



## **Resettlement outside England and Wales While on Licence**

Many ICPO clients in England and Wales will spend time on licence following their release from custody. Some may wish to return to live in Ireland or Northern Ireland during their licence period and the ICPO Maynooth and London offices receive many queries about this.

Prison Service Instruction 20/2014 on 'Permanent Resettlement Outside England and Wales of Offenders on Licence' came into effect on 1st June, replacing PSI 01/2013. This document states that the aims of supervision on licence are to protect the public, prevent reoffending and aid rehabilitation. It acknowledges that allowing someone to transfer to another UK jurisdiction or to permanently resettle outside the UK while on licence can assist in these aims. It gives the person access to the support of their close family and alleviates the hardship faced by families who are trying to maintain contact.

### **Resettlement in Ireland**

If you wish to return to Ireland during your licence period you must apply to be considered for resettlement overseas. You should notify your offender manager/probation officer of your interest in this well in advance of your release date to allow adequate time for your request to be considered.

A licence imposed in England and Wales is not enforceable in Ireland or any other country outside the UK and Islands, but in some cases the Irish Probation Service may consider voluntarily supervising a person who has been allowed to resettle in Ireland during his/her licence period.

This offer of voluntary supervision is not taken into account when the UK's National Probation Service (NPS) is conducting a risk assessment to decide whether a prisoner should be allowed to resettle in Ireland; however, once an application for resettlement has been approved the offender manager is expected to contact the Irish Probation Service to see if they can provide support on a voluntary basis following the move.

If you apply to resettle in Ireland while on licence your probation officer will consider the following questions:

1. Do you have close family or residential ties in Ireland, including, but not limited to, any compassionate reasons? If the answer is no, your application will be refused.
2. Is your index offence connected to or potentially connected to Ireland (for example, fraud involving companies set up in Ireland)? If the answer is yes, your application will be refused.

If your application is still viable at this stage your probation officer will consider a third question:

3. Would resettlement in Ireland undermine the protection of the public, increase the risk of reoffending and/or undermine rehabilitation? If the answer is yes, your application will be refused.

If you are under the supervision of the National Probation Service your application for resettlement in Ireland must be authorised by the Head of the NPS local delivery unit. If you

are managed by a Community Resettlement Company, and that company wishes to approve your application, it must be referred to the NPS for consideration.

The Secretary of State can also grant an application allowing a prisoner to resettle in Ireland by approving a request to permanently travel under the relevant standard licence condition.

You should expect to spend some time in the UK on licence before being approved for resettlement in Ireland. In some exceptional circumstances a prisoner may be allowed to resettle in Ireland immediately following their release from custody. This is generally limited to situations where a person has been approved for early release on compassionate grounds or where the Parole Board have approved this as part of the resettlement plan. Even if this is allowed, the prisoner is expected to report to their probation officer on a single occasion so the licence can be explained to him/her.

If your application for resettlement in Ireland is approved it is important to be aware that the licence remains in force while you are overseas. If you return to the UK or Islands prior to the expiry of the licence, you should contact the relevant probation office within two working days. If you fail to do this proceedings may be issued for breach of licence, the licence may be revoked and you may be recalled.

While the policy on resettlement is not a replacement for deportation, it does recognise that Irish nationals are not eligible for deportation except in exceptional circumstances. Therefore, if you wish to return to Ireland during your licence period it is likely that you will need to apply for resettlement under this policy.

### **Transferring to Northern Ireland**

If you wish to return to Northern Ireland during your licence period you must apply for a transfer. Unlike resettlement overseas, when you transfer to another jurisdiction in the UK there is a presumption that you will be subject to equivalent monitoring; therefore there is no requirement that you must spend a minimum period of time on licence in England prior to the transfer. The authorities in Northern Ireland may however wish for you to spend some time on licence in England.

If you apply for a transfer to Northern Ireland while on licence your supervising officer will make an initial assessment, based on the following criteria:

1. Do you have close family or residential ties in Northern Ireland, including, but not limited to, any compassionate reasons? If the answer is no, your application will be refused.

If the answer is yes, your supervising officer will then consider:

2. Would the transfer undermine the protection of the public, increase the likelihood of reoffending and/or undermine rehabilitation? If the answer is yes, your application will be refused.

If you are approved for a transfer your supervising officer must decide whether it should be a *restricted transfer* or an *unrestricted transfer*.

When a *restricted transfer* is made, some amendment of the licence conditions may be allowed to reflect the fact that you will be supervised in Northern Ireland, but these changes cannot be inconsistent with the fundamental aims of supervision. If the licence conditions are breached, the supervising authority in Northern Ireland can take breach action by applying

the relevant legislation from England and Wales. While the power of recall remains with the NPS it can be executed in Northern Ireland.

When an *unrestricted transfer* is made, the probation provider in England and Wales has no further responsibility for supervision. This becomes a matter for the authorities in Northern Ireland as if you had been sentenced and released from prison there. Any action for breach of the licence imposed in Northern Ireland must be taken by the authorities there and, if necessary, a person will be recalled to prison in Northern Ireland.

You will not be eligible for an unrestricted transfer if: (1) you have a type of sentence that does not exist in Northern Ireland or (2) there would be a substantial increase or decrease in the period or amount of supervision in Northern Ireland compared to what you could expect in England and Wales.

The Secretary of State can grant applications for a transfer to Northern Ireland. If your case is managed by a Community Rehabilitation Company, the supervising officer must take the initial consideration and make contact with the authorities in Northern Ireland if appropriate. If they then wish to proceed with the transfer they must pass it to the Head of the NPS local delivery unit for review on behalf of the Secretary of State.

If you are under the supervision of the NPS, following an initial discussion with the authorities in Northern Ireland, your application for a transfer must be sent to the Head of the NPS local delivery unit, who will make a decision on behalf of the Secretary of State.

**In the case of all indeterminate sentences, the application must be endorsed by the Head of the NPS local delivery unit and then sent to the Public Protection Casework Section (PPCS) for a final decision.**

### **Conclusion**

This factsheet provides a brief overview of the procedures for resettling in Ireland and transferring to Northern Ireland while on licence, as set out in PSI 20/2014. These are not straightforward processes and applications are dealt with on a case-by-case basis. If you wish to resettle in Ireland or transfer to Northern Ireland during your licence period please contact the ICPO for further information and advice on this issue.