

PAROLE BOARD LISTING PRIORITISATION FRAMEWORK FOR ORAL HEARINGS

The Listing Prioritisation Framework ('LPF') was originally introduced in April 2009, revised later that year and again in July 2019 to take account of the changing priorities and demands on the Parole Board. It sets out how the Parole Board prioritises cases for listing oral hearings in the context of a listing backlog.

Version control:

- The change to the LPF in this version is to the 'prioritisation beyond due date' section. The amendment is to provide updated clarity on prioritisation of case types.
- This version of the guidance has also been amended to take account of the interim changes as a result of the COVID19 restrictions
- Contents section added

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Overview

Listing enables cases to be dealt with in a way that balances the general need to bring cases to a timely conclusion and the individual facts of the case. The Parole Board has adopted a general set of principles to guide its approach to listing those cases which are referred to it by the Secretary of State. These principles balance the need to manage overall case load with the obligation the Parole Board is under to ensure the timely review of cases where a prisoner on licence has been recalled and those prisoners serving indeterminate sentences and other parole eligible sentences

The Parole Board will ensure that it makes the most efficient use of public resources available to it to maximise the number of cases it can list each month. The Parole Board will remain flexible in its approach to listing cases and will consider departing from the general principles set out below where there are good reasons to do so. The general approach to listing will be kept under review and may be subject to change to ensure that any variation in case load can be managed efficiently and effectively.

The Parole Board will initially prioritise the reviews which have been waiting for more than 90 days for a listing date, and those cases where the review has been ongoing for more than 18 months but are ready to list. We will then move to prioritising cases according to the date the review was due. For a definition of this date for each type of case, please refer to the list below. The Parole Board will also reflect individual circumstances and provide equitable fairness across the different types of cases referred to the Parole Board.

Please note: the initial prioritisation by date applies to all types of cases. It is only after the initial prioritisation by due date is completed, and where there is a choice between two cases for one available listing slot, that the type of case will have any bearing on the listing.

COVID 19

The Parole Board has reluctantly decided that, in light of Government guidance and restrictions imposed on the prison estate, no face to face oral hearings can take place for the foreseeable future. The Parole Board has made this decision to safeguard the safety of its members and those involved in the parole system. It is clear that allowing oral hearings to continue in prison is against the latest Government advice and is placing the health of everyone at risk. The Parole Board also cannot ignore the reality of restrictions imposed across the prison estate. These matters will be kept under close review as advice changes.

The Parole Board is however committed to finding a way to progress cases in the intervening period by reviewing cases via a new intensive paper review, accompanied by case conferences where appropriate, and remote hearings via telephone or video, where this is feasible, and the prisoner is able to receive a fair hearing. We are aware of the need to provide a 'speedy' review of detention under Article 5(4). Our efforts to progress cases aim to balance that requirement with the requirement of fairness to the prisoner, particularly prisoners who may have vulnerabilities, and our duty to protect of the public.

The Parole Board has now adopted an alternative approach to the listing of oral hearings, that will continue until such time as we are able to re-convene face to face oral hearings.

The Parole Board has established a Listings Taskforce to commence this process, at pace. We have written to all panel chairs with hearings listed in the coming days and weeks to ask them to undertake an initial neutral assessment of all listed cases to determine if (and in what circumstances) the case is likely to be suitable for a paper conclusion or if a face to face or remote hearing is required. This assessment will be shared with the parties who can make representations. We will be flexible in setting deadlines for these representations but are, of course, keen to make decisions as soon as possible.

If a panel is minded to consider release on the papers, the assumption will be that the prisoner and the Secretary of State for Justice (SSJ), would not object to them swiftly making that decision. However, if prisoners or the SSJ indicate otherwise, their representations will be taken into account.

If further information is needed, that is not contained within the current dossier, panel chairs will issue directions. Where necessary, a panel can conduct a case conference with the parties/witnesses/legal representatives.

Remote hearings

Where a case is unsuitable to be concluded on the papers, we have asked the panel chairs if the panel could consider the suitability for a remote hearing. A remote hearing can be conducted via telephone or video link. If parties wish to make representations about which type of hearing they think should be directed, those will be taken into account, but the panel will need to make a realistic direction based upon what options are practically available, which allow the panel to obtain the best evidence, and take account of the specific requirements of the prisoner and any witnesses. All witnesses can dial in as long as they can assure the Parole Board that they have a private and secure setting to do so. Whilst video link may be the preferred option, not all prison establishments and witnesses will be able to facilitate this. We have also found that telephone hearings are much more likely to be effectively set up and supported, using the current technology available in the HMPPS prison estate. We can arrange a telephone hearing with much less notice and can hold as many as needed per day. When directing a remote hearing, panels are encouraged to use the oral hearing slot that was originally allocated to facilitate this. However, it may be appropriate to set a different date, given we now have some extra time in our diaries, dependent on circumstances and time restrictions.

Monthly Listings Exercise

Whilst we are currently focusing on the cases listed up to the end of April 2020, the Board intends to roll out this process for cases listed from April through to June 2020. We will continue to list cases for the months going forward beginning with July 2020, (with future months at regular intervals) in accordance with our current Listings Prioritisation Framework.

We are working on the basis that by July 2020 we will be able to conduct face to face hearings again. However, we will review the situation nearer the time. If we are not able to conduct face to face oral hearing, we will follow the COVID 19 approach in respect of those hearings, as set out above.

Definition of due dates by case type

First review at tariff expiry (ISP=Lifer sentence prisoners/IPPs)

The due date is the date of tariff expiry. (The Generic Parole Process is designed so that reviews occur around two months prior to the tariff expiry date; LPF retains that intention.)

Further reviews after tariff expiry (Life sentence prisoners/IPPs (including recalls))

The due date will be the date set by the Secretary of State for Justice upon referral to the Board. (This category also includes lifer/IPP prisoners undergoing a second or subsequent review following recall.)

First or Further reviews after Parole Eligibility Date or Annual Review after recall, Extended Determinate Sentence (including recalls) (EDS) / Sentences of Particular Concern (SOPC)/ Determinate Conditional Release (DCR)

The due date will be the date set by the Secretary of State for Justice upon referral to the Board

Advice Cases (Life sentence prisoners/IPPs)

The due date will be the date of the referral to the Board (i.e. date of receipt of dossier). This category covers both pre-tariff and post-tariff matters which the Secretary of State has referred to the Board for advice under Section 239 Criminal Justice Act 2003.

Determinate or extended sentence prisoners applying for early release

The due date will be the date the paper panel referred the matter to an oral hearing. (This category only relates to prisoners applying for early release at their Parole Eligibility Date. It does not include recall reviews.)

Combined reviews

Due to the ongoing high volume of cases, lifer and IPP pre and post-tariff advice cases (i.e. cases referred to the Board under section 239) may not yet have been listed by the time the next section 28 referral is made. These cases are usually combined (rather than having a review for advice on 'move to open' followed by a separate review with power to consider release). In order to recognise the delay in possible progression already experienced by these prisoners, any combined review will be prioritised according to the original due date of the advice case.

Prioritisation beyond due date

The Board recognises that it has to take a flexible approach to managing its caseload and that there may be circumstances in a case that justify the listing of that case to be prioritised. Bearing that in mind, the Parole Board has adopted a general approach to cases beyond their due date.

Cases beyond their due date will generally be listed in accordance with their review type and then prioritised by review date within the review type. These cases will be listed in accordance with the order below:

1. First review at tariff expiry (lifers/IPPs)
2. Further reviews after tariff expiry (lifers / EDS (inc. EDS Recalls) / SOPC / DCR / ISP RECALLS)
3. Advice cases (lifers/IPPs)
4. ESP annual reviews after recall
5. Determinate recalls

<u>PRIORITY ORDER</u>	<u>APPEARANCE ON Listing Prioritisation Framework (LPF)</u>
1. First review at tariff expiry (lifera/IPPsa)	<ul style="list-style-type: none"> • GPP - I - Post Tariff • GPP - I - On Tariff
2. First review at parole eligibility date (EDS (Inc. EDS Recalls)/SOPC/DCR/	<ul style="list-style-type: none"> • GPP-D (EDS) - First Review [*] • GPP-D (DCR-EPP) - First Review [*] • GPP-D (SOPC)- First Review [*]
3. Further Reviews after tariff expiry (lifera / EDS (Inc. EDS Recalls) / SOPC / DCR / ISP RECALLS)	<ul style="list-style-type: none"> • GPP - I - Subsequent Review [*] • GPP-D (EDS)_- Subsequent Review [*] • GPP-D (DCR-EPP) - Subsequent Review [*] • GPP-D (SOPC) - Subsequent Review [*] • ISP Recall - 01 RECALL • Ongoing Review - Recall Outcome
4. Advice cases (lifera/IPPsa)	<ul style="list-style-type: none"> • Advice Case - Advice Case • GPP - I - Pre-Tariff
5. ESP annual reviews after recall	<ul style="list-style-type: none"> • Annual Review - 01 RECALL • ESP Annual Review - 02 ESP
6. Determinate Recalls	<ul style="list-style-type: none"> • Standard 255c recall review - 01 RECALL • Standard 255c recall review - Recall Outcome

Where listing decisions must be made between two cases with the same due date, priority will be accorded to combined reviews with reference to the stage the case is at.

Prisoners under 21 years old

We will always look to prioritise the reviews for offender's who are under the age of 21 years at the commencement of their review irrespective of their review/sentence type.

Prisoners in a Mental Health setting.

We will always look to prioritise the reviews for offender's who reside in a mental health setting at the commencement of their review irrespective of their review/sentence type.

Recalls

Recall cases are prioritised at the bottom of the LPF due to being determinate in nature with a sentence expiry date, however, the Board will consider the date of the referral in the case of lifera and IPP recalls; and in the case of extended or determinate sentenced prisoners, the date of referral from a paper panel, or the date of receipt for a request for oral hearing. Where we have scheduled oral hearing panels with a vacant hearing slot; we will prioritise determinate recalls cases when trying to replace or maximise listings to fill those vacancies.

Prioritisation can be further refined within each category, by the length of delay and number of occasions it has been deferred.

Once the initial list is produced (i.e. going by date order), where there is only one case listed on a particular day at a particular prison, other newer cases will be slotted in accordingly using the same order of priority according to the type of case.

The same approach will be used to 'replace' cases which are deferred or adjourned more than three weeks prior to the scheduled hearing date.

Exceptional circumstances

The Parole Board recognises that it has to take a flexible approach to managing its caseload, and that there may be exceptional circumstances in particular cases that mean they should be prioritised. In particular, where exceptional circumstances are put forward by the prisoner for higher prioritisation, the case will be put before a Duty Member for assessment. The Member may direct that a case has a higher priority than would normally be indicated by the list above and/or its current due date and should accordingly receive precedence, though this should only be in rare circumstances to ensure fairness to all others awaiting a parole hearing.

In general terms, positive recommendations for release or a progressive move will not, by themselves constitute exceptional circumstances, as there will be many such prisoners in a similar position. They may be relevant to assigning priority between two prisoners in similar circumstances, but who have different recommendations.

For guidance, members can bear in mind the following factors:

Reasons to Prioritise	Reasons not to Prioritise
Case has been deferred several times and the prisoner's review has been unfairly delayed	A determinate recall prisoner has less than 26 weeks until their sentence is due to expire
The prisoner is aged 18-21 at the time of referral	Requests for prioritisation solely on the grounds of positive report recommendations
The 1 st review of any prisoner within a secure hospital setting or mental health unit.	A case has been adjourned / deferred once before and that the current situation is not prisoner's fault
Serious concerns over the prisoner's mental health	A member or witness could not attend the oral hearing due to illness

Reasons to Expedite	Reasons not to Expedite
Terminal illness or other factors pointing towards compassionate release	A determinate recall prisoner has less than 26 weeks until their sentence is due to expire
Prisoners who are seeking release because they have been identified as vulnerable at risk from COVID 19	A case has been adjourned once before and that the current situation is not prisoner's fault
Compassionate reasons of close family members	Requests for prioritisation solely on the grounds of positive report recommendations (unless this is the only difference between two cases)
The original decision is the subject of an order for reconsideration or has been quashed by the High Court	It is taking a while to get listed and you feel it is 'unfair' on the prisoner
The prisoner does not have capacity to participate in proceedings	A member or witness cannot attend on the day due to illness