

# Guidance on Victims

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## Document History

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1.0	24.02.2020	This guidance was created as part of the Parole Board's project to launch fully revised and updated member guidance.

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## **Background and Framework**

- 1.1 This guidance provides information to members on the Parole Board's duties towards victims under the Code of Practice for Victims of Crime, October 2015 ('the Code'), outlines the organisational context and legislation, and summarises good practice. The document also highlights relevant material to assist members in applying their duties.
- 1.2 The Parole Board's duties towards victims are prescribed by legal requirements within the Code issued under Section 32 of the Domestic Violence, Crime and Victims Act 2004, which in turn observes the wider UK duties contained in Directive 2012/29/EU of the European Parliament and of the Council.
- 1.3 The ethos and values promoted by the Code are supported by the Code of Conduct for Parole Board Members.
- 1.4 The Code sets out rights for victims of crime and places obligations on organisations that provide services to victims of crime. The Parole Board is fully committed to fulfilling its duties to victims under the Code and to ensuring that victims are treated with respect and dignity.
- 1.5 For the purposes of the Code<sup>1</sup> a victim is a:
  - "...Person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence";<sup>2</sup>
  - "Close relative...of a person whose death was directly caused by a criminal offence".<sup>3</sup>

The Parole Board will interpret the meaning of the term on a case by case basis and will endeavour not to exclude individuals who have been significantly impacted by the behaviour of the prisoner under review.

- 1.6 Rule 27, Parole Board Rules 2019 ('the 2019 Rules') (summaries and disclosure) in particular provides victims and 'any other person' with a right to request a summary of the reasons for a panel's decision. The rule sets out that the Parole Board must produce a summary unless the Chair of the Parole Board considers that there are exceptional circumstances not to. Under Rule 27 (2) the Parole Board is not required to provide a summary if the request is made more than 6 months after the decision.
- 1.7 For the purposes of Rule 27, a victim is someone engaging with the National Probation Victim Contact Service, as defined in section 32 of the Domestic

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<sup>1</sup> Code of Practice for Victims of Crime (October 2015)

<sup>2</sup> "'Criminal offence' means an offence that is committed, or subject to criminal proceedings, in England and Wales" - Code of Practice for Victims of Crime (October 2015).

<sup>3</sup> The Code defines a close relative as, "the spouse, the partner, the relatives in direct line, the siblings and the dependants of the victim. Other family members, including guardians and carers, may be considered close relatives at the discretion of the service provider." - Code of Practice for Victims of Crime (October 2015).

Violence, Crime & Victims Act 2004 in respect of a prisoner who is party to Parole Board proceedings.

### **Role of the National Probation Service Victim Contact Service ('VCS')**

- 2.1 The victim is not a party to Parole Board proceedings. Accordingly, in most cases the Parole Board does not have direct contact with victims unless the victim attends an oral hearing. Communication is managed by the VCS through a Victim Liaison Officer ('VLO'), and communication with the Parole Board is usually via the Public Protection Casework Section ('PPCS') which is part of Her Majesty's Prison and Probation Service ('HMPPS').
- 2.2 The VCS was introduced in 2001 by the Criminal Justice and Courts Services Act 2000.
- 2.3 The VCS provides the mechanism by which victims can be updated on the prisoner's sentence and progression. It advises victims when a Victim Personal Statement ('VPS') may be submitted and the VLO is responsible for informing the victim about the VPS procedure, and helping them to submit it in a timely manner<sup>4</sup>.

### **Information Sharing**

- 3.1 HMPPS PSI 15/2016 and PI 14/2016 concern the handling of sensitive information, including material provided by victims for the purpose of Parole Board reviews. It sets out how Her Majesty's Prison & Probation Service ('HMPPS') will support and process the provision of a VPS and the handling of any information, including where non-disclosure is being requested.
- 3.2 It should be noted that the prisoner is not allowed to retain any disclosable VPS, even if this is contained within the dossier. After viewing the statement, the prisoner must return it to the Offender Management Unit in the prison ('OMU') for safe keeping.

### **Victim Eligibility and Entitlements**

- 4.1 Not all victims of crime are eligible to submit a VPS for consideration by the Parole Board. Under the Code in order to qualify victims must be engaged with the VCS.

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<sup>4</sup> Further details regarding the requirements and responsibilities of the Offender Manager (OM) and VLO under the VCS are detailed in Probation Instruction (PI 48/2014). This includes instructions for helping victims complete their statements, how they should be submitted to the Board, how to request to attend an oral hearing or seek to withhold all or part of a statement.  
<https://www.justice.gov.uk/downloads/offenders/probation-instructions/pi-48-2014-victim-contact-service-guidance-manual.doc>

- 4.2 To qualify for engagement with the VCS, individuals will be victims of a sexual and violent offence for which the prisoner is sentenced to 12 months or more in prison<sup>5</sup>. Such victims are entitled to make a VPS and are also eligible to submit a VPS following recall of offenders. Participants with the VCS must be given an opportunity to make a VPS if the prisoner is eligible to be considered for parole or a move to open prison.
- 4.3 Victims of crimes committed before the introduction of the VCS and who, but for the date of sentence, would otherwise have been eligible to receive support from the VCS, may engage retrospectively and can submit a VPS at a parole review.

Once engaged with the VCS, subject to certain requirements, a victim is entitled to:

- be informed by the National Probation Service ('NPS') if a Parole Board hearing is to take place;
- make representations about licence conditions to the Parole Board;
- be provided with an explanation if a licence condition they have requested is not included on the prisoner's release licence;
- have the VPS process explained to them by their VLO, including how it will be used by the Parole Board, and how it may be presented at an oral hearing;
- make a VPS which will be sent to the Parole Board;
- apply to attend an oral hearing to present their VPS in person.

### ***Victims Engaged on a Discretionary Basis with the VCS***

- 4.4 Occasionally, the NPS may use discretion to offer the VCS to victims who do not meet standard criteria. However, only exceptionally will it be appropriate for a victim, who has contact on a discretionary basis, to submit a VPS to the Parole Board, particularly if they are not the direct victim of the offence<sup>6</sup>.

### ***Multiple Victims***

- 4.5 The Parole Board can limit the number of victim statements but will only exercise this on rare occasions. For example, where several members of a murder victim's family wish to put forward separate personal statements, it may be appropriate to direct that one or two representative views are submitted. The Parole Board will aim to be sensitive to the needs and wishes of the victims.
- 4.6 If multiple statements are submitted from victims who are unrelated or unknown to each other, each VPS should be accepted.

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<sup>5</sup> Sections 35 and 45, Domestic Violence, Crime and Victims Act 2004.

<sup>6</sup> PI 03/2017 "Probation Victim Contact Service – non-statutory cases" was published in April 2017 and aims to ensure consistency of practice when considering discretionary contact for those who fall outside of the statutory definition.

## **Victim Personal Statements**

- 5.1 The purpose of a VPS is to explain how the crime has affected the victim. A VPS may have been put forward at trial, or may have been written specifically for the parole review.
- 5.2 The panel will always read the VPS submitted to them. Although there is not a specific timeframe mentioned in the 2019 Rules for the submission of the VPS, the VPS will need to be provided in time for the MCA assessment, and failing that within 8 weeks of the scheduled oral hearing (if the case is sent to an oral hearing). Whilst a VPS is not a mandatory document within parole dossiers, if one is received it will then be included as part of the official dossier submitted by the Secretary of State (unless is it subject to a non-disclosure).

### ***Writing the VPS***

- 5.3 A victim will be supported in preparing and submitting a VPS by a named VLO from the VCS.
- 5.4 The VPS is usually written by the victim themselves with guidance and support from the VLO. The VPS should be concise and normally not take more than about 10 minutes to read.
- 5.5 Occasionally, the VPS is written by another person on behalf of the victim and this is permissible, but where this happens, the Parole Board should be notified of the circumstances and given a brief reason for this (for example it is too distressing for the victim to write it themselves or they are a child/young person).

### ***Content of VPS***

- 5.6 The VPS should, as far as possible, describe only the impact of the offence on the victim, which may include physical, psychological, emotional, financial or any other kind of impact.
- 5.7 The VPS should provide the victim's views about:
  - the original impact of the offence when it was committed;
  - the lasting impact of the offence since it was committed; and
  - the impact that the prisoner's release would have, including on them, their family, their community, or those with close ties to them or their family.
- 5.8 The VPS may include information about the victim:
  - any physical, financial, emotional or psychological injury they have suffered and/or any treatment they have received as a result of the crime;
  - if they feel vulnerable or intimidated;
  - if they no longer feel safe;
  - the impact on their family;
  - how the quality of their life has changed on a day-to-day basis;
  - the on-going impact of the crime on their lives.

5.9 The VPS should not include:

- views on whether the prisoner should be released or transferred to open conditions (Parole Board decisions are based on risk and a victim is unlikely to have relevant up-to-date information about the risk the prisoner poses);
- direct or veiled threats to, or critical comments about the prisoner or the Parole Board;
- language that may be considered inappropriate or offensive.

5.10 Some victims may wish to supplement a VPS with photographs or other documents (for example certificates, poems or other memorabilia) as evidence of the impact the offence has had. Generally, such additional documentation, and particularly photographs are not encouraged because a panel will be limited in how it could use such material. However, panel members are asked to view such requests sensitively and avoid additional distress to the victim that refusal might bring (see 'Dealing with Inappropriate Content' at paragraphs 5.14-5.17 below).

5.11 Photographs or other documents/information that may compromise the dignity or the safety of the victim should not be accepted.

5.12 In September 2018, a Joint Agency Guide to the VPS was published, which sets out the VPS in more detail. The Parole Board signed up to this and it can be read here:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740196/joint-agency-guide-victim-personal-statement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740196/joint-agency-guide-victim-personal-statement.pdf)

5.13 It is important to note that VLOs can only advise and guide victims in writing a statement. Whilst efforts will be made by VLOs to encourage victims to remove inappropriate or irrelevant content, they cannot enforce this. If the victim insists on retaining such content, the VLO (and PPCS) cannot remove it. Any amendment to either the VPS or requests for licence conditions must be with the agreement of the victim.

### ***Dealing with Inappropriate Content***

5.14 Where possible, the Parole Board should accept a VPS as submitted, and in most cases the VLO will have advised the victim on best practice. However, in some cases it may be necessary to ask the victim to change or alter their VPS, as some of the content may be inappropriate or irrelevant.

5.15 Nevertheless, the panel chair can exercise discretion and may wish to balance the potential distress that inappropriate comments may cause to the prisoner against the potential distress to the victim of having to remove them.

5.16 The Parole Board is obliged to disregard any opinions expressed on whether the prisoner should be released. This should be explained to the victim by the VLO. Should such views be included, the panel can request that they be removed, or where this is likely to cause the victim undue distress, can allow them to remain but disregard them. If the latter course of action is taken, it



should be made explicit in the decision letter what has been disregarded, and what has been taken into account by the panel.

- 5.17 Members should bear in mind that requests to remove, or rewrite content, or not to read parts out at an oral hearing can cause anxiety and distress to the victim and so a clear explanation of the reason for the request should be made.

### ***Presenting the VPS***

- 5.18 Under the Code, the victim can choose to have the written statement placed before the panel for the panel members to read for themselves.

- 5.19 Additionally, where a case is being heard at an oral hearing, the victim may:

- request to be present and have the VPS read on their behalf;
- request to be present and read the VPS in person;
- request that someone else attends to read the VPS on their behalf;
- request to read the VPS via video-link/telephone-link (if available);
- request to pre-record the VPS on audio/video tape or DVD for it to be played to the panel (if facilities are available).

- 5.20 It is the responsibility of the VLO to arrange the pre-recording of the VPS. The recording can be video or audio (MP3) depending on the victim's wishes, and subject to the agreement of the panel.

The VLO also needs to confirm that the recording is an exact reading of the VPS (which the panel should have a copy of) and does not veer from the written document at all.

- 5.21 The way in which the VPS is presented is a personal decision for the victim, but subject to agreement by the Parole Board.

- 5.22 A victim attending an oral hearing at a prison establishment will always be supported by a Secretary of State Victim Support Representative ('VS Representative') on the day.

- 5.23 Where a victim is reading their statement via telephone-link or video-link, they will usually be supported by their appointed VLO on the day.

- 5.24 There must always be a written copy of the VPS, irrespective of whatever else might be agreed.

- 5.25 If a victim has decided to leave inappropriate statements in their VPS and attends an oral hearing to read their VPS, the panel chair may ask them, or anyone reading the VPS on their behalf, not to read the part deemed inappropriate. Panel chairs should be aware of the effect on the victim of being asked to remove part of the VPS on the day and be sensitive to this issue. It may be acceptable to allow the victim to read the statement as written without drawing too much attention to any contentious parts; as above, it should then be made clear in the written decision of the panel if information within the VPS has been disregarded by the panel.

### ***Taking account of the VPS***

- 5.26 Victims often ask what difference a VPS makes. This requires careful explanation to accurately convey the important, but subtle way, the VPS is used by the Parole Board panel, and to manage expectation and understanding.
- 5.27 The VPS does not directly link to the panel's decision on whether to direct the prisoner's release on licence or whether to recommend a transfer to an open prison. This is because the panel's focus is on assessment of the prisoner's current and future risk of serious harm to the public. That is not the focus of the VPS which is unlikely to present information relevant to the assessment of current risks.
- 5.28 However, any assessment of risk considers both the likelihood and the impact of potential, future events and the VPS provides the victim with an opportunity to explain in their own words how a crime has affected them. It can, therefore, provide useful context and information for the panel about the impact of the prisoner's actions on the victim.
- 5.29 The VPS may provide the panel with information relevant to questions it might wish to explore with the prisoner regarding, for example, the impact of their behaviour, their insight into their behaviour, their remorse, their empathy, and appropriate licence conditions. It may also give the panel further insight into the relevant offending and a better sense of the damage and harm caused by the crime, including its impact on the particular victim and/or their family.
- 5.30 Similarly, a VPS can assist the panel in understanding the nature and level of impact on a future victim if the relevant offence(s) occurred again.
- 5.31 The Parole Board can also take into account the VPS when considering victim-related licence conditions. The VPS can provide context and perspective to any requested licence conditions. The VPS can illustrate the level of anxiety and vulnerability of the victim, which in turn can allow reasonable and proportionate licence conditions to be set. The VPS can provide detail about the victim's routine, location, and the potential impact of coming into contact with the prisoner and can be used to describe licence conditions that will make them feel safer.

### ***A VPS which supports the prisoner***

- 5.32 There may be a situation where a victim is supportive of a prisoner within their statement. Whilst unusual, this is of course permitted. The arrangements for this are the same as for any other victim.
- 5.33 However, it is important to establish how victims who are supportive of prisoners will themselves be supported should they choose to attend oral hearings. PPCS may decide not to send a VS Representative for such cases, nevertheless, the victim may still need support in attending the prison.
- 5.34 The only additional consideration for a panel is to assure themselves that the victim is making their statement of their own free will and that there is no question of influence or control by the prisoner. This can be particularly tricky

where domestic abuse is involved or where there are multiple victims from within the family unit.

### **Member Case Assessment**

- 6.1 The first stage at which a request to submit/present a VPS may formally come to Parole Board notice is during the MCA stage when an initial decision is taken about a case. Whilst a case may be adjourned or deferred at MCA stage, the principal outcomes will be a decision (the release of the prisoner (depending on the type of sentence) to be directed or declined), or for the case to be sent to an oral hearing when it will be further reviewed by the panel chair at the panel chair direction ('PCD') stage.
- 6.2 VLOs are informed that a parole review is commencing at the same time as other agencies involved. Ideally, a VPS should be provided ahead of the case going for MCA. However, a VPS can be received at any point.
- 6.3 Information about dates or timing received at the MCA stage should be noted in the panel logistics section of the template so that it can be added to the listing notes on PPUD.
- 6.4 PPCS should ideally serve statements within four weeks of the dossier disclosure, providing an additional 28 days for the VPS to be submitted, which will ensure they are read at the MCA assessment stage. This coincides with the timeframe that a prisoner is given to provide written representations following the disclosure of the dossier. If compliance by day 28 is not possible, the Parole Board will do all it can to allow the statement to be submitted, as long as this does not unduly delay a review. This process must allow for handling of non-disclosure applications and any appeal.
- 6.5 The window for submission of a VPS in determinate sentence recall cases is narrower than for other types of cases and the MCA member is less likely to have notice of its submission.
- 6.6 The MCA member should check on the PAROM1 (for GPP cases) or Part B (in the case of recalls) to satisfy themselves that the Offender Manager has made contact with the VLO to seek the intentions of the victim in terms of submitting a VPS.
- 6.7 If a VPS is indicated but not available in the dossier, the MCA member should set directions seeking clarification if sending the case to an oral hearing (in order not to incur undue delay), or may wish to direct a short adjournment whilst the situation is checked.
- 6.8 If a paper decision is going to be issued, it is important to check the availability of a VPS as the victim must be provided with the opportunity to have their VPS read. Where a release decision is made on the papers, the VPS may indicate licence conditions requested by the victim that need to be considered.
- 6.9 There are standard directions on the MCA form to assist with seeking clarification about victim engagement.

- 6.10 If the victim does not intend to submit a VPS, an MCA member should not direct that one should be submitted.
- 6.11 If a VPS is submitted prior to MCA stage, the MCA member should consider:
- any request for non-disclosure;
  - if submitted, whether the VPS contains information that relates to risk.
  - if submitted, whether the VPS contains information that is inappropriate and needs to be removed from the VPS.
- 6.12 Many points that should be considered at MCA stage should also be considered at PCD stage and the checklist below is relevant to both stages. Due to the timing of procedures, it may not be possible to cover all the points in the checklist at MCA stage:
- Is a VPS included in the dossier and appropriately paginated?
  - If not, are there indications that any victim is planning to submit a VPS?
  - Is the victim or (unusually) another person writing it on their behalf, in which case has an explanation of the authorship been provided?
  - Are multiple victims planning to submit statements; is it appropriate to consider asking for a combined statement?
  - If already available, is the content of the VPS appropriate?
  - Does the VPS contain any new information related to risk; if so, is this information available elsewhere in the dossier?
  - Is non-disclosure requested (if yes, see guidance on non-disclosure for more information)?
  - Is the victim requesting permission to attend an oral hearing?
  - Are there any exceptional circumstances that suggest it would be inappropriate for the victim(s) to attend; does a provisional authorisation (given by a case manager) need to be revoked (and an explanation provided)?
  - Who is attending with the victim (e.g. VS Representative, VLO, family, friend).
  - Who will read out the VPS if it is to be presented at the oral hearing?
  - How will the statement be delivered (in person, by video-link, pre-recorded) and does appropriate technology need to be directed within the 'panel logistics' section of the directions form?
  - What licence conditions are requested?
  - Are there justifications for licence conditions, particularly exclusion zones; are exclusion zones relevant and proportionate and have detailed maps been supplied?
  - Does the victim wish the prisoner to be present during the reading of the VPS?
  - Does the prisoner wish to be present during the reading of the VPS?
  - Is the prisoner unrepresented?
  - Is anyone under 18 years of age involved/asking to attend.
  - Will members of the prisoner's family wish to attend?
  - Do all victims involved have the same view of the prisoner?
  - Are there any disputes between victims that will need them to be kept separate?

## **Requests to attend an Oral Hearing**

- 7.1 The Parole Board adopts a policy whereby there is a presumption that the victim can attend an oral hearing.
- 7.2 It is unlikely that a request for a victim to attend the hearing will be seen during the initial Member Case Assessment ('MCA') process. It is more likely the application will come in once an oral hearing has been directed.
- 7.3 If a request is received at the MCA stage, this should be clearly flagged in the narrative section of the MCA template together with an associated direction for provision of the VPS if it is not present. If a current VPS is available, the content should be checked, and any relevant directions should be made.
- 7.4 Requests for a victim to attend an oral hearing should be submitted on a Stakeholder Response Form and should be submitted to the Parole Board and the legal representative / prisoner by PPCS. Upon receiving a request, case managers will wait for five days for any response from the prisoner or legal representative, after which they will issue a confirmation that the victim can attend.
- 7.5 The confirmation issued by the case manager will include a caveat that on rare occasions it may be subsequently overturned by the panel chair. This will normally only be done if there are security or other considerations that make the victim's attendance untenable.
- 7.6 Careful consideration should be given as to whether it would be appropriate for an oral hearing to be conducted by video-link if the victim is likely to attend. The starting point may be not to do so, unless requests or circumstances dictate otherwise.
- 7.7 A victim may indicate a preference to read their VPS via remote means, either video-link or telephone link, or to prepare a pre-recorded reading. This must be highlighted to the panel chair.
- 7.8 Victims may request that family or friends accompany them for support (in addition to official support provided by a VLO and/or VS Representative). The presumption will be that this will be agreed where reasonable.
- 7.9 Where victim attendance (and any support) is agreed through the presumption process, the case manager will bring this to the panel chair's attention as early as possible; such attendance will only be declined with good reason. All attendees must be listed on the hearing timetable.
- 7.10 Victims who do not wish to read out their own statements may make requests about who they wish to read out their statement at an oral hearing. Such requests should be made in advance to the panel chair. It will usually be the VS Representative or a supporter of the victim. The VLO may attend but this is rare. Care must be taken to avoid a conflict of interest if another participant of the hearing reads out the VPS, particularly if they are linked to the prisoner. Where the above individuals are not available, an individual not connected to the parole hearing will usually be acceptable: for example, a keyworker or a member of the prison chaplaincy team, or someone from the Independent

Monitoring Board at the prison or the OMU. The Offender Supervisor may be suggested as the person reading out the VPS: but, as this official may be closely associated with the prisoner's supervision, all parties must be advised and confirm that they are content with such an arrangement.

- 7.11 If a victim requests to attend an oral hearing but the case is to be concluded on the papers, a short note should be sent by the panel chair to the case manager asking for the VLO to be informed that oral evidence will not be taken so that an adequate explanation may be provided to the victim.

### ***Dates to avoid or other requests***

- 7.12 Victims can provide sensitive dates to avoid for an oral hearing (birthdays, anniversaries of index offence etc), and may indicate whether a morning or afternoon hearing would be preferred. Where this information is received by the Parole Board ahead of scheduling, it will be considered. However, this information will need to be considered alongside other factors and, while all reasonable efforts will be made to accommodate issues raised, it may not always be possible to meet preferences expressed in the listing of cases.

### **Oral Hearings**

- 8.1 The panel chair should undertake the same consideration as the MCA member. Particularly, it is important to cross-check that a VPS has been received where the dossier indicates one is to be provided. If it appears to be missing, the panel chair will need to make enquiries.
- 8.2 Where the case is being heard at an oral hearing, the victim may:
- request to be present and read the VPS in person;
  - request to be present and have the VPS read on their behalf;
  - request that a specified person attends to read the VPS on their behalf;
  - request to read the VPS via video-link (if available);
  - request to pre-record the VPS for the panel (if facilities are available).
- 8.3 A request to attend an oral hearing in person to read out their statement, is presumed to be agreed if received in good time. This gives greater certainty and more time for the victim to prepare for the hearing and make appropriate practical arrangements. The VLO will need to ensure requests to attend are submitted at the earliest opportunity before the hearing date. The Panel Chair will need to issue a confirmation about attendance in PCD's when setting final directions for the oral hearing.
- 8.4 More than one victim may wish to present a VPS at an oral hearing.
- 8.5 If a victim is attending the hearing in person, they may apply to be accompanied by a supporter, such as a family member or friend. An application to attend may therefore be accompanied by at least two people's names.
- 8.6 There will always be either a VLO or VS Representative allocated to officially support the victim if reading their VPS out to a panel.

### ***Preparation ahead of the day***

- 8.7 It is the responsibility of the prison to accommodate victims and anyone there to support them, but it is very much in the interests of the victim(s) and also the proper running of the hearing, for the panel to receive the information indicated in the checklist questions. The VS Representative or VLO should have all the required details and is the best person to seek confirmation from.
- 8.8 If the victim requires any reasonable adjustments, it is the responsibility of the VLO/PPCS to provide the required information to the prison. It is the responsibility of the VS Representative to manage the arrangements on the actual day. However, the panel chair should check that everything is in place to avoid any delays on the day.

### ***Attendance of the Prisoner***

- 8.9 Victims can express their wishes on whether they want the prisoner to be present during the reading of the VPS and their preferences will be considered. However, the prisoner does not have to agree to the request and can make their own preferences known to the panel.
- 8.10 Where both the victim and prisoner are in agreement regarding attendance of the prisoner there is no issue.
- 8.11 However, where the victim wishes the prisoner to attend but the prisoner does not agree to this, the Parole Board will not direct their attendance. The panel cannot force the prisoner to be present. This is because trying to enforce the prisoner's attendance may impede the panel's assessment of risk as the prisoner may feel resentful or upset and therefore less open to providing honest answers to the panel's questions.
- 8.12 The attendance of the prisoner during the presentation of the VPS is a matter for the panel chair to decide. Where the victim does not want the prisoner to be present, but the prisoner wishes to attend, the panel chair may seek to negotiate an arrangement where the legal representative will attend but the prisoner will remain absent. Where the prisoner is adamant that they wish to attend then this must be conveyed back to the victim who will need to make a decision on whether to proceed, look at alternative arrangements, or decide not to attend. Exceptionally, the panel chair may direct that the prisoner does not attend. In making such a decision, the panel chair must be satisfied that such an exclusion will not impact on the principle of fairness to the prisoner; that it will not adversely impact on the prisoner's ability to make representations to the panel and will not, unless a decision to withhold information has been made and the prisoner has had the opportunity to challenge that decision, prevent the prisoner being made aware of information that might influence the panel's assessment of risk. Such an exclusion might be considered, subject to the above, in circumstances where, for example, failure to enable the victim to present their statement to the panel in person would have a significant detrimental impact upon the victim, and allowing the victim and the prisoner to come into contact with one another would adversely effect the health or welfare of either party. Where an unrepresented prisoner

is excluded, it may be possible to identify a neutral observer whose presence might reassure the prisoner on the conduct of the proceedings.

- 8.13 In all cases where the prisoner is represented and is not present during the presentation of the VPS, the legal representative will be in the hearing room.
- 8.14 Where the prisoner is unrepresented and does not want to be present whilst the VPS is read out, a member of prison staff may be present to reassure the prisoner that procedures are fair. The prisoner will most likely have seen the VPS, but the panel chair should check with the prisoner that this is the case.

### ***On the day of the hearing***

- 8.15 The normal practice should be for the victim attending in person to read the statement to the panel at the start of the hearing and ahead of official proceedings.
- 8.16 However, on occasion it may require alternative arrangements to be put in place to meet logistical needs. For example, where there may be security issues with multiple attendees from one family who have differing views of the prisoner.
- 8.17 The panel chair will want to consider whether witnesses should be present when the VPS is being read. It may be preferable for the panel chair to restrict the number of people in the room.
- 8.18 Whatever the victim's or the prisoner's wishes, it is at the panel chair's discretion when to take the reading of the VPS and who will be present.

### ***Setting up***

- 8.19 Arrangements for the victim to be met, escorted and kept apart from the prisoner whilst attending the prison are the responsibility of the VS Representative. However, panel chairs should check on arrival at the prison that arrangements have been made to accommodate the victim, the VS Representative, and any supporters.
- 8.20 HMPPS are responsible for providing facilities for playing a pre-recorded VPS and for using the video-link or telephone link and the prison will need to make sure everything is working and ready.
- 8.21 If the video-link is to be used, it is advisable for the panel chair to initiate checks that both the panel and someone in the victim's position can be seen and heard on the video-link before it goes live. The panel must be visible and audible before the victim arrives in the video-link room. The aim is that panel members directly observe the victim by looking into the video-link camera (even if this is set above or to one side of the screen). Preparations may involve prison staff in the hearing room and the VLO or another person in the remote video-link room having a "run through" before the victim arrives. Technical problems, delays or undue commotion can exacerbate a victim's anxiety and distress.



8.22 In terms of room layout, the panel chair will need to decide on a seating plan that ensures maximum distance between the victim and the prisoner and an easy exit for the victim, perhaps sitting closest to the door. The panel chair should request that tissues and water are placed near the victim and their supporter(s). There may also be health and safety or security issues to consider and the risk of an untoward incident, especially if family members of the prisoner are attending the hearing as supporters/observers.

### ***Engagement with the Victim***

8.23 The reading of a VPS can be very distressing for victims, causing them to revisit the trauma of the crime. Victims must be informed how their statements will be considered by the Parole Board. Attending a prison or using video-link is a daunting prospect for a victim and the possibility of facing the prisoner can be very stressful. The experience can trigger memories and responses associated with the crime as though it has just happened. Dealing with victims in a sensitive and understanding way can help alleviate some of these anxieties and reactions.

8.24 If the victim is attending the hearing in person, the panel chair should introduce him or herself to the victim before the hearing to help put the victim at ease. The panel chair should briefly introduce themselves to the victims and their supporters in the waiting area, thank them for coming and acknowledge the prison environment may be daunting.

8.25 The panel chair should explain:

- their role as panel chair and the role of co-panellists;
- who will be in the hearing room and their roles;
- whether the prisoner will be present in the room;
- who will read the statement if the victim finds it difficult;
- the arrival of other parties (check whether the victim prefers to arrive before or after others, including the prisoner).

8.26 The panel chair should also outline what will happen at the hearing:

- that they will let the victim know when to read the VPS;
- that as much time as necessary can be taken to read the statement;
- that pauses are acceptable;
- that no questions will be asked;
- that the victim will not stay for the duration of the hearing;
- that nothing can be added beyond what is contained in the VPS.

8.27 If possible, the panel chair should offer the victim an opportunity to see the hearing room and ask the victim's preferences about where to sit, taking into account possible eye contact with the prisoner (and the benefits of not directly facing the prisoner).

8.28 Even if repeating information given by the VLO or VS Representative, explaining what will happen at the hearing will have value as people sometimes forget information when anxious. Also, a friendly approach between victim and the panel chair will encourage trust and reassurance. The purpose is to help put the victim at ease as much as possible.

- 8.29 The panel chair should ensure the legal representative is kept informed of their contact with the victim to avoid any perception of unfairness arising. In some cases, it may be helpful if the legal representative is also present, but this will need to be assessed on a case by case basis.
- 8.30 In opening the hearing, the panel chair should thank the victim for attending. Introduce all parties and the reason for their attendance. Acknowledge it may not have been an easy decision to write a VPS and attend the prison (or use the video-link) to participate. This may mean repeating what was said in the introductory meeting.
- 8.31 The panel chair should briefly explain the purpose of the hearing and the VPS: although the panel's main purpose is to assess the risk of the prisoner committing serious harm if released, the VPS is important because it helps provide context for what happened, makes clear how the crime has affected the victim's life (or their family), and why it has been requested that the prisoner should not live or travel in certain areas, or make contact with certain people. Also, a VPS can prompt discussions with the prisoner about insight and understanding about the impact on the victims. The panel chair should emphasise that the VPS has been read by the panel in advance and reiterate that the panel will not ask questions but will listen carefully to the statement.

### ***Reading of the VPS***

- 8.32 When everyone is settled invite the victim to read their statement. The victim must stick to reading only the submitted content of the VPS and not add anything beyond the written statement.
- 8.33 Where a direction has been made to remove inappropriate wording from a statement, only the redacted version should be read out. The VLO or VS Representative should have explained this beforehand and encouraged the victim not to add such material to the VPS. If a victim wishes to retain such content and to attend the oral hearing to read the VPS, the panel chair may ask for that part of the statement not to be read out. Panel chairs should be sensitive to the possible effects on the victim of being asked to remove parts of the VPS on the day. Under these circumstances, it may be appropriate to let the victim read the statement without drawing attention to contentious parts, and the panel should make it clear at the oral hearing and in the decision letter that they have disregarded such comments.
- 8.34 Victim participation can be a difficult and emotionally upsetting experience, so panel members should aim not to interrupt while a victim is delivering the statement. However, if the victim adds content to the statement which is offensive, potentially inflammatory or prejudicial, the panel chair may intervene and ask the victim to return to the prepared VPS.
- 8.35 The victim should not be questioned about the statement or asked to elaborate on any point.
- 8.36 After the statement has been read, leave a short pause and then thank the victim. Acknowledge again that it may not have been easy to participate and may have taken courage and determination. You might repeat what you said

previously about the purpose of the VPS and how it helps contribute to the panel's understanding and context. Let the victim know what happens next in the hearing and of the timescales for Parole Board decision letters.

- 8.37 Do not be tempted to provide the victim with additional information that you think they should be made aware of. If a situation arises where enlightening the victim on a point or development would seem helpful, please pass this information to the VLO or VS Representative who will inform the victim appropriately.
- 8.38 A prisoner should not be given the opportunity to reply following the reading of the statement but can of course refer to the VPS in their own representations, both in writing and at the oral hearing.
- 8.39 Once the statement has been read out and the panel chair has responded, the victim and supporters are asked to leave. The panel will then commence with the formal proceedings.

### ***Adjournment/deferral***

- 8.40 If a victim is due to attend but the case is not after all progressing to oral hearing, for example if you decide to conclude on the papers (or the prisoner is executively released, or transferred under the Mental Health Act, a short note should be sent to the case manager asking them to provide the VLO (through PPCS) with an explanation that an oral hearing will not be taking place. This is particularly important if the case is concluded on the papers by the Parole Board as the victim will be disappointed, and possibly angry.
- 8.41 If deferring or adjourning in advance of the oral hearing, please ensure reference is made to informing the victims in your notice.
- 8.42 If the case is deferred or adjourned on the day, consideration should be given to whether the victim can go ahead and read out their statement or needs to attend the reconvened hearing. Clearly, it is not ordinarily appropriate for the victim to read the statement to the panel if the case is deferred as it will be a new panel considering the case. However, the victim may be content that the Parole Board has heard them and not wish to come back again. The victim should be offered a preference and, where possible, have this agreed. The final decision will rest with the panel chair. Attending a parole hearing more than once adds a financial burden for the victim (although travel costs can be claimed) as well as an emotional demand and this should be taken into consideration when rearranging the hearing. It may be preferable for the victim to read out the VPS by video-link the second time. In any case, there should not be a need to issue a new VPS. Where a deferral or adjournment is required, this may provoke additional anxiety to a victim and therefore rescheduling should be dealt with as speedily as possible.

### ***Information Related to Risk***

- 8.43 There will be occasions where victims have information that may relate to current risk (for example unwanted contact or communication from the prisoner). This information needs to be provided to those managing the

prisoner so that an assessment of its importance or impact on the level of risk can be fully considered.

- 8.44 In these instances, the information could be shared with the police, or, more usually, by providing the Offender Manager with the information, so that it can be verified and referred to in their report.
- 8.45 Occasionally such information can be submitted via a VLO Victim Contact Report ('VCR'). The information should not be included in a VPS.
- 8.46 If a VPS does contain new information potentially relevant to the prisoner's risk, the member may refer the matter back to the Secretary of State to consider and take up with the victim or relevant agency. This may result in the statement being redacted and the information provided to other agencies.
- 8.47 Where the information can be added or referenced elsewhere in the dossier, this usually provides a solution to any future difficulties, particularly if non-disclosure has been requested.
- 8.48 However, if the victim is the only source of the information, the panel will need to consider how they take account of it, and what weight to add to it.
- 8.49 Additionally, if a victim insists that such information remains in the VPS, PPCS should make reasonable efforts to substantiate it. A covering letter should be provided setting out what has been done to verify the information. This letter needs to provide the panel with enough assurances that sufficient investigation has been completed to ascertain the reliability, or not, of the information. If the information cannot be verified, this needs to be stated in the covering letter.

### ***Young victims***

- 8.50 In accordance with the Code, the Parole Board will accept statements from young victims and from their parents or guardians. A victim under 18 years of age will not normally be allowed to attend an oral hearing in person due to prison security restrictions. However, such a victim may choose to have the VPS placed before the panel for members to read; have the statement read out on their behalf; or read the statement via video-link or pre-record it. The parent or guardian of a victim under the age of 18 years may ask to attend the hearing on their behalf in order to read out the victim's VPS or a statement of their own.

### ***Decisions***

- 8.51 In the evidence section of reasons, it is important to state whether a VPS was seen and read by the panel. It can also be helpful, particularly for the provision of summary decisions, to briefly set out the panel's reaction, for example, that there has clearly been a long-lasting impact on the victim.
- 8.52 Where the victim read out their statement to the panel, something along the following lines could be added:

**“The panel also had the benefit of a victim personal statement presented by Mr/s Ps victim. This information assisted the panel in understanding the impact of Mr/s P’s offending.”**

8.53 Reference should also be made to whether the victim and any supporters attended the oral hearing. This provides assurance to the victim that the statement was valued by the panel, for example:

**“Prior to the start of formal proceedings, the victim attended the hearing/ appeared by video link and read their prepared Victim Personal Statement to the panel. You were present/not present during the reading of the statement. Also in attendance were...After the reading had concluded the victim and ...left the room.”**

8.54 Licence condition requests should be referenced in the risk management section of the decision.

8.55 It is extremely important that consideration of licence conditions and an explanation of why and what has been agreed should be in the decision letter. This is relied on in two key areas:

- To provide an explanation to the victim as to why conditions were set, and if any victim conditions were not accepted or varied (this information would be provided in a cover letter to the VLO when issuing a summary decision letter); and
- To provide duty members with crucial background information when considering variation requests that come in at a later date.

### ***After the oral hearing***

8.56 The Parole Board will reimburse reasonable expenses where a victim attended an oral hearing.

8.57 It will be the VLO who contacts the victim about the outcome. The full decision is not available to the victim.

8.58 Summary decisions are usually emailed or posted depending on the request from the victim. There will be a covering note that will provide additional context about the decision, including information about licence conditions.

8.59 Since spring 2016, the Parole Board Chief Executive has written to victims thanking them for attending and contributing to the hearing. A note is sent to the VLO with a request that it is passed to the victim on behalf of the Parole Board. If anything of note happens on the day, the panel chair should inform the secretariat through the case manager or communications team so that the notelet can be appropriately worded.

### **Complaints**

9.1 If a victim believes that the Parole Board has breached any of its duties under the Code or has a grievance about their treatment by the Parole Board, a formal complaint may be made. The Parole Board’s complaints policy is available on

its website. Procedures for handling complaints have been informed by the Victims' Commissioner's review of complaint handling, and good practice as defined by the Parliamentary & Health Service Ombudsman.

### **Key stakeholders/agencies involved**

#### ***Secretary of State Victim Support Representative***

- 10.1 There is organisational commitment from HMPPS to ensure that a VS Representative is present whenever a victim attends an oral hearing to read out a VPS.
- 10.2 The VS Representative will make contact with the victim via the VLO prior to the hearing to introduce themselves, usually by telephone. The VS Representative will make all necessary logistical arrangements with the prison. They will meet the victim at the prison prior to the start of the hearing. The victim will be briefed on the process and be supported throughout the reading of the statement. The representative will usually take over if the victim is too distressed to continue. After the reading of the VPS, the representative will spend time with the victim outside the hearing room to provide debriefing and any necessary support.
- 10.3 The VS Representative will also be able to advise a panel chair on issues, queries or problems that may arise where victims are attending oral hearings.
- 10.4 It should be remembered that the day of the hearing may be the first time the victim has actually met the VS Representative, although there will have been earlier telephone conversations.

#### ***Victim Liaison Officer***

- 10.5 VLOs are part of the National Probation Service and are responsible for supporting those victims signed up to the VCS for all aspects following the trial.
- 10.6 VLOs will support the victim in writing a VPS, submitting a VPS and will provide the victim with the outcome of a parole hearing.
- 10.7 The VLO will not usually attend the prison but will liaise with the VS Representative concerning support for the victim. However, there may be exceptional cases where the VLO has built a close supportive relationship with a victim who wishes the VLO to accompany them to the prison. Attendance in such cases will be exceptionally agreed by the NPS, if it would make a difference to the victim attending.
- 10.8 For any victim presenting a VPS via video-link, telephone or having pre-recorded it, the VLO will ordinarily support the victim and a VS Representative will not be involved. The VLO will usually be present at the location where the victim will be reading their statement via video link or telephone link.

### **HMPPS Victims Team**

- 10.9 The HMPPS Victims Team provides support and guidance to VLOs on all issues relating to the provision of the VCS.
- 10.10 The Parole Board will liaise with this team to identify solutions to specific victim issues with cases and to look at improving services to victims and processes where both the Parole Board and HMPPS have a role.

### **Other Teams**

- 10.11 The Parole Board works actively with the Ministry of Justice on victim policies and cooperates with HMPPS, victim interest groups and the Victims' Commissioner on a number of initiatives. These include developing training and guidance for the probation service, adopting a shared approach to implementing the Victims' Commissioner's recommendations, and embracing training programmes from victims' groups. The Parole Board is also contributing to the review of the Code (summer 2019).

### **Further Reading**

- 11.1 Parole Board information booklet for victims  
[www.victimsupport.org.uk](http://www.victimsupport.org.uk)  
[www.victimsinformatinservice.org.uk](http://www.victimsinformatinservice.org.uk)  
The information on the Parole Board's website, including a video of the victim's guide to parole:  
<https://www.gov.uk/guidance/the-parole-boards-commitment-to-victims-of-crime>