>
Legal Conditions of this judgement or the probation decision	<p>Applies only to those sentenced to between 3 months' and 4 years' imprisonment. Prisoners must serve a minimum of one quarter of their sentence (subject to a minimum of 30 days in custody) before they can be released on HDC. Prisoners must be able to serve at least 14 days on HDC after release.</p> <p>Certain prisoners are statutorily excluded from HDC, including those sex offenders who will be required to report to the police on release (registered sex offenders), offenders serving extended sentences for public protection, those who (depending on the precise circumstances) have previously breached a curfew or failed to return from prison leave, and foreign national prisoners who are liable to removal (ie those who are being deported).</p> <p>Prisoners serving sentences for certain serious violent and/or terrorism legislation offences, and prisoners with any history of sexual offending are presumed unsuitable for HDC, under the terms of Government Guidance from the Secretary of State, unless there are exceptional circumstances; eg the likelihood of re-offending on HDC is very small plus the prisoner is old/infirm and has no previous convictions.</p> <p>If these eligibility and basic suitability criteria are met, the particular case will be assessed to ensure that the prisoner does not pose an unacceptable risk of harm to previous victims or others, or of re-offending during, or failing to complete, the curfew period. The proposed address will also be assessed to ensure that it will allow electronic monitoring. Release will not take place without a satisfactory risk and suitability assessment.</p> <p>Electronic monitoring of the curfew is mandatory.</p> <p>The consent of the prisoner is required.</p>
Type of probation measures	<p>Not applicable</p>
Combination of sanctions or measures	<p>Prisoners sentenced to 12 months' or more imprisonment will also be subject to supervision by an offender manager. For shorter sentences, they will not be supervised but their adherence to the curfew will be monitored.</p>
Authority responsible for taking such a decision	<p>The decision to release on HDC is taken by the prison governor on behalf of the Secretary of State</p>
Authority responsible for supervising	<p>Prisoners sentenced to 12 months' or more imprisonment will also be subject to supervision by an offender manager. For shorter sentences, prisoners will not be supervised but their adherence to the curfew will be monitored by a private contractor who is required to report breaches of curfew to the Public Protection Casework Section (PPCS) of the National Offender Management Service (NOMS). The breach must also be reported to the offender manager where there is one.</p>

Authority responsible in case of infringement	Public Protection Casework Section (PPCS) is responsible for taking decisions, on behalf of the Secretary of State, about whether or not to recall the prisoner to prison. There is a statutory right of appeal against recall which will be to the Sentencing Policy and Penalties Unit, acting on behalf of the Secretary of State where the reason for the recall is breach of the curfew during the period of HDC, and to the Parole Board in other cases.
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2) Probation measures and alternative sanctions (Article 4)

In Article 4 of the Framework Decision types of probation measures and alternative sanctions are stated. Member States are asked to describe the probation measures and alternative sanctions attached to those judgements and probation decisions:

a) In the table below please describe how probation measures and alternative sanctions set out in Article 4.1 are reflected in your domestic law and please give a description of each of them.

Probation measures / alternative sanctions	Explanation
Obligation for the sentenced person to inform a specific authority of any change of residence or working place	Statutory obligation of offender to notify responsible officer of any change of address. Failure to do so can be treated as a breach of a requirement of the order (s.220 Criminal Justice Act 2003).
Obligation not to enter certain localities, places or defined areas in the issuing or executing State	A community order may include an exclusion requirement - not to enter a specified place or area (or places or areas) at specified times for up to two years.
Obligation containing limitations on leaving the territory of the executing State	This is a standard condition of licence.
Instructions relating to behaviour, residence, education and training, leisure activities, or containing limitations on or modalities of carrying out a professional activity	Would be covered by specific activity order or prohibited activity order.
Obligation to report at specified times to a specific authority	The supervision requirement of a community order requires the offender to attend appointments at times and places determined by responsible officer, for the purpose of promoting rehabilitation. Also statutory requirement to keep in touch with responsible officer according to instructions given. Failure to do so is treated like a failure to comply with a requirement of the order.
Obligation to avoid contact with specific persons	Prohibited activity requirement of a community order requires offenders to refrain from specified activities.

Obligation to avoid contact with specific objects, which have been used or are likely to be used by the sentenced person with a view to committing a criminal offence	As above, but relating to avoiding objects.
Obligation to compensate financially for the prejudice caused by the offence and/or an obligation to provide proof of compliance with such an obligation	England and Wales law provides for a compensation order on conviction of an offence.
Obligation to carry out community service	The unpaid work requirement of a community order - Community Payback - requires the offender to carry out 40-300 hours of unpaid work. Court has to be satisfied that the offender is suitable to carry out such work.
Obligation to cooperate with a probation officer or with a representative of a social service having responsibilities in respect of sentenced persons	Offender must comply with all the requirements of his/her community order; must keep in touch with responsible officer as instructed, and must inform responsible officer of any change of address.
Obligation to undergo therapeutic treatment or treatment for addiction	Obligations to undergo treatment are imposed only with consent. They are mental health treatment with a view to the improvement of the offender's mental condition; drug rehabilitation treatment and testing with a view to the reduction or elimination of dependency on or misuse of drugs, and alcohol treatment with a view to the reduction or elimination of dependency on alcohol.

b) In your domestic law are there any probation measures and alternative sanctions which are not covered by Article 4.1?

No.

c) Does your domestic law provide for a specific treatment regarding any category of offences (e.g. sexual offences, domestic violence)?

The statute does not provide requirements to address specific treatment needs. NOMS offers some specific targeted programmes for forms of offending, and these can be included as a programme requirement may be included in a Community or Suspended Sentence Order.

3) Electronic monitoring

Does your national law provide for the possibility to use Electronic Monitoring?

Yes, in the following cases:

- Home Detention Curfew.
- To monitor curfew imposed as a licence condition in a very small number of cases involved dangerous offenders requiring a multi-agency approach to risk management.
- To monitor curfew imposed as a condition of bail (not relevant to this Framework decision).

- To monitor curfew imposed by a court as a requirement of a community order.

Is Electronic Monitoring part of the classification provided for in Article 2 of this Framework Decision (suspended sentence, conditional sentence, conditional release or alternative sanction)?

Within community orders and licence, electronic monitoring cannot stand alone: it exists only as a way of monitoring compliance with requirements of licence and community orders.

Is Electronic Monitoring considered as an execution modality of imprisonment, if other than conditional release?

No.

Is Electronic Monitoring considered a way of applying a probation measure or as a probation measure in itself?

Electronic monitoring is not a requirement of a community order in its own right, it is a means of monitoring compliance with such requirements. A court is required to impose electronic monitoring of compliance with a curfew or exclusion requirement of a community order unless it is prevented from doing so or it considers it inappropriate.

Likewise EM is a way of applying Home Detention Curfew but is also a statutory requirement of the measure; use of EM to monitor the curfew is not optional.

What are the technical means provided for in your Member State that enables the use of the Electronic Monitoring (e.g. GPS)?

England and Wales uses GSM tracking wherever possible, however there are a few (probably rural) areas without GSM coverage where GPS tracking has to be used.

Is Electronic Monitoring dependant on particular conditions?

Electronic monitoring of compliance with a requirement of a community order cannot be imposed where there is someone other than the offender whose consent is needed, but is not forthcoming; or where the Secretary of State has not notified the court that electronic monitoring arrangements are available in the area concerned. Also, in a particular case there may be circumstances which lead the court to decide that electronic monitoring is inappropriate.

Re HDC please see HDC table.

4) Formalities

Member States are invited to sum up the documents that the national competent authorities need in order to take at national level a judgement and, where applicable, a probation decision (e.g. criminal record, social inquiries, medical expertise).

Provisionally we suggest :

- Copies of the formal charge record(s) and details of the offence(s);
- Full criminal record disclosure;
- Copies of reports prepared and any assessment of the offender needs ;
- Any assessment made in relation to previous and current risk of serious harm / risk of re-offending;
- Details of previous sentences including response by person to imprisonment or community sentences - if known.