

ANNEX I

PAROLE BOARD POLICY ON OPEN CONDITIONS

1 Background

The Secretary of State's Directions (which apply regardless of Girling) state that most lifers should spend a period in open conditions prior to release.

The point of open conditions is not simply one of rehabilitation or curing possible institutionalism. It offers the only chance to observe a prisoner putting into practice that which he/she has learned in theory. In other words, a prisoner may well make all the right noises on an accredited programme, but the structured and sheltered nature of closed conditions, where all decisions and responsibilities are taken by others, means that prisoners cannot demonstrate that they can fend for themselves in conditions more akin to those they will face on the outside. Open conditions offers this opportunity as far as possible. It is the only true testing ground.

2 Guidance

The overriding factor is risk to the public. The Parole Board confirms that those serving indeterminate sentences may potentially remain in prison for their natural life. It is not the role of the Parole Board to seek to help prisoners to progress towards release because of perceived shortcomings by other agencies. The Board's role is to advise the Secretary of State in line with the Directions he has imposed.

3 Release from closed conditions

The Board may not direct the release of any prisoner serving a sentence of life imprisonment or indeterminate sentence for public protection, unless it is satisfied that it is no longer necessary in the interests of public protection that they continue to be detained.

In the majority of cases, the Board cannot ultimately be satisfied about risk until and unless a successful period of testing has been completed.

Regardless of the length of tariff, where offending behaviour has been addressed in closed conditions, the prisoner has had no opportunity to demonstrate by his behaviour in conditions similar to those existing in the community that he/she can apply lessons learned in closed conditions.

It will be unusual for an indeterminate prisoner to be released direct from closed conditions. Circumstances where that may be appropriate could include

- where the Board is considering representations against recall
- where the prisoner has already successfully completed a sufficient period of testing in open conditions; AND the Board considers that the reason for removing the prisoner from open conditions was unrelated to risk
- where the case is considered on compassionate grounds
- where there are other grounds that dictate that any or further testing in open conditions is not required to satisfy the Board about the prisoners level of risk.

In determining whether the prisoner may be released from closed conditions, the Board will take into account:

- whether a previous period of testing in open conditions was cut short. If so, the expectation will be that the Board will recommend a return to open conditions for the prisoner to complete testing and monitoring
- that testing should not take place in the community. Accordingly it is not appropriate to balance risk against benefits when release is considered. Panels must acknowledge that testing, where the Board is not satisfied that risk is acceptable, may only take place in a prison environment
- where a prisoner is in closed conditions and has successfully completed all the offending behaviour work thought necessary, it is nevertheless required in the majority of cases for a testing period in open conditions to be completed before the Board can

ultimately be satisfied that risk is acceptable. Panels should not be swayed by a legal representatives argument that those who have completed offending behaviour work in closed conditions must be released, unless the case falls within the exceptional category

4 Reasons

Where the Board directs release from closed conditions in 2 and 4 above, the reasons should state why release without a [further] period of testing in open conditions is appropriate.

Every case shall be considered on its merits and nothing above detracts from the principle that if the Board is satisfied in any case that the risk to the public is acceptable, then it must direct the prisoners release.

5 Recommendations for transfer to open conditions

The Board recognises that the Secretary of State's Directions require the Board to balance the risk to the public against any benefits to the prisoner and the public that might accrue from the prisoners transfer to open conditions. Within that framework, the Board will take into account:

- that the normal expectation is that all offending behaviour fundamental to risk reduction must be successfully completed in closed conditions
- that only relapse prevention and booster offending behaviour work should normally be envisaged in open conditions
- that where the risk against benefits is evenly balanced, the risk to the public shall be the deciding factor
- that where the Board assesses the risk as unacceptable for a transfer to open conditions, it shall take no account of the fact that further offending work has not been identified as necessary by prison and probation staff, or that such work is not available, except to acknowledge that fact in the reasons.