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11 July 2013 (amended 5 August 2013 by the insertion of 4.ix)

Guidance to Members 2013

1. This document has been produced to coincide with the Secretary of State's withdrawal of his Directions, previously issued under section 239(6) of the Criminal Justice Act 2003 and section 32(6) of the Criminal Justice Act 1991. This guidance applies to all cases where the Parole Board has the power to direct release; and does not apply to recommendations for the transfer of prisoners serving indeterminate sentences to open conditions. The Secretary of State's Directions in respect of the latter remain in force.

2. It is for each panel to decide for itself how to apply this guidance in an individual case. The guidance is to be read in conjunction with the "Guidance to members on LASPO (2012)", section 28(6) of the Crime (Sentences) Act and any relevant case law.

3. In reaching a decision whether or not to direct release, panels will take account of all relevant material, both written and, if applicable, verbal. It will be for each panel to decide what weight, if any, should be attached to each piece of material.

4. In most cases a panel will consider the following, where appropriate and available, in reaching its decision:

- i) the nature and circumstances of the index offence and any previous offences;
- ii) any information relating to the offender's personal circumstances and background;
- iii) any reports prepared for the trial and the sentencing remarks and any judgment of the Court of Appeal, House of Lords or Supreme Court in the case;
- iv) the prisoner's attitude and behaviour towards, and relationships with, others, including authority figures;
- v) assessments resulting from programmes, courses of treatment, or other activities designed either directly or indirectly to address his offending behaviour;
- vi) any medical, psychiatric or psychological considerations where relevant to the assessment of risk;
- vii) actuarial assessments of risk;
- viii) the prisoner's behaviour during outside activities during the sentence and any such periods in the past, including periods spent on licence or bail;
- ix) in the case of an indeterminate sentenced prisoner, the time spent in custody since expiry of the tariff;
- x) representations from a victim;
- xi) the prisoner's attitude to, and the likelihood of compliance with, conditions of release on licence;
- xii) plans for supervision on release and the suitability of the release address;
- xiii) written or verbal representations made by the prisoner and his representative;
- xiv) any other material, information or fact deemed by the panel to be relevant to the assessment of risk.

5. Each case will be treated on its merits and without discrimination on any ground.

DIRECTIONS TO THE PAROLE BOARD UNDER SECTION 32(6) OF THE CRIMINAL JUSTICE ACT 1991 – issued Aug 2004

TRANSFER OF LIFE SENTENCE PRISONERS TO OPEN CONDITIONS

INTRODUCTION

1. A period in open conditions is essential for most life sentence prisoners (“lifers”). It allows the testing of areas of concern in conditions that more closely resemble those that the prisoner will encounter in the community often after having spent many years in closed prisons. Lifers have the opportunity to take resettlement leave from open prisons and, more generally, open conditions require them to take more responsibility for their actions.
2. The main facilities, interventions, and resources for addressing and reducing core risk factors exist principally in the closed lifer estate. In this context, the focus in open conditions is to test the efficacy of such core risk reduction work and to address, where possible, any residual aspects of risk.
3. A move to open conditions should be based on a balanced assessment of risk and benefits. However, the Parole Board’s emphasis should be on the risk reduction aspect and, in particular, on the need for the lifer to have made significant progress in changing his/her attitudes and tackling behavioural problems in closed conditions, without which a move to open conditions will not generally be considered.

DIRECTIONS

4. Before recommending the transfer of a lifer to open conditions, the Parole Board must consider:-
 - all information before it, including any written or oral evidence obtained by the Board;
 - each case on its individual merits without discrimination on any grounds.
5. The Parole Board must take the following main factors into account when evaluating the risks of transfer against the benefits :-

- (a) the extent to which the lifer has made sufficient progress during sentence in addressing and reducing risk to a level consistent with protecting the public from harm, in circumstances where the lifer in open conditions would be in the community, unsupervised, under licensed temporary release ;
- (b) the extent to which the lifer is likely to comply with the conditions of any such form of temporary release;
- (c) the extent to which the lifer is considered trustworthy enough not to abscond;
- (d) the extent to which the lifer is likely to derive benefit from being able to address areas of concern and to be tested in a more realistic environment, such as to suggest that a transfer to open conditions is worthwhile at that stage.

6. In assessing risk in such matters, the Parole Board shall consider the following information, where relevant and where available, before recommending the lifer's transfer to open conditions, recognising that the weight and relevance attached to particular information may vary according to the circumstances of each case:-

- (a) the lifer's background, including the nature, circumstances and pattern of any previous offending;
- (b) the nature and circumstances of the index offence and the reasons for it, including any information provided in relation to its impact on the victim or victim's family;
- (c) the trial judge's sentencing comments or report to the Secretary of State, and any probation, medical, or other relevant reports or material prepared for the court;
- (d) whether the lifer has made positive and successful efforts to address the attitudes and behavioural problems which led to the commission of the index offence;
- (e) the nature of any offences against prison discipline committed by the lifer;
- (f) the lifer's attitude and behaviour to other prisoners and staff;
- (g) the category of security in which the lifer is held and any reasons or reports provided by the Prison Service for such categorisation, particularly in relation to those lifers held in Category A conditions of security;
- (h) the lifer's awareness of the impact of the index offence, particularly in relation to the victim or victim's family, and the extent of any demonstrable insight into his/her attitudes and behavioural problems

and whether he/she has taken steps to reduce risk through the achievement of life sentence plan targets;

- (i) any medical, psychiatric or psychological considerations (particularly if there is a history of mental instability);
- (j) the lifer's response when placed in positions of trust, including any outside activities and any escorted absences from closed prisons;
- (k) any indication of predicted risk as determined by a validated actuarial risk predictor model or any other structured assessment of the lifer's risk and treatment needs.

7. Before recommending transfer to open conditions, the Parole Board shall also consider the lifer's relationship with the Probation Service (in particular the supervising probation officer), and other outside support such as family and friends.