**Operational Protocol for the Parole and Recall Process**

**Outline of Operational Protocol**

This protocol sets out the responsibilities of His Majesty’s Prison and Probation Service (HMPPS), Youth Justice Services (YJS), the Parole Board and in respect of Third Parties involved in the parole and recall[[1]](#footnote-2) processes. This protocol applies to all determinate and indeterminate sentenced prisoners[[2]](#footnote-3) who are subject to the parole process, and those subject to recall.

The overriding objective of the protocol is to improve transparency, understanding and effectiveness of the parole and recall processes. It supplements the Parole Board Rules 2019 as amended (the “Rules”) by setting out the roles and responsibilities of the Secretary of State for Justice and the Parole Board within this operating model.

This protocol has been produced by the Public Protection Group (PPG) in HMPPS, Youth Custody Service (YCS) and the Parole Board, with agreement from the detailed signatories. The processes documented within it reflect HMPPS and Parole Board practices and should be adhered to accordingly.

The language in the protocol refers to prisons and prisoners: the YCS and Youth Justice Services will ensure that the terminology, delivery and ethos is continually child focused when the principles are applied at a local level[[3]](#footnote-4).

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**Signatories**

* **Director General for Operations of HMPPS and on behalf of YCS – Phil Copple**
* **CEO of the Youth Justice Board[[4]](#footnote-5) - Stephanie Roberts-Bibby**
* **Parole Board Chief Executive – Martin Jones**

# Statutory Requirements

1. The Secretary of State must refer parole-eligible cases (including recall cases) to the Parole Board for a review of a prisoner’s detention according to the relevant statutory requirements. The Parole Board must undertake that review upon referral.
2. The Parole Board can act only when it receives a Secretary of State referral or application, except when it receives an application directly from a party asking that the Parole Board reconsider or set aside their decision.
3. Following a referral from the Secretary of State, the Parole Board must decide whether to release the referred prisoner. In the execution of its duty, the Parole Board must apply the appropriate statutory release test.
4. The Parole Board will send all decisions, including provisional decisions, to the prisoner (via the prison), the prisoner’s representative (if applicable), the Secretary of State and any relevant HMPPS employees. It is for the Parole Board to decide who else should have sight of the decision letter, and it must not be shared further without the express permission of the Parole Board.
5. Where the Parole Board makes a direction to release a prisoner, and that decision becomes final, the decision is binding on the Secretary of State who must give effect to it (subject to an opportunity to challenge the decision e.g for example by making an application for reconsideration or for the final decision to be set aside under the Rules).
6. Categorisation decisions are a matter for the Secretary of State, who may, but is not obliged to, seek advice from the Parole Board in indeterminate sentenced prisoner’s cases. Categorisation decisions for determinate sentenced prisoners are a matter for the Prison Governor.
7. The Crime (Sentences) Act 1997 and the Criminal Justice Act 2003 require that the Secretary of State must refer an indeterminate sentenced (Life and IPP) and extended determinate sentenced (EDS) prisoner’s case to the Parole Board at least every two years, and every 12 months for those serving determinate sentences.
8. The Criminal Justice Act 2003 requires that the Secretary of State must refer a recalled determinate sentenced prisoner’s case to the Parole Board at the end of the 28-calendar day period following return to custody (where they are not eligible for automatic release).

# Parties to Parole Proceedings

1. There are two parties to the proceedings: the Secretary of State for Justice and the prisoner. The Public Protection Casework Section (PPCS) represents the Secretary of State and acts on behalf of HMPPS. Communication with HMPPS witnesses will be sent via PPCS. However, for oral hearing witness availability and on the day urgent communications HMPPS witnesses can go directly to the Parole Board.

# Other Key Departments who provide information and reports for the Parole/Recall Process

1. The following departments in HMPPS provide information and reports for parole proceedings:
* HM Probation Service;
* HM Prison Service;
* Youth Justice Service[[5]](#footnote-6); and
* Other HMPPS Departments e.g. Psychology Services Group (including external psychologists commissioned by HMPPS)

# The role of the PPCS / Secretary of State

1. PPCS will formally refer the case with the information and reports required by the Schedule[[6]](#footnote-7) to the Rules, known as the dossier and will provide HMPPS information and reports that are subsequently directed by the Parole Board.
2. Prior to referral, PPCS will undertake a check[[7]](#footnote-8) of the information in the dossier to ensure all the mandatory information and reports are provided, and that the dossier complies with the Schedule to the Rules. In exceptional circumstances, where PPCS are unable to obtain all the mandatory information and reports, PPCS will provide a full explanation to the Parole Board.

13. Where there are allegations of further offending, PPCS will provide information in their possession at the point of referral, in accordance with guidance issued to staff in the Probation Service within the [Recall Review and Re-Release of Recalled Prisoners Policy Framework](https://www.gov.uk/government/publications/recall-review-and-re-release-of-recalled-prisoners).

14. PPCS is responsible for ensuring that HMPPS on behalf of the Secretary of State complies with directions made by the Chair of the Panel of Parole Board Members, wherever possible within directed timeframes. PPCS may make applications to vary or revoke directions on behalf of HMPPS.

15. PPCS will add the prisoner’s representations to the dossier where they are provided prior to referral to the Parole Board.

16. PPCS will provide a Secretary of State representative, at the discretion of the Secretary of State, to attend a hearing in line with the criteria set out in the [Generic Parole Process Policy Framework Section 5.6.19.](https://www.gov.uk/government/publications/generic-parole-process-policy-framework)

17. Upon receipt from the Victim Liaison Officer (VLO), PPCS will submit victim personal statements or requests for victim related licence conditions to the Parole Board, including the submission of non-disclosure applications, in a timely manner.

18. The Secretary of State has an executive power to re-release recalled extended sentence prisoners. PPCS will have full access to the dossier for the purposes of deciding whether to use executive powers to release a recalled determinate sentenced prisoner or whether to transfer an Indeterminate Sentenced prisoner to open conditions. Where PPCS exercise the executive powers to release during the parole process, PPCS will notify the Parole Board as soon as possible.

19. PPCS is responsible for adding any further Probation Service reports to, and recompiling, the dossier after the case has been referred to the Parole Board.

20. PPCS is responsible for considering requests from the Probation Service, YJS, Prisons or other HMPPS Departments (as defined at point 10) to withhold sensitive information from the prisoner and deciding whether to apply to the Parole Board for information or any report (“the material”) to be withheld from the prisoner, or from both the prisoner and their representative under the Rules. This applies to HMPPS reports/information and third-party information.

21. PPCS is not responsible for obtaining information or reports from third party witnesses directed by the Parole Board after referral (unless documents in accordance with the Schedule to the Rules are missing at the point of referral but will assist in very exceptional circumstances[[8]](#footnote-9). National Security Casework Team, PPCS will be responsible for obtaining information from third party witnesses in National Security Cases (Third Party Directions - Agreed Protocol 1st April 2021.)

22. While PPCS is not responsible for obtaining witness availability or issuing the timetable for Parole Board oral hearings they will assist in exceptional circumstances.

23. PPCS will set the timeframe between parole reviews but will take account of any advice within the previous Parole Board decision where the Parole Board decided that the statutory release test was not met.

24. Where the Parole Board issues a provisional release decision, PPCS is responsible for assessing if a case meets the criteria for reconsideration and, if so, applying to the Parole Board.

26. PPCS is responsible for assessing whether the case meets the criteria for the final Board decision to be set aside and, if so, applying to the Parole Board and providing supporting information, within the timeframes set by the Rules.

27. PPCS will ensure the VLOs are informed of the progress and outcome of applications for reconsideration and power to set aside made by either party to the proceedings or by the Parole Board chair.

28. PPCS may make such further lawful applications to the Parole Board, (e.g. in respect of licence conditions) as considered appropriate, in the period prior to giving effect to the Parole Board’s final direction for release.

29. Where the Parole Board direct the release of indeterminate prisoners and parole eligible determinate prisoners, PPCS is responsible for ensuring effective liaison with the Probation Service to satisfy themselves that the release arrangements will be in accordance with those agreed by the Parole Board for as soon as reasonably practicable.

# The Role of Prisons, Probation, YCS, other HMPPS Departments[[9]](#footnote-10) and YJS

30. Prisons, the Probation Service, YCS, other HMPPS Departments and YJS are responsible for providing information and reports required by the Schedule to the Rules (for parole eligible cases) and, in all cases, will provide any information and reports that is subsequently directed by the Parole Board, apart from third party information.

31. The Probation Service and YJS are responsible for providing information and reports required by the Schedule to the Rules to PPCS (for recall cases).

32. The Probation Service, YCS, Prisons, other HMPPS Departments and YJS are responsible for quality assuring their information and reports to the required standard prior to submitting it to PPCS.

33. In parole cases only[[10]](#footnote-11), upon receipt of the core dossier from PPCS, prisons are responsible for collating, quality checking and submitting prison information and reports (the dossier) to PPCS.

34. Upon formal referral of the Secretary of State’s information and reports to the Parole Board by PPCS, prisons will provide the prisoner (and their representative) with a copy of the dossier, and upon notification that additional documents have been added to the dossier.

35. Where directed by the Parole Board, the Probation Service and YJS are also responsible for quality assuring and providing their information and reports[[11]](#footnote-12) to PPCS, for inclusion in the dossier (for both parole and recall cases). In recall cases, where directed by the Parole Board the Prison is also responsible for quality assuring and providing their information and reports to PPCS, for inclusion in the dossier.

36. Where directed by the Parole Board, prisons are responsible for quality assuring and adding their information and reports directly into the dossier (for parole cases[[12]](#footnote-13)).

37. Other HMPPS Departments such as Psychology Services Group (as outlined in section 10) are responsible for quality assuring (as appropriate) and providing their information and reports to the prison, for inclusion in the dossier, as directed by the Parole Board.

38. The Probation Service, YCS, Prisons, other HMPPS Departments and YJS are responsible for ensuring that there are processes in place to ensure effective communication and the sharing of information in a timely manner when providing reports for the parole/recall process.

39. The Probation Service, YCS, Prisons, other HMPPS Departments and YJS are responsible for identifying and notifying PPCS of any information that may be sensitive and/or needs to be withheld from the prisoner[[13]](#footnote-14). Such information must only be provided to PPCS, in the first instance, and not directly to the Parole Board.

40. Prisons will assist unrepresented prisoners as appropriate, for example by signposting them to available legal advisors. This will not include the provision of legal advice to the prisoner or the provision of representation for a prisoner who lacks mental capacity to instruct their own representative.[[14]](#footnote-15)

41. The Probation Service, YCS, Prisons, other HMPPS Departments and YJS are responsible for explaining steps taken to verify information and reports that it has submitted.

42. Prisons are responsible for facilitating the arrangements[[15]](#footnote-16) for Oral Hearings listed at their establishment.

43. The Probation Service, YCS, Prisons, other HMPPS Departments and YJS witnesses will attend Parole Oral Hearings to provide information and reports to the Parole Board, where directed, and provide their availability direct to the Parole Board.

44. The VLO is responsible for supporting victims to produce a Victim Personal Statements (VPS) and providing the VPS to PPCS or requests for victim related licence conditions, and submitting non-disclosure requests as appropriate, direct to PPCS, in a timely manner.

 45. Prisons will provide the prisoner with a copy of the Parole Board decision within one working day of receipt.

46. Following receipt of a provisional or final decision from the Parole Board, any concerns relating to the decision must be made to PPCS and not **direct to the Parole Board**.

47. Where the Probation Service, YCS, Prison or YJS consider that a case meets the criteria for an application for reconsideration or an application to set aside, they are responsible for sharing this information with PPCS, in a timely manner.

48. The VLO will support victims with submitting a reconsideration request to PPCS for them to consider when determining whether there are grounds for a reconsideration application, should the victim/s wish to do so. Only a party to the proceedings can apply to the Parole Board for the case to be reconsidered.

49. The VLO will keep the victims informed of the progress and outcome of applications for reconsideration and for a final decision to set aside.

50. Where the Parole Board direct the release of determinate recalled prisoner, prisons, in conjunction with the Probation Service, are responsible for organising the release of the recalled prisoner as soon as is reasonably practicable.

51. The Probation Service is responsible for ensuring that the release arrangements of indeterminate and determinate prisoners (including those subject to recall) are in accordance with those agreed by the Parole Board as soon as reasonably practicable and in line with the risk management plan.

# The Role of the Parole Board

52. For all cases referred to the Parole Board, the Parole Board will appoint one or more members of the Parole Board to constitute a panel to consider whether or not the prisoner meets the statutory release test on the papers or to advise the Secretary of State on a prisoner’s suitability for open conditions. Where a panel are considering the matter on the papers, they will also consider whether the case should be directed to an oral hearing. Following consideration on the papers, or an oral hearing, will decide whether that the prisoner is suitable or unsuitable for release, or make a recommendation for open conditions (in certain cases).

53. From the point of referral by the Secretary of State and receipt of a dossier containing all the mandatory documents in accordance with the Schedule to the Rules, the Parole Board will be responsible for the conduct of the case (including the scheduling of an oral hearing where that is required).

54. The Parole Board will reject the dossier where the mandatory reports required by the Rules are not included and where sufficient explanation has not been provided to the Parole Board[[16]](#footnote-17). The Parole Board will notify PPCS where a dossier is rejected and the case will not be deemed to have been referred.

55. The Parole Board is responsible for obtaining representations from the prisoner (and/or their representative, if they have one). PPCS will invite the prisoner (and their representative) to make representations direct to the Parole Board when the case is referred to the Parole Board. Thereafter, the Parole Board will direct any further material from the prisoner or their representative that the panel deems necessary. The Parole Board may request representations directly from the prisoner (and/or their representative) for recall cases, post referral.

56. The Parole Board will escalate, via PPCS, witness attendance for HMPPS staff who refuse or fail to attend. The panel may ask PPCS to resolve issues of non- compliance.

57. The Parole Board is responsible for escalating, via PPCS, any issues of non- compliance regarding directions for information from HMPPS staff if the direction is overdue. Any monitoring or escalation prior to the due date is the responsibility of PPCS.

58. The Parole Board is responsible for directing third parties to provide information and/or attend as a witness at an oral hearing. The Parole Board will also pursue compliance with directions by those third parties[[17]](#footnote-18), assisted by PPCS only in exceptional circumstances where the Parole Board have exhausted all options as set out in the escalation agreement.

59. The Parole Board will make decisions on all non-disclosure applications made by the Secretary of State (including where applications are made on behalf of victims and third parties who have been directed to provide further material to the Parole Board). All non-disclosure applications will be dealt with in a timely manner in line with the Parole Board Rules. Any applications received outside of the timeframes must be accompanied by a request for an extension of time with reasons explaining the delay and setting out the case for an extension.

60. Where a direction is made under Rule 17 paragraph (5)(b) of the Rules to withhold material from a prisoner who does not have a representative, the Rules deem that the prisoner has made an appeal and the Parole Board will automatically consider it.

61. The Parole Board is responsible for adding any further directions, previous Parole Board decisions, prisoner information and reports or third-party information[[18]](#footnote-19) to the dossier after it has been submitted by the Secretary of State.

62. The Parole Board sets the timeframe for the review once referred and decides on any applications to alter the time frames in the Rules in accordance with Rule 9 of the Rules.

63. The Parole Board will make enquiries with PPCS where the dossier indicates that a Victim intends to submit a VPS and one has not been made available for consideration.

64. The Parole Board will consider applications from PPCS on behalf of the Secretary of State or the prisoner, to vary or revoke directions which must be submitted to the Parole Board using the Stakeholder Response Form.

65. The Parole Board will consider Secretary of State requests for licence conditions, including those from victims, and to vary licence conditions, where appropriate.

66. The Parole Board may, in certain circumstances, direct a case management conference to take place to discuss certain elements of a case, with a representative from both parties in attendance and, where required, other witnesses may be called to attend.

67. The Parole Board may advise the Secretary of State on what steps it assesses may be appropriate for the parties to take before the next referral of the case. Whilst the Secretary of State will take careful note of that advice, the final decision on the timing of the next referral and the sentence planning arrangements are for the Secretary of State.

68. The Parole Board can consider applications for the reconsideration of a provisional decision from the parties to the proceedings (Secretary of State and the prisoner (or their representative)). These applications must be received within 21 calendar days of the decision being issued unless the Parole Board alters the time limit where it is necessary to do so. .

69. The Parole Board will notify the other party when an application for reconsideration is made and provide an opportunity for the other party to submit representations. Responses must be received within seven calendar days unless the Parole Board alters the time limit where it is necessary to do so.

70. The Parole Board in exceptional cases may grant an in-time extension to enable an application from the Secretary of State or the prisoner (including from their representative) to be submitted or may reduce the 21-day reconsideration period to bring forward the point at which the decision becomes final. Any application to alter the 21-day provisional decision period (either to extend or reduce it, if not already directed at the oral hearing) should be submitted in good time to enable the Parole Board to request representations from the other party and make a decision promptly. The Parole Board will communicate agreed alterations to the provisional decision period to all parties.

71. The Parole Board will notify parties of the outcome of a reconsideration application and provide reasons for the decision. The Parole Board will direct how the case is to be dealt with if a reconsideration application is accepted.

72. The Parole Board will consider applications to set aside a final decision from the Secretary of State, or the prisoner (or their representative). The criteria and time limit for these applications are set out in the [Rules.](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1178898/generic-parole-process-pf.pdf)

73. The Parole Board can set aside a final decision on initiation by the Parole Board chair, which will be considered on the papers by a decision maker. Where an initiation is made, the Parole Board must notify both parties and serve any reasons in support of the initiation.

74. The Parole Board will notify the other party and request representations from them, where an application to set aside a final decision is made. Representations must be received within seven calendar days.

75. The Parole Board will notify parties of the outcome of the application for a final decision to be set aside application and provide reasons for the decision. The Parole Board will direct how the case is to be dealt with if the power to set aside application is accepted.

# The Role of Third Parties

76. A third party is any person or organisation other than the principal parties who are directed by the Parole Board to provide material. Their role is as follows:

* 1. To provide third party information and reports as directed; and
	2. To liaise directly with the Parole Board secretariat about such directions[[19]](#footnote-20); and
	3. For those authorised by the Secretary of State to do so under the Rules,

submit any non-disclosure applications directly to the Parole Board. Those third parties authorised to make applications can withdraw information in accordance with Rule 17.

77. Third-party representatives may be directed to attend an oral hearing to give evidence.

78. Third parties include, but is not limited to:

* 1. HMCTS (HM Courts & Tribunals Service)
	2. Crown Prosecution Service
	3. NHS providers
	4. Social Services, Local Authorities, Children’s Services, Housing Departments
	5. Mental Health providers
	6. Official solicitor
	7. Police
	8. Home Office/UKVI (United Kingdom Visas and Immigration)

79. Third parties are responsible for identifying and notifying PPCS of any information that may be sensitive for consideration of a non-disclosure application.

# Data

80. HMPPS and the Parole Board agree to share Management Information for the benefit of the process as a whole and continuous improvement, in line with the GDPR.

# Review

 81. This document will be subject to regular review by senior managers at the Parole Board and PPCS.

For further information, please refer to the [Parole Board Rules 2019](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/820983/The_Parole_Board_Rules_2019.pdf) and [Explanatory Memorandum](https://www.legislation.gov.uk/uksi/2019/1038/memorandum/contents).

**Name Martin Jones**

**Date 27th December 2023**

**Chief Executive of the Parole Board**

**Name Phil Copple**

**Date 22nd December 2023**

**Director General for Operations of HMPPS and on behalf of YCS**

For His Majesty’s Prison and Probation Service (which includes HM Prison Service, the Probation Service, The Public Protection Group and the Youth Custody Service).

**Name Stephanie Roberts-Bibby**

**Date 22nd December 2023**

**Chief Executive Officer of the Youth Justice Board**

For the Youth Justice Board

1. This protocol sets out the dossier compilation and referral process for parole and recall cases. The HMPPS policy for parole and recall cases are set out in the [Generic Parole Process Policy Framework](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1178898/generic-parole-process-pf.pdf) and the [Recall Review and Re-Release of Recalled Prisoner Policy Framework](https://justiceuk-my.sharepoint.com/personal/emma_thompson1_justice_gov_uk/Documents/Desktop). [↑](#footnote-ref-2)
2. Where the term ‘prisoner’ is used in this protocol on application it will also apply to children and young people participating in the Parole Process. [↑](#footnote-ref-3)
3. Youth Secure Settings have a legal duty to safeguard vulnerable children and young people held in their care, and this standard will be maintained in alignment to this protocol. [↑](#footnote-ref-4)
4. YJB does not have any formal line management over the YOTs/YJS, that responsibility sits with the relevant Local Authority who are responsible for the delivery of community services. [↑](#footnote-ref-5)
5. The mandatory actions in this protocol will apply to Youth Offender Institutions, Secure Training Centres and Secure Children’s Homes. Application of the protocol may require interpretation where the legislative framework or operating model is substantially different from a prison. [↑](#footnote-ref-6)
6. The Schedule to the Parole Board Rules 2019 (information and Reports for a Preference to the Board by the Secretary of State to determine the Initial Release of a Prisoner or to Determine the Re-Release of a Recalled Prisoner) is available via this [link](https://assets.publishing.service.gov.uk/media/5d39b5dd40f0b604e6814a8e/The_Parole_Board_Rules_2019.pdf). [↑](#footnote-ref-7)
7. When checking the dossier PPCS will ensure that all mandatory reports are provided, all reports are countersigned and relate to the correct offender. The assurance of the quality of reports within the dossier are the responsibility of the department charged with writing them. [↑](#footnote-ref-8)
8. The circumstances in which the Parole Board will seek assistance from PPCS will be set out in an ‘escalation agreement’. [↑](#footnote-ref-9)
9. HMPPS departments consist of those outlined at [*Other Key HMPPS Departments involved in the Parole/Recall Process*](#_Other_Key_HMPPS). It should also be noted that Secure Childrens Homes and Secure Training Centre do not have access to the Public Protection Unit Database. Therefore, Secure Childrens Homes and Secure Training Centre are responsible for providing reports to PPCS, who will compile the dossier on their behalf. [↑](#footnote-ref-10)
10. This does not include National Security Casework Cases. The collation of the core and full dossier are the responsibility of the National Security Casework Team in PPCS. [↑](#footnote-ref-11)
11. This includes third party directed information where the information and reports supplement and are intrinsic to the Risk Management Plan. [↑](#footnote-ref-12)
12. This does not include National Security Casework Cases. The collation of the core and full dossier are the responsibility of the National Security Casework Team in PPCS. [↑](#footnote-ref-13)
13. The full process for handling sensitive information is set out in the [Handling Sensitive Information Policy Framework.](https://www.gov.uk/government/publications/handling-sensitive-information-policy-framework) [↑](#footnote-ref-14)
14. As part of the mental capacity process set out in the Generic Parole Policy Framework, PPCS may request that the Prison and Probation take steps to help identify a suitable person to act as a litigation friend. [↑](#footnote-ref-15)
15. Full details are available in the [Parole Board Oral Hearing Administration and Attendance Policy Framework](https://www.gov.uk/government/publications/parole-board-oral-hearing-administration-and-attendance-policy-framework). [↑](#footnote-ref-16)
16. Where mandatory documents in accordance with the Schedule are unobtainable, PPCS will provide an explanation within the dossier. [↑](#footnote-ref-17)
17. National Security Casework Team, PPCS will be responsible for obtaining information from third party witnesses in National Security Cases (Third Party Directions - Agreed Protocol 1st April 2021.) [↑](#footnote-ref-18)
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