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HM INSPECTORATE OF CONSTABULARY IN SCOTLAND

**Strategic review – an independent assessment  
of Police Scotland’s response to a breach of  
Home Detention Curfew – progress review**

May 2019

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This progress review of Police Scotland's approach to a breach of Home Detention Curfew was directed by Scottish Ministers under Section 74(1) of the Police and Fire Reform (Scotland) Act 2012 and published in terms of Section 78(1) (2) and (3) of that Act.

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# HM Inspector of Constabulary in Scotland

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HM Inspectorate for Constabulary in Scotland (HMICS) is established under the Police and Fire Reform (Scotland) Act 2012<sup>1</sup> and has wide ranging powers to look into the 'state, effectiveness and efficiency' of both the Police Service of Scotland (Police Scotland) and the Scottish Police Authority (SPA).

We have a statutory duty to ensure that the Chief Constable and the SPA meet their obligations in terms of best value and continuous improvement. If necessary, we can be directed by Scottish Ministers to look into anything relating to the SPA or Police Scotland as they consider appropriate. We also have an established role in providing professional advice and guidance on policing in Scotland.

- Our powers allow us to do anything we consider necessary or expedient for the purposes of, or in connection with, the carrying out of our functions
- The SPA and the Chief Constable must provide us with such assistance and co-operation as we may require to enable us to carry out our functions
- When we publish a report, the SPA and the Chief Constable must also consider what we have found and take such measures, if any, as they think fit
- Where our report identifies that the SPA or Police Scotland is not efficient or effective (or best value not secured), or will, unless remedial measures are taken, cease to be efficient or effective, Scottish Ministers may direct the SPA to take such measures as may be required. The SPA must comply with any direction given
- Where we make recommendations, we will follow them up and report publicly on progress
- We will identify good practice that can be applied across Scotland
- We work with other inspectorates and agencies across the public sector and co-ordinate our activities to reduce the burden of inspection and avoid unnecessary duplication
- We aim to add value and strengthen public confidence in Scottish policing and will do this through independent scrutiny and objective, evidence-led reporting about what we find.

Our approach is to support Police Scotland and the SPA to deliver services that are high quality, continually improving, effective and responsive to local needs.<sup>2</sup>

**This progress review of Police Scotland's approach to a breach of Home Detention Curfew was directed by Scottish Ministers under Section 74(1) of the Police and Fire Reform (Scotland) Act 2012 and published in terms of Section 78(1) (2) and (3) of that Act.**

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<sup>1</sup> Chapter 11, Police and Fire Reform (Scotland) Act 2012.

<sup>2</sup> HMICS, [Corporate Strategy 2017-20](#) (2017).



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## Our progress review

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I would like to start by again offering my sincere condolences to the family of Craig McClelland, whose murder gave rise to the strategic review of the police response to a breach of Home Detention Curfew (2018 review) and this subsequent progress review.

By way of background, on 4 June 2018, James Wright (hereinafter referred to as offender 'A') was sentenced to life imprisonment for the murder of Craig McClelland, a crime committed while offender 'A' was 'unlawfully at large' having breached his Home Detention Curfew.

On 7 June 2018 the then Cabinet Secretary for Justice wrote to Her Majesty's Inspectorate of Constabulary in Scotland (HMICS) giving a direction under terms of section 74(1) of the Police and Fire Reform (Scotland) Act 2012 to carry out a strategic review in respect of Police Scotland's role in Home Detention Curfew. Within this direction he set out the following expectations of the strategic review:

- to provide an independent assessment of the operation, procedures and safeguards put in place by Police Scotland in relation to apprehending individuals who have breached their Home Detention Curfew terms with the objective of providing assurance to Scottish Ministers, the Scottish Parliament and the public and
- where appropriate, this should include recommendations to address any gaps in the current operation, processes, safeguards and available police powers or where opportunities to drive improvement are identified.

The Cabinet Secretary wrote in similar terms to Her Majesty's Inspectorate of Prisons in Scotland (HMIPS) to provide an independent assessment of the processes that the Scottish Prison Service (SPS) operate when considering applications for Home Detention Curfew.

On 25 October 2018, the Scottish Government published the HMICS Strategic review of Police Scotland's response to a breach of Home Detention Curfew. It contained sixteen recommendations covering operational processes and the strategic direction and national guidance on the future management of offenders in Scotland. The HMICS findings and the current status of each of the recommendations are contained within this progress review and should be read in conjunction with the original report.<sup>3</sup>

On 13 November 2018, the Cabinet Secretary for Justice wrote to HMICS and HMIPS requesting a six month progress review, and further reports to be submitted in May 2019.

We were pleased that following the publication of our 2018 review a Strategic Oversight Group (SOG) comprised of senior police officers and senior prison staff, as well as partners from the wider criminal justice sector was formed to progress work on carrying out both inspectorates recommendations. The SOG also formed two sub groups to progress the recommendations.<sup>4</sup> This approach supported the reporting of progress of the recommendations to HMICS. The SOG followed on from the work done by the Home Detention Curfew Short Life Working Group (SLWG), which for consistency comprised of the same individuals as the SOG.

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<sup>3</sup> HMICS, [Strategic review – an independent assessment of Police Scotland's response to a breach of Home Detention Curfew \(HDC\)](#), October 2018.

<sup>4</sup> The Home Detention Curfew Operational Group was established to progress recommendations 1, 4, 5, 6, 7, 8, 10, 11, 13, 14, 15 & 16 and the Home Detention Curfew Guidance and Governance Group chaired by the Scottish Government was established to progress recommendations 2, 3, 9 & 12.



This review covers those individuals released on Home Detention Curfew and those recalled between 1 November 2018 and 29 March 2019. Individuals outwith that period who were still classified as being unlawfully at large from our 2018 review are also included. On 29 March 2019, HMICS was provided with the following information from the Scottish Prison Service:

- 62 individuals were in the community on Home Detention Curfew<sup>5</sup>
- 112 individuals had been released on Home Detention Curfew since 1 November 2018
- 29 individuals had been recalled to prison since 1 November 2018
- On 29 March 2019 there were six individuals classified as currently being unlawfully at large from a Scottish prison having breached their Home Detention Curfew licence conditions.<sup>6</sup>

In our 2018 review report, we noted that there were approximately 300 offenders on Home Detention Curfew at any given time. This figure has reduced dramatically and now sits around 60, which raises questions about the risk assessment element of decision making by the Scottish Prison Service. Whilst this progress review focuses on the police responses to breaches of Home Detention Curfew, it is fair to say that the number of breaches has reduced significantly due to the fact that fewer offenders are being released by the Scottish Prison Service (SPS) on Home Detention Curfew.

HMICS conducted the fieldwork element of our progress review from 1 April to 6 May 2019. During that fieldwork we tested the progress of the 16 recommendations against the unlawfully at large enquiries conducted between 1 November 2018 and 29 March 2019 in six of the 13 local policing divisions. We found evidence of improvements in the recording of enquiries carried out to trace the individual and improvements in supervisory and senior divisional management oversight of those enquiries. We found that one of the 29 individuals recalled remained unlawfully at large during our inspection.

HMICS also reviewed the enquiries conducted to trace each of the three individuals that remain outstanding from our 2018 review. Only one of the three individuals is believed to be in Scotland with the remaining enquiries taking place in other jurisdictions in England and Europe.

We tested the revised communication processes between the SPS and Police Scotland. We found evidence of improved communication processes and the introduction of a single point of contact by Police Scotland has greatly assisted in this improvement.

Police Scotland and the Scottish Government have made good progress with the delivery of the 16 recommendations and it is clear from our fieldwork that both organisations are treating the Home Detention Curfew recommendations made by HMICS as a priority. HMICS has determined that eight of our recommendations have been fully met and are suitable for closure. In the remaining eight recommendations we recognise that more time is needed to fully satisfy all the requirements of our recommendations. We are satisfied however that good progress has been made on these recommendations over the last 5 months and they are on track to be completed within a reasonable timeframe. We are also pleased that the Strategic Oversight Group will remain in place to work through the outstanding recommendations. A detailed breakdown of each recommendation and the progress made can be found within this progress review.

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<sup>5</sup> On 30 March 2018 there were 284 individuals on Home Detention Curfew within the community <http://www.sps.gov.uk/Corporate/Information/SPSPopulation.aspx>

<sup>6</sup> Two of these six individuals have now been arrested and at the time of writing (May 2019) there are currently four individuals unlawfully at large from a Scottish Prison having breached their Home Detention Curfew. The four remaining individuals include three still outstanding from our 2018 review and one individual who has been classified unlawfully at large since that 2018 review.



HMICS would like to thank Police Scotland for their ongoing co-operation and support during the progress review which was led within HMICS by Inspector Steven Tidy, supported by the wider HMICS team.

**Gill Imery QPM**

HM Chief Inspector of Constabulary in Scotland

May 2019



## Key findings

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- Between 1 November 2018 and 29 March 2019 the SPS has released 112 people on Home Detention Curfew.
- Between 1 November 2018 and 29 March 2019 the SPS has recalled 29 individuals to prison after breaching the terms of their Home Detention Curfew.<sup>7</sup>
- On 29 March 2019 there were 62 individuals out of prison on Home Detention Curfew licence conditions compared with 284 on 30 March 2018.<sup>8</sup>
- At the time of writing (May 2019) there are four individuals unlawfully at large from a Scottish prison after breaching their Home Detention Curfew licence conditions, all of whom have been recalled.<sup>9</sup>
- Police Scotland and the Scottish Government have made progress with delivery of the 16 recommendations outlined in our 2018 review. We are satisfied that eight recommendations have been fully met and suitable for closure. Eight recommendations are considered to be partially met, with further work required before they can be fully met and closed. The Scottish Government are progressing four, with Police Scotland progressing the remaining four.
- Police Scotland has demonstrated a commitment to partnership working with the Scottish Prison Service and there has been a tangible improvement in the communication and information sharing between the two agencies.
- Police Scotland has been able to demonstrate that between 1 November 2018 and 29 March 2019, there have been professional levels of enquiries conducted in each of the cases where an individual has been classified by the SPS as being unlawfully at large and the police have been requested to trace them and return them to prison.<sup>10</sup>
- The Scottish Government are progressing four recommendations including a new offence of being unlawfully at large within the Management of Offenders (Scotland) Bill, which is due to complete its legislative passage through the Scottish Parliament in June 2019.<sup>11</sup>

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<sup>7</sup> Of those 29 individuals 21 were released under the previous SPS guidance in place prior to 1 November 2018. The remaining eight were released under the guidance post 1 November 2018.

<sup>8</sup> SPS, [Prison Population](#).

<sup>9</sup> Of these four individuals classed as being unlawfully at large, two are believed to be in Scotland with the remaining two believed to be in Europe and England.

<sup>10</sup> Only one of these individuals remains outstanding at the time of writing.

<sup>11</sup> Scottish Parliament, [Management of Offenders \(Scotland\) Bill](#).



# Progress against HMICS recommendations

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## Recommendation 1

Police Scotland in partnership with the Scottish Prison Service should develop an approach that enhances the information sharing arrangements for offenders who are eligible and being considered suitable for release on Home Detention Curfew giving due regard to the core principles of protecting the public at large, preventing re-offending and securing the successful re-integration of the offender into the community.

1. In our 2018 review we identified a need to enhance the information sharing arrangements when considering whether individuals were suitable for release under Home Detention Curfew arrangements. The decision to release individuals is the sole responsibility of the SPS. In making these decisions the SPS consider a number of factors including a list of statutory exemptions contained within the Prisoners and Criminal Proceedings (Scotland) Act 1993 (1993 Act), which would prevent an individual being released on Home Detention Curfew.<sup>12</sup> As well as those statutory exemptions, the 1993 Act also requires the SPS to consider a number of key principles when deciding whether someone is suitable for release on Home Detention Curfew, namely:
  - protecting the public at large
  - preventing re-offending by the offender and
  - securing the successful re-integration of the offender into the community.
2. Prior to our 2018 review the SPS made requests to Criminal Justice Social Work to carry out risk assessments on the suitability of the address that the offender had nominated. However there was limited interaction with other agencies including the police regarding any potential risk factors posed by the release of an individual who was being considered for release on Home Detention Curfew. As we identified in our 2018 review Police Scotland has access to a range of information. This includes the criminal history of an offender, known external factors including a pattern of behaviour which may indicate a likelihood of reoffending, victim issues or potential risks to members of the public. These factors may impact on decision making about suitability of release under Home Detention Curfew. We recommended that the SPS should include Police Scotland as a source of information where they decide that this would support delivery of the key principles in terms of releasing an offender on Home Detention Curfew.

## Progress review update

3. In response to this recommendation Police Scotland and the SPS have agreed and implemented an information sharing protocol (ISP) to support the SPS make appropriate determinations regarding the suitability of liberation of prisoners on Home Detention Curfew. Should the SPS decide to refuse an application for Home Detention Curfew based on the access to information they already hold on the applicant then they will not make an application to Police Scotland. The SPS will only make applications to Police Scotland where they are still considering the application after carrying out their own information checks.
4. Within the ISP there is clear agreement between each organisation that Police Scotland will not make any form of recommendation regarding an individual's suitability for release and that determination will remain the sole responsibility of the SPS. The purpose of sharing the information is to support the decision maker to make appropriate determinations regarding an individual's suitability for release.

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<sup>12</sup> Legislation, [Prisoners and Criminal Proceedings \(Scotland\) Act 1993](#).



5. The ISP has been in place since March 2019 and HMICS has had access to the SPS applications and the respective Police Scotland responses to these requests. We are told by Police Scotland that this agreement will be subject to regular review to ensure that it continues to be fit for purpose with information being shared appropriately as per the agreement.
6. We are satisfied that the information exchanged between the organisations meets the intention of this recommendation and provides the SPS decision maker with sufficient information to make informed decisions regarding an individual's suitability for release on Home Detention Curfew.

**Recommendation 1:**

HMICS is satisfied that this recommendation has been fully met and suitable for closure.

**Recommendation 2**

Scottish Government in consultation with criminal justice partners and key stakeholders should consider development of national policy on risk factors that assess not only the eligibility of an offender for release on Home Detention Curfew but his/her suitability for release based on a presumption of refusal where the conviction that the person has been sentenced for relates to violence, possession of an offensive weapon or having known links to serious organised crime.

7. In our 2018 review we recommended that the Scottish Government should in consultation with criminal justice partners and key stakeholders consider the experiences of Her Majesty's Prison and Probation Service (HMPPS),<sup>13</sup> in setting out the policy direction for the suitability for release. The current policy as set out by HMPPS in England and Wales is that where an offender is serving a sentence of imprisonment for possession of an offensive weapon they would be 'presumed unsuitable' for release under Home Detention Curfew licence conditions unless there were robust qualifying reasons to support the release of the offender. HMICS recommended that a similar approach should be taken in Scotland. We recommended that being 'presumed unsuitable' should be extended to include where an individual was serving a sentence of imprisonment for violence and should also include instances where an individual has a link to serious and organised crime.

**Progress review update**

8. HMICS has received an update from the Scottish Government on this recommendation. Since October 2018 there has been a presumption in place that individuals whose index offence<sup>14</sup> involves an act of violence or the possession or use of a knife or offensive weapon, or who have known links to serious organised crime, will not, in normal circumstances, receive Home Detention Curfews. Ongoing refinement of risk factors relevant to Home Detention Curfew is being taken forward by the Home Detention Curfew Guidance and Governance Group, which as explained earlier is a sub-group of the Strategic Oversight Group, supported by the Risk Management Authority. The operation of the presumptions will be kept under review.<sup>15</sup>

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<sup>13</sup> Policies introduced by Her Majesty's Prison and Probation Service are applicable to England and Wales only and do not extend to the Scottish Prison Service.

<sup>14</sup> An Index offence relates to the offence for which the offender was convicted and is serving a sentence of imprisonment for and does not extend to any previous conviction.

<sup>15</sup> National Policy on risk factors will need to be informed by the changes in legislation brought about in the Management of Offenders (Scotland) Bill, which is currently going through Parliament and which, if passed, will make a number of changes to the operation of Home Detention Curfew (for example: improved powers of recall from Home Detention Curfew).



9. HMICS welcome the progress made on this recommendation. For the avoidance of doubt, in our 2018 review, we made it clear that recommendation 2 was intended to apply to the index offence related to the conviction for which the offender was serving a sentence of imprisonment and was not to be construed as applying to the offender's previous convictions. HMICS has been provided information from the SPS that shows that between 1 November 2018 and 29 March 2019 there were 1884 refused Home Detention Curfew applications with 171 of them being refused after a review.
10. As application of the presumptions is being kept under review and may be subject to change as the Management of Offenders (Scotland) Bill progresses through the Scottish parliament, HMICS will continue to monitor the progress of this recommendation.

**Recommendation 2:**

HMICS is satisfied that this recommendation has been partially met.

**Recommendation 3**

Scottish Government in consultation with criminal justice partners and key stakeholders should consider introducing a statutory offence where an offender who breaches his/her Home Detention Curfew licence conditions remains 'unlawfully at large' for a designated period of time.

11. In our 2018 review we identified limitations regarding the powers the police have to deal with offenders who have breached their Home Detention Curfew and been recalled by the SPS. The first issue we identified was that there was a lack of understanding around the provision of section 40A of the Prison (Scotland) Act 1989<sup>16</sup> specifically in relation to a breach of a Home Detention Curfew and whether such a statutory provision would provide the requisite authority, where necessary, for a police officer to search for (and to force entry) in relation to an offender being unlawfully at large. During our review we found no evidence to demonstrate that section 40A of the 1989 Act had been used successfully by police to search for (and force entry) in relation to an offender being unlawfully at large having breached the Home Detention Curfew conditions. In summary we found the legislation to be ambiguous and the powers of the police to obtain warrants for individuals who had breached their Home Detention Curfew required to be clarified.
12. We also identified that in Scotland it is not a separate offence to remain unlawfully at large following a recall to custody and if no other offence is committed by an offender who has failed to return to custody, he/she can only be required to serve the outstanding part of his/her original sentence. Again we compared against the system in England and Wales where it is an offence to remain unlawfully at large which carries a maximum sentence of 2 years.<sup>17</sup>

<sup>16</sup> Legislation, [Prisons \(Scotland\) Act 1989](#).

<sup>17</sup> Section 12 of the Criminal Justice and Courts Act 2015 which amended the Criminal Justice Act 2003 and the Crime (Sentences) Act 1997, created a new offence of 'remaining unlawfully at large' following a recall from licence for determinate and indeterminate sentence prisoners. The offence is committed once the offender has been notified of the recall and, without reasonable excuse, fails to take all necessary steps to surrender to custody.



## Progress review update

13. HMICS has received an update from the Scottish Government in regards to this recommendation. The creation of an offence for remaining unlawfully at large has been considered and amendments introducing the new offence were tabled by the Scottish Government to the Management of Offenders Bill. Those amendments were accepted at Stage 2 of the Bill and if the Bill is passed as amended then the changes made will also clarify the powers available to Constables in receipt of a warrant obtained under s40A of the Prisons (Scotland) Act 1989. The Scottish Government also provided a link to the Justice Committee website with details of the policy intention for those amendments.<sup>18</sup>
14. HMICS welcomes the Scottish Government's consideration of creating a new offence within the Management of Offenders (Scotland) Bill. We are hopeful that this new offence coupled with the clarification of existing powers under section 40A of the Prisons (Scotland) Act 1989 will address any perceived gap in police powers. As this new offence and associated clarification of existing powers is still under consideration by the Scottish Parliament we will review this recommendation once that Bill has completed its legislative passage through the Scottish Parliament.

### Recommendation 3:

HMICS is satisfied that this recommendation has been partially met.

### Recommendation 4

Police Scotland should ensure a robust process is established in each local policing area where all enquiries carried out by police officers and members of police staff are accurately recorded in a clear and appropriately evidenced manner that is available for internal audit and external scrutiny purposes. This would comply with the existing standard operating procedures.

### Recommendation 5

Police Scotland should ensure a robust process is established in each local policing area where local supervisors allocate Home Detention Curfew revocation notices without undue delay and in any case within 48 hours and that the progress of enquiries is regularly monitored and reviewed ensuring that a professional standard of enquiry is completed timeously and within the relevant timescales. This would comply with the existing standard operating procedures.

### Recommendation 6

Police Scotland should ensure a robust process is established in each local policing area where the local senior management team is provided with a status report in relation to offenders deemed 'unlawfully at large' and a means to escalate related offenders to the local tasking and delivery board for further action.

15. In our 2018 review we recommended that officers and staff should accurately record all enquiries carried out to trace individuals within the warrant enquiry system in a timeous manner. We made this recommendation based on our inspection fieldwork and in particular the case involving offender 'A' where there was limited evidence on the local warrants enquiry system to demonstrate that the level and standard of police enquiry carried out in relation to tracing the offender was appropriate.

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<sup>18</sup> Scottish Government, [Management of Offenders \(Scotland\) bill letter to Margaret Mitchell MSP from Humza Yousaf Cabinet Secretary for Justice](#), 15 March 2019.

16. Additionally in the case of offender 'A' we found limited evidence to demonstrate effective supervisory oversight. Enquiries to trace the offender were not documented or had incomplete entries on the warrants enquiry system. We also recommended that the local senior management team should be sighted on these enquiries and provided with regular updates on their progress.

### Progress review update

17. For the purposes of this progress review HMICS have grouped recommendation 4, 5 & 6 together as they relate to operational practices and governance procedures in local policing divisions. In order to test these recommendations HMICS carried out fieldwork between 1 April and 6 May 2019. It should be noted that there were limitations to fully test the progress of this group of recommendations, as not all of the 13 local policing divisions had enquiries to trace individuals classified by the SPS as being unlawfully at large during our review period of 1 November 2018 to 29 March 2019.
18. HMICS examined all 29 of the recall notifications reported to Police Scotland by the Scottish Prison Service between 1 November 2018 and 29 March 2019. A review of those 29 recalls found that Police Scotland had arrested 23 individuals, five individuals had self-presented at prison and one individual is currently outstanding and police enquiries are ongoing to trace them. A breakdown of the 23 individuals arrested shows that nine were arrested for other crimes, which included a new warrant being issued for one individual. These arrests led to the nine individuals being recalled to prison. There were 14 individuals arrested by the police solely for breaching their Home Detention Curfew conditions and being recalled to prison by the Scottish Prison Service. We have listed in Table 1 a breakdown of the enquiry periods for the 29 recall notifications during the progress review period.

Table 1 – List of 29 Recall notifications between 1 November 2018 and 29 March 2019

No	UAL from	Returned to prison	Days UAL	Remarks
1	02/11/2018	08/11/2018	6	Arrested – Breach of HDC
2	05/11/2018	05/11/2018	0	Arrested – Separate crime
3	06/11/2018	08/11/2018	2	Arrested – Breach of HDC
4	09/11/2018	12/11/2018	3	Arrested – Breach of HDC
5	13/11/2018	13/11/2018	0	Arrested – Separate crime
6	14/11/2018	19/11/2018	5	Arrested – Breach of HDC
7	16/11/2018	16/11/2018	0	Arrested – Separate crime
8	19/11/2018	19/11/2018	0	Arrested – Separate crime
9	19/11/2018	21/11/2018	2	Arrested – Breach of HDC
10	19/11/2018	04/03/2019	105	Self-presented at Prison
11	19/11/2018	20/11/2018	1	Self-presented at Prison
12	23/11/2018	30/11/2018	7	Arrested – Separate crime
13	27/11/2018	27/11/2018	0	Arrested – New warrant
14	02/12/2018	03/12/2018	1	Self-presented at Prison
15	03/12/2018	03/12/2018	0	Arrested – Breach of HDC
16	14/12/2018	14/12/2018	0	Arrested – Separate crime
17	17/12/2018	26/12/2018	9	Arrested – Breach of HDC
18	26/12/2018	04/03/2019	68	Arrested – Breach of HDC
19	25/12/2018	07/01/2019	13	Arrested – Breach of HDC
20	01/01/2019	08/01/2019	7	Arrested – Breach of HDC
21	07/01/2019	07/01/2019	0	Arrested - Breach of HDC
22	09/01/2019	14/01/2019	5	Arrested – Breach of HDC
23	16/01/2019	17/01/2019	1	Arrested – Breach of HDC
24	01/02/2019	01/02/2019	0	Arrested – Separate crime
25	11/02/2019	13/02/2019	2	Arrested – Breach of HDC
26	12/02/2019	12/02/2019	0	Self-presented at Prison
27	25/02/2019	26/02/2019	1	Self-presented at Prison
28	07/03/2019			Ongoing enquiry
29	20/03/2019	20/03/2019	0	Arrested – Separate crime



19. We also found that Criminal Justice Services Division (CJSD) had carried out two internal case studies of individual number 10 who was unlawfully at large for 105 days and individual number 18 who was unlawfully at large for 68 days. These case studies were intended to provide support to the local policing divisions who had these enquiries and also share the learning from each case with other local policing divisions.
20. These internal reviews found that in general the guidelines in operation at that time were being followed in both enquiries. HMICS is satisfied that in both enquiries a professional level of enquiry had been conducted but there were learning points raised in both enquiries relating to recommendations 4 & 5. Both case studies recommended that the updates submitted by enquiry officers should contain a more detailed explanation of the address checks carried out rather than generic comments such as “address checked, negative”. One of the case studies recommended that rather than a generic supervisory comment on the enquiry log there should be more of a direction given by supervisors regarding what lines of enquiry should be taken. The learning from both these internal case studies was shared with all 13 local policing divisions.
21. Having reviewed the warrant enquiry logs created for the individuals classified as being unlawfully at large, HMICS is satisfied that there have been sustained efforts made to trace these individuals. We do concur with the issues identified by the internal CJSD case studies and we are pleased that this learning has been shared with all 13 local policing divisions. On balance despite the minor shortcomings identified in the case studies, the majority of warrant enquiry logs showed accurate records made of the enquiries undertaken to trace individuals. We also identified that supervisory oversight had also improved since our 2018 review and there was clear senior management oversight of each of these enquiries.
22. HMICS also carried out a review of the three individuals who are still outstanding and classified as being unlawfully at large from our 2018 review.<sup>19</sup> It should be noted that only one of those individuals is believed to be in Scotland, with the remainder being in Europe and England. We have reviewed the circumstances of the individual believed to be residing in Scotland and spoken with officers involved in the two local policing divisions where enquiries are being conducted. We are satisfied that there is a professional level of enquiry being conducted to trace this individual and there is good liaison between the local policing divisions involved, with detailed updates being recorded on the enquiry log. A European arrest warrant has been issued for the individual believed to be in Europe and Police Scotland are liaising with the appropriate authorities to trace that individual. With regards to the individual who is believed to be in England, Police Scotland has liaised with the respective police force where they are suspected to be and continue to monitor the progress of that enquiry. We have listed in Table 2 a breakdown of the three unlawfully at large (UAL) enquiries that are still outstanding since our 2018 review.

Table 2 – List of 3 individuals still unlawfully at large (UAL) from our 2018 review

No	Released on Home Detention Curfew	UAL from	Jurisdiction Area
1	02/02/2016	25/04/2016	England
2	19/06/2017	09/07/2017	Europe - European arrest warrant granted
3	01/07/2013	09/08/2013	Scotland

<sup>19</sup> As identified in our 2018 review there was inconsistencies between the data held by Police Scotland and that held by the Scottish Prison Service resulting in a number of individuals not being recorded on police systems as being unlawfully at large. In effect this meant that despite some individuals being unlawfully at large for over 4 years police enquiries to trace them only started in 2018 when these inconsistencies were identified.



23. Police Scotland has created enhanced process maps detailing how those involved in the recall of prisoners should manage the process. We are satisfied that these process maps clearly indicate how recalls should be managed and provide clear direction on the roles and responsibilities of those involved in the process. Police Scotland has produced supervisory guidance in relation to the oversight of these types of enquiries. The process maps also indicate that Local Area Commanders should be sighted on these enquiries at the earliest opportunity.
24. Whilst we are satisfied that there has been good progress in recommendations 4, 5 & 6 as evidenced by the enquiries we have reviewed, these recommendations will not be fully met until the self-assessment recommendation contained in recommendation 7 has been concluded in each of the 13 local policing divisions. The completion of recommendation 7 is key to ensuring that each local policing division has reviewed its own local procedures against each of the relevant recommendations in our 2018 review and satisfied itself that local processes related to Home Detention Curfew are fit for purpose.

**Recommendation 4:**

HMICS is satisfied that this recommendation has been partially met.

**Recommendation 5:**

HMICS is satisfied that this recommendation has been partially met.

**Recommendation 6:**

HMICS is satisfied that this recommendation has been partially met.

**Recommendation 7**

Police Scotland should support Divisional Commanders to carry out an internal self-assessment as a process of continuous improvement against each of the listed recommendations to ensure that there are robust local procedures and safeguards in place in relation to locating and apprehending offenders who have breached their Home Detention Curfew licence conditions and are deemed to be 'unlawfully at large'.

25. In our 2018 review we identified that there were a number of shortcomings in the enquiry to trace offender 'A'. As a result of those shortcomings we recommended that Divisional Commanders across Police Scotland carried out an internal self-assessment against each of the relevant recommendations. This should establish a baseline against which to measure compliance with the new standard operating procedures, ensuring that there are robust processes in place locally to manage and where applicable locate and arrest those offenders who have been deemed to be unlawfully at large.

**Progress review update**

26. In response to this recommendation Police Scotland has elected to carry out the self-assessment through their Business Assurance unit who will scope the work and give commanders advice on how to assure themselves to adherence to processes. A commissioning template has been devised requesting that the relevant checks be conducted. The nature of the assurance work will be a form of compliance check to ensure the controls are robust. Each local policing Divisional Commander will be expected to complete this self-assessment for their respective divisions. Police Scotland has decided to carry out this process once the new Home Detention Curfew and Restriction of Liberty Orders (Electronic Monitoring) – Standard Operating Procedure (SOP) and associated guidance for supervisors has had time to become established. HMICS has seen initial planning documentation for this work and has been asked by Police Scotland to be involved in the further development work before the final self-assessment documentation is complete. Police Scotland estimates that it will be able to fully complete the self-assessment process in July 2019.



27. It should be noted that since the publication of our 2018 review, Criminal Justice Services Division (CJSD) has supported divisions who have received unlawfully at large enquiries. This support has included two case studies of unlawfully at large enquiries during the period of 1 November 2018 and 29 March 2019, as highlighted earlier in this progress review. Six divisions were visited during the fieldwork for our progress review, one of them had carried a written self-assessment of their local practices against the recommendations. Other divisions visited had carried out assurance checks of their local practices and satisfied themselves that they were fit for purpose, although these assurance exercises were not done under the full EFQM self-assessment model.
28. HMICS believes that recommendation 7 is an important element of ensuring that each local policing division has robust local procedures and safeguards in place in relation to locating and apprehending offenders who have breached their Home Detention Curfew. This is particularly important for those divisions who have not had any unlawfully at large enquiries since the new SOP and processes were introduced by Police Scotland. HMICS will consider the results of those self-assessments before discharging this recommendation along with recommendations 4, 5 and 6.

### **Recommendation 7:**

HMICS is satisfied that this recommendation has been partially met.

### **Recommendation 8**

Police Scotland should align the enquiry timescales outlined in the electronic monitoring of offenders standard operating procedures and the warrants standard operating procedures to ensure consistency of guidance.

29. In our 2018 review we found that the Police Scotland standard operating procedures were of good quality and provided clear direction on the roles and responsibilities of each person involved in the process. However officers felt they were too lengthy and it was difficult to find key information quickly. Police officers and members of police staff deployed in key roles such as warrants officers were more familiar with the standard operating procedures, which were seen as good points for reference, but not user friendly.
30. We also found that the initial enquiry periods outlined in the Electronic Monitoring of Offenders standard operating procedures (SOP) were different from the timescales outlined in the Warrants SOP. We recommended that there is an opportunity for Police Scotland to simplify the process and align the enquiry timescales outlined in both SOPs to remove any potential for ambiguity and support consistency of practice across the service.

### **Progress review update**

31. In response to this recommendation Police Scotland has reviewed the Electronic Monitoring of Offenders SOP and replaced that with the Home Detention Curfew and Restriction of Liberty Orders (Electronic Monitoring) – Standard Operating Procedures. This new SOP was published on Police Scotland internal intranet site in April 2019. The new SOP removes timescales with the confidence that escalating the enquiry to the attention of the Local Area Commander at the earliest opportunity would ensure sufficient scrutiny of the progress of the enquiry from the start and not at after some specified time period. We found that the format of the new SOP contained succinct guidance for each individual and business area involved in the process.



32. Police Scotland has maintained the position that where there is a breach of Home Detention Curfew and a recall notice is issued by the Scottish Prison Service, it will be treated as a high priority. Each recall will be brought to the attention of the relevant Local Area Commander of the area where the offender has been released to at the earliest opportunity.<sup>20</sup> During our fieldwork interviews we found evidence that these recall notices were being discussed at the Local Area Commander's daily meeting and actions allocated to officers to trace, arrest and return individuals to prison. In some local policing divisions, in addition to being raised as a standing item on the Local Area Commander's meeting papers, it was also a standing item on Divisional Commander's daily meetings. HMICS is satisfied that in those local policing areas where individuals were recalled, the management team had sufficient awareness.
33. During our fieldwork, relevant officers and staff involved in the Home Detention Curfew had seen the revised SOP and were happy with the content of it. They believed it was easy to find their specific role in Home Detention Curfew and the role of others, which they viewed as important. It was also clear from speaking with officers and staff at various ranks and grades that a Home Detention Curfew recall notice was a top priority in the division.

### **Recommendation 8:**

HMICS is satisfied that this recommendation has been fully met and suitable for closure.

### **Recommendation 9**

Scottish Government in consultation with criminal justice partners and key stakeholders should develop statutory guidance for the discharge of their respective functions under the Management of Offenders (Scotland) Bill which includes the response to the recommendations outlined in the strategic reviews by HMICS and HMIPS.

34. During our 2018 review we found that the Home Detention Curfew Guidance for Agencies (April 2018) was not readily accessible and that the contents were unfamiliar to police officers and police staff across the eight local police divisions visited during the review. The Short Life Working Group (SLWG) also identified that the document required to be updated to reflect legislative changes.
35. We suggested that all criminal justice partners involved in Home Detention Curfew process would benefit from having statutory guidance outlining the discharge of their specific functions. We also considered that due to the significant changes to electronic monitoring being brought in by the Management of Offenders (Scotland) Bill that would be an appropriate legislative vehicle to introduce such statutory guidance.

### **Progress review update**

36. In the update from the Scottish Government it indicated that in response to a non-government amendment to the Management of Offenders (Scotland) Bill, the Scottish Government proposed to indicate their support for making Home Detention Curfew guidance statutory, and they proposed to set out their intention to work with opposition members to bring forward an amendment at Stage 3 of the Bill, which has that effect.
37. HMICS is pleased that the government intend to work towards implementing statutory guidance in relation to Home Detention Curfew and we will keep this recommendation under review until the Bill completes its legislative passage through the Scottish Parliament.

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<sup>20</sup> Local Area Commanders are Chief Inspectors who have command responsibility within a Local Authority Area and report to the Divisional Commander. Divisional Commanders are Chief Superintendents who have command responsibilities for one or more Local Authority Areas and report to an Assistant Chief Constable.



38. HMICS has also reviewed the latest version of the Home Detention Curfew Guidance for Agencies, which was updated in October 2018, after our 2018 review was published. We believe that this guidance document is a good starting point for statutory guidance for agencies involved in Home Detention Curfew.

**Recommendation 9:**

HMICS is satisfied that this recommendation has been partially met.

**Recommendation 10**

Police Scotland in partnership with the Scottish Prison Service should develop a robust, sustainable and auditable approach to the two-way flow of information relative to the notification, revocation and cancellation of revocation notices of offenders released on Home Detention Curfew by the Scottish Prison Service enabling a 24 hours a day, 7 days a week, 365 days a year policing response to updating core information systems.

**Recommendation 11**

Police Scotland in partnership with the Scottish Prison Service should audit, monitor and review the revised arrangements (see paragraph 90)<sup>21</sup> for information sharing in relation to the notification, revocation and cancellation of revocation notices of offenders released on Home Detention Curfew ensuring that the information held by Police Scotland and the Scottish Prison Service is accurate and relevant.

39. In our 2018 review we found that in the small number of cases where individuals had breached their Home Detention Curfew conditions and been recalled to prison, the PNC<sup>22</sup> and for those released to Scottish addresses the CHS<sup>23</sup> had not been updated. We also found inconsistencies between data held by the PNC relative to the status of individual offenders who had been released on Home Detention Curfew and deemed to be unlawfully at large and the data held by the Scottish Prison Service. We found that there was no formal process between the Scottish Prison Service and Police Scotland to acknowledge receipt and acceptance of a communication to confirm that it had been acted upon.
40. On 10 September 2018, Police Scotland replaced an assortment of different contact methods with Police Scotland that was susceptible to error and delay with a single point of contact for all Home Detention Curfew notifications, revocations and revocation cancellations from the Scottish Prison Service.

**Progress review update**

41. We decided to group recommendations 10 & 11 together as they are sufficiently linked in nature and scope.
42. Police Scotland has produced revised process maps and guidance for staff at the single point of contact to ensure they are aware of their roles and responsibilities when dealing with Home Detention Curfew release and Home Detention Curfew recall notifications.

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<sup>21</sup> HMICS, [Strategic review – an independent assessment of Police Scotland’s response to a breach of Home Detention Curfew \(HDC\)](#), October 2018.

<sup>22</sup> Police National Computer.

<sup>23</sup> Criminal History System.

43. Police Scotland and the SPS have also established a data conciliation process. On a weekly basis the SPS provide Police Scotland with a master copy of those individuals who are either on Home Detention Curfew, or who have been recalled and are classified as being unlawfully at large. This conciliation process provides an assurance that both Police Scotland and the SPS are working with the same information. For a period of time this conciliation process was managed internally by CJSD. Police Scotland has since mid-April 2019 moved responsibility for that reconciliation process to the single point of contact based in Edinburgh.<sup>24</sup>
44. On 1 April 2019, as part of our fieldwork we visited the single point of contact in Edinburgh. We examined the police information systems including the PNC and the CHS for all individuals who were on Home Detention Curfew on 29 March 2019, which was the end point for our review period. We also reviewed all individuals who had breached their Home Detention Curfew licence conditions and were deemed by the Scottish Prison Service to be unlawfully at large between 1 November 2018 to 29 March 2019. Police information systems for the individuals who still remained unlawfully at large from our strategic review in 2018 were also inspected.
45. HMICS found evidence that all 29 recall notices between 1 November 2018 and 29 March 2019 were properly notified to the single point of contact by the SPS.
46. HMICS reviewed the PNC and CHS records for all five persons deemed to be unlawfully at large from a Scottish prison and found the status of each individual to be accurately recorded on these systems.
47. We found that the SPS had correctly notified the Police Scotland single point of contact in Edinburgh of the 62 individuals who were out of prison on a Home Detention Curfew licence on 29 March 2019. However there were inaccuracies in the police information held in seven of the 62 records. In three of the cases no information was recorded on either PNC or CHS and in four cases only CHS had information relating to the individuals release on Home Detention Curfew. We have been informed by Police Scotland that these inaccuracies were due a number of different factors. These included an ongoing operation to align all Police Scotland e-mail addresses and in several cases human error during a planned weeding exercise caused several records to be updated, which deleted relevant Home Detention Curfew markers from PNC. All seven records have now been rectified by Police Scotland and the internal Police Scotland conciliation process put in place to identify these types of issues on a regular basis.
48. During our visit to the single point of contact in Edinburgh we found that there were two distinct processes involved between release notifications and recall to prison notifications. For release notifications the single point of contact only recorded the information on PNC and CHS for the two divisions it covers, which are Edinburgh and the Lothian and Scottish Borders divisions (E&J). For release notifications out with those two divisions they forwarded the release notification to the respective records branch area that covers the release address. The single point of contact, at that time, only updated PNC and CHS for the whole of Scotland in cases where an individual was recalled to prison.
49. Since our visit to the single point of contact in Edinburgh on 1 April 2019 and in light of the issues HMICS found, Police Scotland revised its internal processes to ensure that the single point of contact now updates PNC/CHS for all Home Detention Curfew releases. This change in process removes the additional step of the single point of contact sending release notifications to separate records branches in divisions for them to update PNC/CHS. This change reduces the potential for errors being made as we identified on 1 April. HMICS has now visited the single point of contact on four occasions in order to fully test the conciliation processes. We are satisfied that these processes have now matured sufficiently to be robust enough to identify and rectify any errors in a timely fashion.

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<sup>24</sup> Edinburgh is the national PNC Bureau for the whole of Scotland and operates on a 24 hour, 7 days a week basis.



50. In situations where a recall notification is received by the single point of contact there may be a delay in updating key police systems, such as the warrant enquiry log, or allocating the enquiry to an officer, as not all records branches operate on a 24/7 basis. Police Scotland has remedied this situation by ensuring an incident log is created on the STORM Command & Control system,<sup>25</sup> which will alert local supervisors to the recall notification and allow them to allocate officers and progress enquiries until the warrant enquiry log is created. HMICS welcomes this measure as it reduces any potential delays in the allocation of police resources to these enquiries.
51. HMICS is of the opinion that there is clear evidence that the communication process between the SPS and Police Scotland is working well. HMICS is also satisfied that the conciliation processes between the organisations and internally within Police Scotland are sufficiently matured to satisfy both recommendations 10 & 11.

**Recommendation 10:**

HMICS is satisfied that this recommendation has been fully met and suitable for closure.

**Recommendation 11:**

HMICS is satisfied that this recommendation has been fully met and suitable for closure.

**Recommendation 12**

Scottish Government in consultation with criminal justice partners and key stakeholders including the National Police Chiefs' Council (NPCC), HM Prison and Probation Service (HMPPS) and electronic monitoring service providers should develop cross border provisions relative to the notification, revocation and cancellation of revocation notices of offenders released on Home Detention Curfew to an address outside Scotland and by extension for offenders who have been released by HMPPS to an address in Scotland.

52. In our 2018 review we found communication problems between agencies regarding the cross border arrangements for offenders being released by the SPS to addresses in England and Wales. One of the main issues identified was that Police Scotland, whose responsibility it was to update the PNC when individuals were being released to addresses in England and Wales were not being told about individuals either being released on Home Detention Curfew, or when they had breached their conditions and were categorised by the SPS as being unlawfully at large.
53. These communication issues had led to over 20 individuals who had breached their Home Detention Curfew and been classed as unlawfully at large not being recorded on the PNC. The effect of not being recorded on PNC effectively meant that even where the individual had contact with the police, the police would not be aware of their unlawfully at large status from a Scottish prison.

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<sup>25</sup> System for Tasking and Operational Resource Management (STORM).



54. During our 2018 review Police Scotland was unable to demonstrate current guidance in relation to the cross border arrangements for Home Detention Curfew. We found HM Prison Service Instructions (PSI) 41/2008 which provided information relative to cross border arrangements between England & Wales and Scotland for Home Detention Curfew purposes.<sup>26</sup> However, the instruction, which had been issued on 15 October 2008, expired on 19 October 2009. Police officers and members of police staff were unfamiliar with this specific document. There is a requirement for clear and current cross border provisions relating to Home Detention Curfews that outline the arrangements for the notification of release, revocations and cancellation of revocation notices of offenders from Scottish prisons to curfew addresses in England and Wales and for those offenders released from English and Wales prisons on Home Detention Curfew to addresses in Scotland.
55. We recommended that there was a requirement for clear and current cross border provisions relating to Home Detention Curfew that outline the arrangements for the notification of release, revocations and cancellation of revocation notices of offenders from Scottish prisons to curfew addresses in England and Wales for those offenders released from English prisons on Home Detention Curfew to addresses in Scotland.

### **Progress review update**

56. HMICS has received an update from the Scottish Government, which states there has been liaison with the relevant forces out with Scotland and mapping and guidance has been developed by SPS and Police Scotland relating to cross-border provision of Home Detention Curfew. This includes a single point of contact for all the relevant forces. The Scottish Government has also advised HMICS that they have written to the National Police Chief's Council (NPCC) in order to make them aware of the work already undertaken on cross-border arrangements and to initiate the next phase of that work, proposing joint work with the NPCC to endorse refreshed cross-border protocols prior to circulation of the revised protocols to relevant parties across the UK.
57. HMICS welcomes the interim measures put in place by Police Scotland of having single points of contact in each of the 43 police forces in England & Wales. HMICS also welcomes the current close working relationship between Police Scotland and the SPS regarding information sharing when prisoners are being released to an address in England and Wales. As we understand it there has been one individual released to an address in England during the period of our review. HMICS supports the commitment by the Scottish Government to make a more formal arrangement on the roles and responsibilities of relevant agencies when an offender is released on a cross-border basis.
58. HMICS will keep this recommendation under review until there is a formal cross border agreement in place between the relevant agencies involved.

### **Recommendation 12:**

HMICS is satisfied that this recommendation has been partially met.

### **Recommendation 13**

Police Scotland should assess and evaluate the financial and resource implications of introducing new processes in relation to offenders being considered for release under terms of the Management of Offenders (Scotland) Bill and articulate the findings to Scottish Government.

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<sup>26</sup> Justice, [Prison Service Instructions 2008](#), 12 February 2019.



59. In our 2018 review we recommended that in light of our key findings and the intended increases in use of electronic monitoring proposed in the Management of Offenders (Scotland) Bill, Police Scotland should reassess the financial and police resource implications associated with introducing new processes in relation to offenders being considered for release under electronic monitoring arrangements under the Bill.

### Progress review update

60. In response to this recommendation Police Scotland carried out a review of the potential financial impact that the Management of Offenders (Scotland) Bill would have on the police budget. This review has led to a revised financial memorandum being submitted to the Scottish Government. The memorandum has made a number of working assumptions on the potential increase of individuals that the police may encounter as a result in the increase use in electronic monitoring as described in the Bill. It should be noted that the Management of Offenders (Scotland) Bill is still subject to change and these estimates may be revised.
61. HMICS has reviewed this submission and we are satisfied that it is sufficiently detailed to meet the intention of this recommendation and is now suitable for closure.

### Recommendation 13:

HMICS is satisfied that this recommendation has been fully met and suitable for closure.

### Recommendation 14

Police Scotland should provide clear guidance for police officers and members of police staff to enable a consistent approach to the submission and management of intelligence for offenders released on Home Detention Curfew and those deemed to be 'unlawfully at large'.

62. In our 2018 review we found that there was inconsistent practices regarding the use of Scottish Intelligence Database (SID) to record release details and revocation notices across Scotland. We recommended that Police Scotland should provide clear guidance to staff to ensure a consistent approach was being taken across each local policing division.

### Progress review update

63. The Home Detention Curfew Short Life Working Group (SLWG) which preceded the Strategic Oversight Group (SOG) made a determination that the existence of a Home Detention Curfew release is not necessarily 'intelligence' and will not be recorded on SID. They deemed that intelligence concerning those subject to Home Detention Curfew would be recorded through other processes, such as recording the details on PNC and CHS and also by way of electronic briefings to local policing officers.
64. Police Scotland has produced and published guidance on the use of intelligence logs for individuals on Home Detention Curfew. This guidance covers three separate situations related to Home Detention Curfew:
- Notification of Home Detention Curfew Release
  - Offending whilst on Home Detention Curfew, and
  - Home Detention Curfew recall notification.



65. The guidance indicates that there is no requirement to submit intelligence logs for those being released on Home Detention Curfew licence conditions. Electronic briefings should be considered by local intelligence departments as an alternative. Intelligence logs for those individuals who offend whilst on Home Detention Curfew should only be subject to an intelligence submission where there are grounds to do so and in line with the SID - Standard Operation Procedures. In the final category the guidance indicates that whilst there is no requirement to submit an intelligence log, consideration should be given to the use of intelligence gleaned during the investigation to locate the individual.
66. When HMICS carried out fieldwork we found that in the majority of local policing divisions we visited intelligence logs were being utilised locally when the police were informed that an individual was being released on Home Detention Curfew. Divisions also submitted intelligence logs when an individual became unlawfully at large as a way to support the investigation. Officers involved in the unlawfully at large enquires welcomed the use of intelligence logs at the point of release and also when someone became unlawfully at large, as SID is a more commonly used research tool for enquiries.
67. We welcome the guidance produced by Police Scotland on the use of SID logs and we are satisfied that this recommendation can be closed, but we would urge Police Scotland to monitor its compliance across each local policing division.

**Recommendation 14:**

HMICS is satisfied that this recommendation has been fully met and suitable for closure.

**Recommendation 15**

Police Scotland in partnership with the Scottish Prison Service should raise awareness of the roles, and responsibilities of police officers and members of police staff involved in the notification, revocation and revocation cancellation process of offenders released on Home Detention Curfew in Scotland. This should extend to the use of police powers when an offender is deemed to be 'unlawfully at large'.

68. In our 2018 review we found limited understanding of the process around Home Detention Curfew revocations across the country. This was primarily due to the small number of individuals who breached their licence conditions and were reported by the Scottish Prison Service to police as 'unlawfully at large' and subject to a recall to prison. We recommended that Police Scotland and the Scottish Prison Service should raise the awareness of their staff as to their roles, responsibilities and associated powers when offenders are released on Home Detention Curfew, and or where they are recalled to prison after breaching their conditions.

**Progress review update**

69. In response to this recommendation as discussed under recommendation 8 of this progress review, Police Scotland has reviewed the Electronic Monitoring of Offenders SOP and replaced that with the Home Detention Curfew and Restriction of Liberty Orders (Electronic Monitoring) – Standard Operating Procedures (SOP). This new SOP has clear guidance for each individual involved in the process. This SOP was published on the Police Scotland internal intranet site. It contains links to further advice and guidance on a bespoke Police Scotland Home Detention Curfew intranet page. This intranet page also contains new process maps and role specific guidance for enquiry officers and supervisors. The process maps have been circulated to the single point of contact at Edinburgh for information of staff involved in the processing of information relating to Home Detention Curfew.



70. The SOP provides guidance to officers on the use of police powers. It should be recognised that this guidance may need to be revised depending on whether a new offence of being unlawfully at large is created within the Management of Offenders (Scotland) Bill, which is currently progressing through the Scottish Parliament.
71. As fieldwork in some local policing divisions took place prior to the publication of the revised Home Detention Curfew SOP, we were limited in our ability to assess the staff awareness of the revised SOP in those divisions. In the divisions we visited post publication, the majority of staff members had seen the revised SOP and most had taken the time to read it and apprise themselves of their individual role in Home Detention Curfew. All staff commented that the SOP was structured in a way that made it more easy to find their specific role in the process. All members of staff spoken to recognised that a Home Detention Curfew recall notification was a high priority should they be allocated one for enquiry.
72. It should be noted that the numbers of individuals who breach their Home Detention Curfew conditions and are subject to a recall to prison are lower than previously encountered. Therefore it is rare for operational officers to deal with such recalls. In most divisions Local Area Commanders will task specific units to deal with the recall notification. We are however content that the new revised SOP and process maps produced by CJSD do provide a clear direction of the roles and responsibilities for officers and staff which are easily accessible. We are therefore satisfied that this recommendation is suitable for closure.

**Recommendation 15:**

HMICS is satisfied that this recommendation has been fully met and suitable for closure.

**Recommendation 16**

Police Scotland should ensure that police officers and members of police staff involved in the management and administration of Home Detention Curfew notifications, revocations and cancellation of revocations are fully conversant with the roles and responsibilities outlined in the standard operating procedures and are appropriately supported, experienced, trained and have access to core police information systems.

73. In our 2018 review we found that some police officers and members of police staff were extremely knowledgeable and experienced operators of the PNC and CHS, others were less experienced especially where staff backfilled key roles (such as warrants officer, intelligence officer) during periods of absence. We also found that some officers and staff found it difficult to locate the Home Detention Curfew entry on the PNC and CHS system.

**Progress review update**

74. In response to this recommendation Police Scotland have produced a revised Home Detention Curfew and Restriction of Liberty Orders (Electronic Monitoring) – SOP. They have also raised awareness on the roles and responsibilities of those involved in the management of Home Detention Curfew through a bespoke page on the Police Scotland internal intranet site.
75. When HMICS carried out fieldwork, warrants officers and others involved in the management of the Home Detention Curfew processes had a good knowledge and understanding of their specific role in the process. The new SOP and guidance pages have also assisted in this regard. We welcome the additional training element given to those operating the police information system specifically CHS, to ensure that staff are now more aware of where on CHS and PNC the information relating to Home Detention Curfew can be found. This awareness was reflected in the fieldwork interviews we carried out.

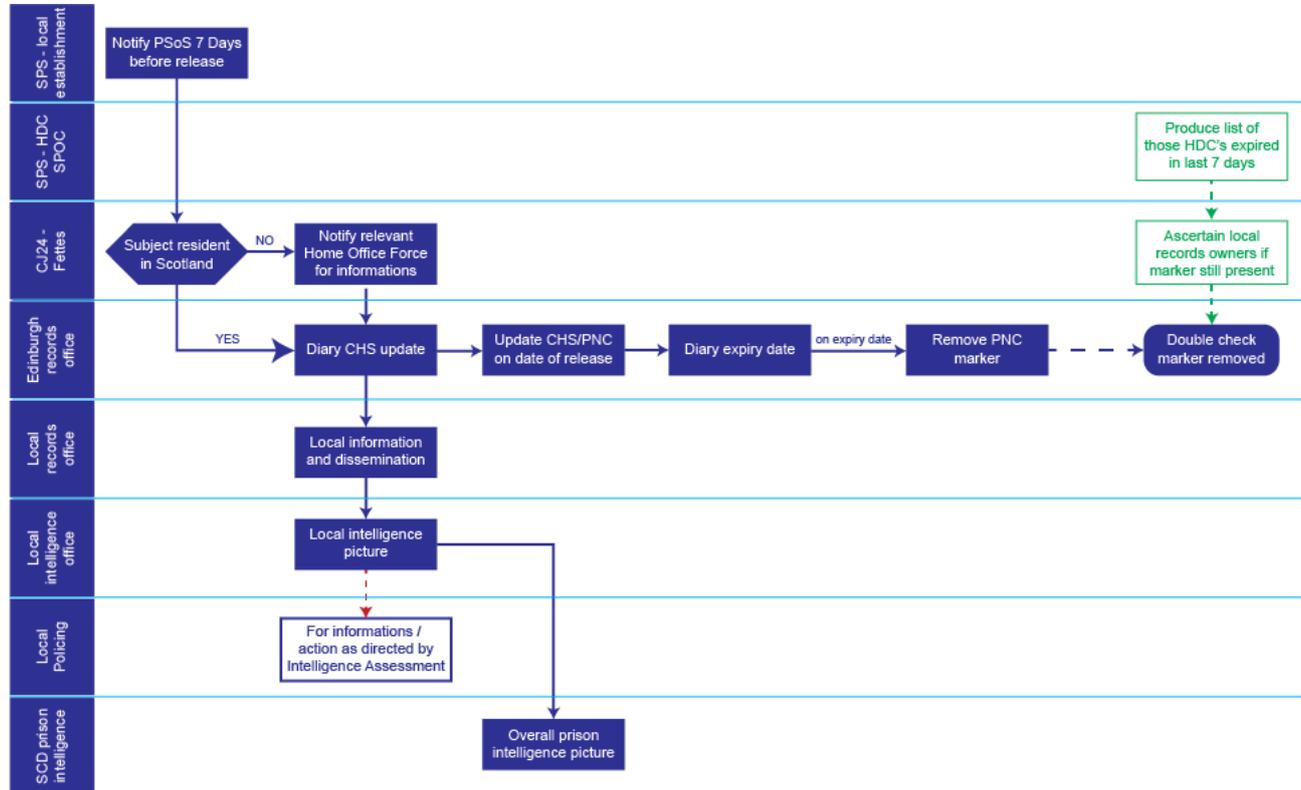
**Recommendation 16:**

HMICS is satisfied that this recommendation has been fully met and suitable for closure.



# Appendix 1 – Process map for Home Detention Curfew release notifications

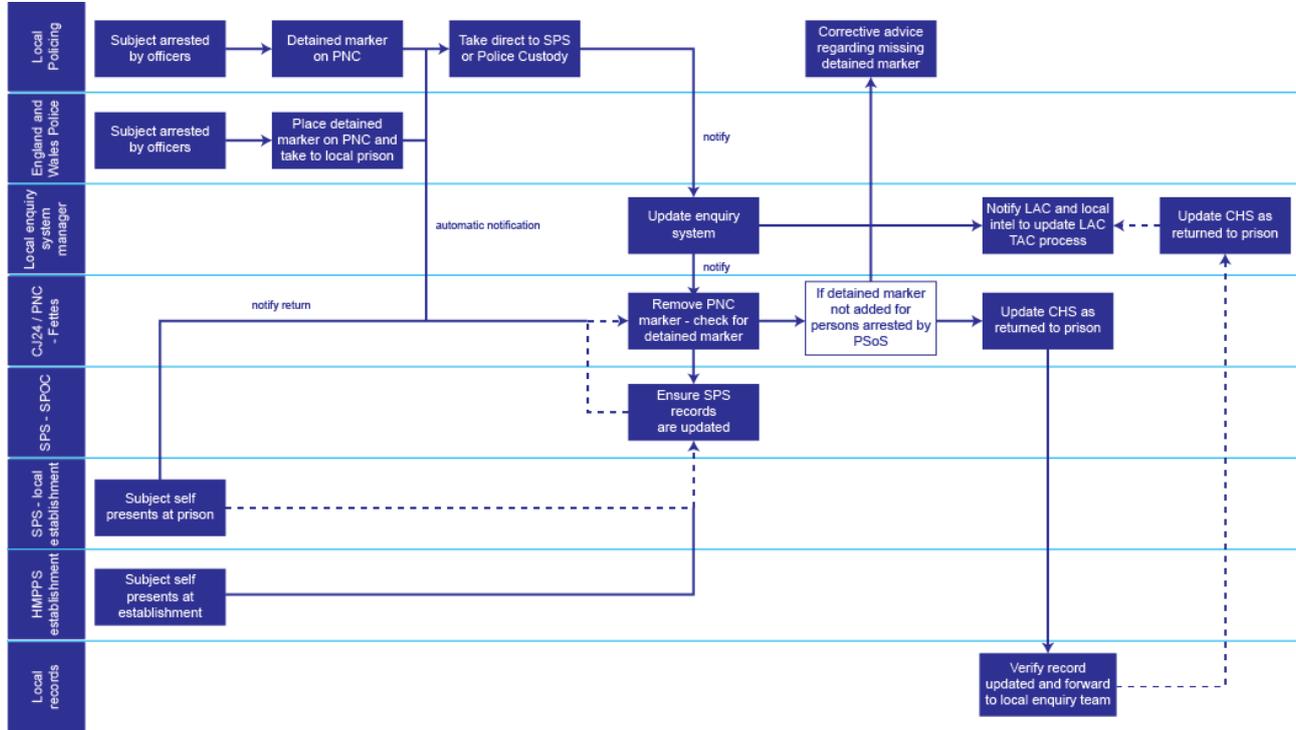
## HDC – RELEASE – Police Scotland process:





# Appendix 2 – Process map for Home Detention Curfew returns notifications

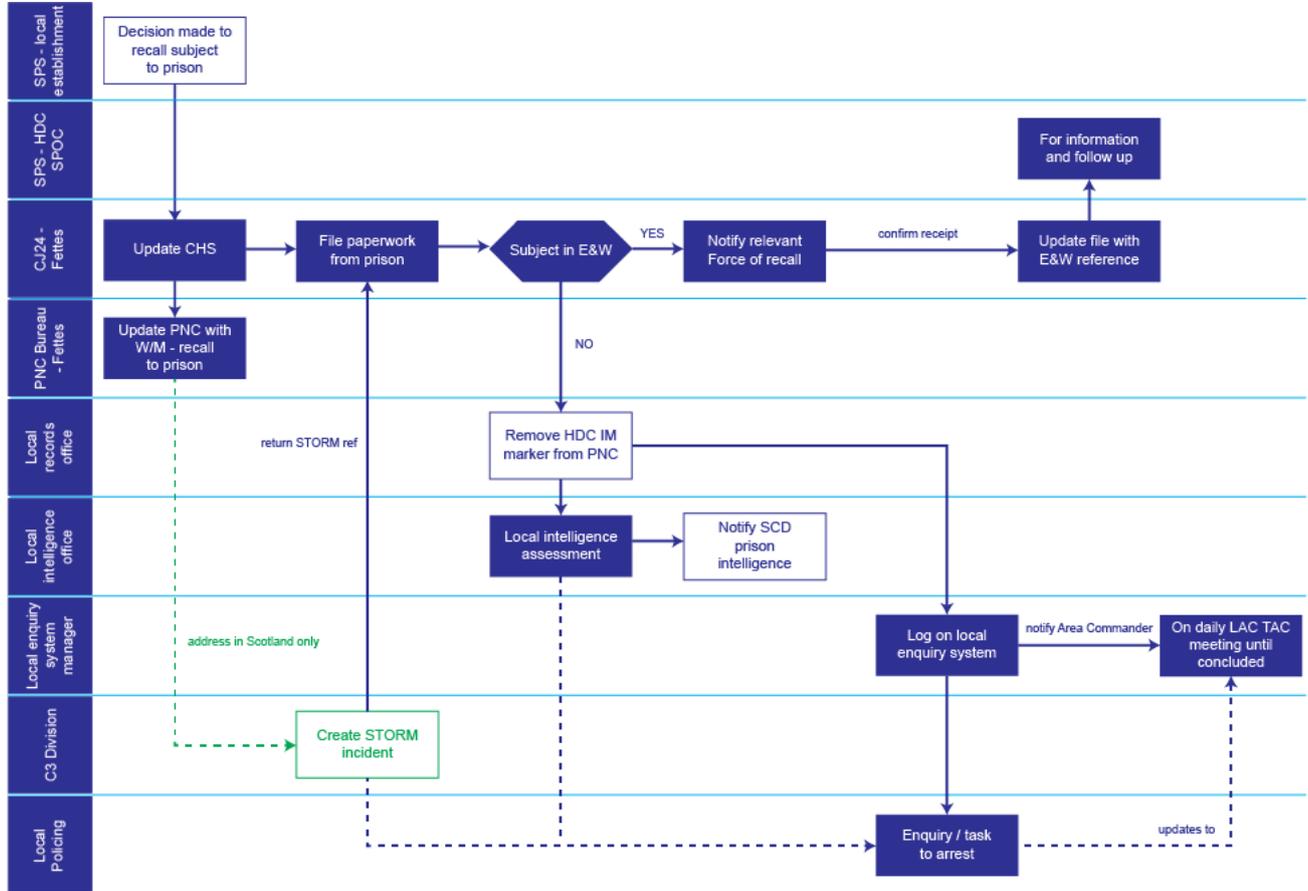
## HDC – RETURN – Police Scotland process:





# Appendix 3 – Process map for Home Detention Curfew recall notifications

## HDC – RECALL – Police Scotland process:





## Appendix 4 – Recommendations status

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**Closed** – Sufficient evidence to clearly demonstrate that all elements of the recommendation have been completed.

**Open** – Insufficient evidence to show any progress on this recommendation.

**Partially met** – Progressed, with sufficient evidence to clearly demonstrate that some elements of the recommendation have been completed, but further work is required to achieve fully met status.

Recommendation	Agency	Status
1	Police Scotland	Closed
2	Scottish Government	Partially met
3	Scottish Government	Partially met
4	Police Scotland	Partially met
5	Police Scotland	Partially met
6	Police Scotland	Partially met
7	Police Scotland	Partially met
8	Police Scotland	Closed
9	Scottish Government	Partially met
10	Police Scotland	Closed
11	Police Scotland	Closed
12	Scottish Government	Partially met
13	Police Scotland	Closed
14	Police Scotland	Closed
15	Police Scotland	Closed
16	Police Scotland	Closed



## Appendix 5 – Glossary

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CHS	Criminal History System (Scotland)
CJSD	Criminal Justice Services Division
CJSW	Criminal Justice Social Work
Home Detention Curfew	Home detention curfew is provided by the Prisoners and Criminal Proceedings (Scotland) Act 1993 (inserted by section 15 (5) of the Management of Offenders etc.(Scotland) Act 2005) and is the legislative provision that allows the early release of offenders on Home Detention Curfew. The duration of a Home Detention Curfew is a minimum of 2 weeks and a maximum of 6 months
HMICS	Her Majesty’s Inspectorate of Constabulary in Scotland has statutory responsibility for inspection of the state, effectiveness and efficiency of Police Scotland and the Scottish Police Authority
HMIPS	Her Majesty’s Inspectorate of Prisons for Scotland is an agency which has responsibility for inspecting prisons in Scotland
HMPPS	Her Majesty’s Prison and Probation Service (England & Wales only)
NPCC	National Police Chiefs Council (England & Wales only)
PACE	Police and Criminal Evidence Act 1984
PNC	Police National Computer
ROLO	Restriction of Liberty Orders
SG	Scottish Government
SLWG	Short Life Working Group
SOG	Strategic Oversight Group
SOP	Standard Operating Procedure
SPA	Scottish Police Authority
SPS	Scottish Prison Service



**HMICS** HM INSPECTORATE OF  
CONSTABULARY IN SCOTLAND

HM Inspectorate of Constabulary in Scotland  
1st Floor, St Andrew's House  
Regent Road  
Edinburgh EH1 3DG

Tel: 0131 244 5614

Email: [hmic@gov.scot](mailto:hmic@gov.scot)

Web: [www.hmics.scot](http://www.hmics.scot)

### **About Her Majesty's Inspectorate of Constabulary in Scotland**

HMICS operates independently of Police Scotland, the Scottish Police Authority and the Scottish Government. Under the Police and Fire Reform (Scotland) Act 2012, our role is to review the state, effectiveness and efficiency of Police Scotland and the Scottish Police Authority. We support improvement in policing by carrying out inspections, making recommendations and highlighting effective practice.

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