

CHAPTER 2

ROLES AND RESPONSIBILITIES

1. Participants in the hearing

The participants in an oral hearing are generally as follows:

- a. The panel - members of the Parole Board appointed to hear a case
- b. The Case Manager - a member of the Parole Board Secretariat, responsible for administrative duties before, during and after the hearing
- c. The prisoner
- d. The prisoner's representative - normally a solicitor or barrister
- e. The Secretary of State (SofS) representative - a lay advocate presenting the Secretary of State's case; normally a senior prison staff member or a Public Protection Advocate. An SofS representative is not routinely present at the oral hearing. They are most likely to attend when there is an issue relating to immigration, victim attendance, or if it is a high-profile case
- f. Witnesses - persons called to give oral evidence at the hearing
- g. Observers - persons granted permission to attend the hearing and observe the proceedings while taking no active part
- h. The victim – the victim or family member of the victim of the index offence attending to read a personal statement
- i. The Victim Liaison Officer – someone appointed to assist a victim in presenting a personal statement, and who often accompanies them at a hearing to give support

The Good Practice Guide (at Annex K) sets out the expectations of those contributing to an Oral Hearing.

1.1 The Case Manager

When members receive the dossier they will be told the name and contact details for the Case Manager at the Secretariat. The Case Manager is responsible for ensuring that all administrative requirements are handled so that the case reaches the hearing in accordance with the timetable. The Case Manager is also the panel's pre-hearing link to the Secretary of State and the prisoner/representative.

All directions and requests for information before a hearing must be routed through the Case Manager or another member of the Secretariat in their absence. A panel must not make direct enquiries to either party except at the hearing itself.

Where the Case Manager offers advice on procedure it should not lightly be discounted. However, under NO circumstances may a Case Manager be

asked or permitted to make any comment whatsoever on the outcome of the review.

All decisions following the hearing must be sent to the Case Manager for dissemination to the parties.

Exceptionally, a Case Manager may attend the hearing and take a note of proceedings. Resources are scarce, however, and normally the panel chair will take the note. It is important to remember that, in the absence of a recording of a hearing, the notes taken by the chair constitute the official note of record of the hearing¹ so it is important that these are full and legible. When the panel chair is asking questions of the witnesses it will be the responsibility of the other members to make full notes of the answers given as the panel chair will most likely not be able to do this effectively.

1.2 The Secretary of State's Representative

The Parole Board Rules do not require the Secretary of State either to:

- a. be represented at the hearing; or
- b. provide a view.

It would be very rare, therefore, if ever, that a panel should decide to defer the prisoner's right to a prompt hearing for either to be provided.

Where the nominated Secretary of State's representative has written a report for the dossier and his/her view does not agree with the Secretary of State's official view (as stated in the dossier), then he/she would not normally present the case at the hearing. The representative should check the Secretary of State's view on receipt and, if it differs from his/her own, consider another senior member of the prison staff to act as the representative.

Where the Secretary of State's representative is also a witness he/she is not automatically barred from presenting the case but the panel chair should consult the parties and decide whether the hearing is capable of going ahead. Where neither party objects and the panel has no overriding reason to disagree, the presumption will be that the hearing can proceed. If it is decided that the Secretary of State's representative cannot play both roles, another senior member of the prison staff will normally be found to act as the Secretary of State's representative.

1.2.1 *Lifers/IPPs*

For a regular review, the Secretary of State will normally be represented by the Lifer Manager or other senior prison officer. There may not be a representative at every hearing but while there is no power to direct that the Secretary of State be represented a request can be made if considered necessary. At a recall hearing the representative may be a Public Protection Advocate (PPA).

¹ R (McIntyre) v Parole Board [2013] EWHC 1969 (admin)

1.2.2 Extended Sentence Prisoners

For an annual review, there will normally be no Secretary of State's representative and no Secretary of State's view. At a recall hearing, a PPA may represent the Secretary of State unless he regards the case as low priority (for example where the prisoner has been convicted of further offences or where recall was due to missed appointments). Accordingly, representation will be provided only as a matter of priority at the Secretary of State's discretion.

Panels may have two cases in a day where a PPA represents the Secretary of State in one case, and a prison Governor in the other. It is entirely a matter for the Secretary of State to decide who represents him at each hearing.

1.3 The prisoner's representative

In most cases the prisoner will have legal representation at the hearing although the Board may, with the prisoner's agreement, appoint someone to act on his behalf. Alternatively, the prisoner may choose to be unrepresented or to have a non-legal representative.

Rule 6(2) provides that a party may be represented by any person who he has authorised for that purpose with the following exceptions:

- a. any person detained or liable to be detained under the Mental Health Act 1983
- b. any person serving a sentence of imprisonment
- c. any person who is on licence having been released
- d. any person with a previous conviction for an imprisonable offence which remains unspent under the Rehabilitation of Offenders Act 1974

1.4 Witnesses

A witness is not a party to the proceedings and may only answer questions put by a party or the panel. He/she may make additional statements if the panel believe it will help its deliberations. The normal procedure is to allow all witnesses to remain for the duration of the hearing but they may be given leave to depart once evidence has been given, provided the panel are content that no further input will be required.

1.4a National Probation Service (NPS) and Community Rehabilitation Company (CRC) Officers

It should be noted that determinate recall cases may well have involvement of a CRC officer as well as an Offender Manager. Where a standard recall is initiated and the matter referred to the Parole Board, an NPS Offender Manager will be allocated to the case. Only an NPS officer

may provide evidence relating to the assessment of risk. However, you may wish to call the CRC officer to provide factual information regarding the circumstances of recall and while the offender was in the community. PSI 30/2014 on determinate recalls provides the following information:

"Section 4 of the Offender Management Act 2007 precludes CRC staff from advising courts or court like bodies such as the Parole Board. Therefore, if the Parole Board refers a CRC case (ie a case managed by the CRC before recall and which will remain with the CRC should the offender be re-released) to oral hearing and directs the attendance of the Offender Manager responsibility falls to the NPS to attend the oral hearing and give evidence. The NPS can request that the PPCS perform this role on their behalf. Where PPCS does take on this function it will generally deploy NPS staff who are working in PPCS on loan.

Although CRC staff cannot advise the Board on the question of release, they can be called to a Parole Board hearing in those cases where the Board is seeking to establish the facts that led to the request for recall being made.

In CRC cases where either the NPS or PPCS are attending in order to advise the Parole Board on the question of release, the CRC must assist the representative and provide any relevant material."

1.5 Observers

Anyone wishing to observe an oral hearing needs to apply in writing for permission from the panel chair. This includes any family members or friends that the prisoner wishes to attend. Any such request should give the full name and occupation of the prospective observer, and reasons for making the request. Applicants should be aware that the prisoner will be consulted and has the right to object. While the final word on observers lies with the panel chair, it is essential for an effective hearing that the prisoner is at his ease and chairs would normally refuse an observer where the prisoner objects to their presence.