

# Frequently Asked Questions: Interim Covid-19 Guidance

January 2022 (v0.1)

## Document History

<b>Document version</b>	<b>Date of Issue</b>	<b>Revision description</b>
0.1	31 <sup>st</sup> January 2022	This guidance was created to replace the Covid-19 Member Guidance (October 2020).

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**Q: What has happened to the 'Interim Covid Guidance'?**

**A:** The Parole Board has been working to an exceptional delivery model since the beginning of the pandemic. During this time, we quickly transformed our ways of working and adapted our guidance and processes to progress cases. Following this, we have learnt to adapt to new ways of working and our guidance has been updated to reflect these changes.

To reflect these adaptations, we have replaced the Covid Guidance (issued October 2020) with this FAQ document containing updated guidance and information.

**Paused Policies**

**Q: Are the policies that were paused in light of Covid restrictions still on hold?**

**A:** Yes, the policies set out below were paused in March 2020 to provide the Board with greater flexibility to progress cases swiftly and fairly, in light of the Government's Covid-19 advice and the restrictions placed on the prison estate.

The review of these policies has started and an update of these will be shared in due course.

- Automatic granting of an oral hearing, if the prisoner cannot be released on the papers, for prisoners who are under the age of 18 at the point of referral (child cases). Please refer to the section on [Children](#) for more information.
- Automatic granting of an oral hearing, if the prisoner cannot be released on the papers, for prisoners within a secure hospital or mental health setting or it is their first review after having been in a mental health unit or secure mental health setting. Please refer to *Parole Board Guidance on Restricted Patients and the Mental Health Act* for more information.
- Presumption of an oral hearing, if release cannot take place on the papers, for prisoners aged 18 – 21 (inclusive) at the point of their referral (young adult cases). For more information, please refer to the *Parole Board Guidance on Young Adults*.
- Recommendation for life sentence prisoners to progress to open conditions to be made on the papers, only in exceptional cases.
- The initial release of a life sentence prisoner should only take place following an oral hearing.

Should you have any questions regarding these paused policies please contact the Legal and Practice inbox.

## **MCA Decisions**

### **Q: What is the current position in determinate recall cases with an upcoming SED?**

**A:** Guidance was issued in the interim Covid guidance for MCA Members to consider concluding a case on the papers if a determinate sentenced prisoner is 16 weeks prior to their SED. This has now reverted to the previous working practices of 12 weeks prior to their SED.

### **Q: Should the case be concluded on the papers if there are ongoing criminal investigations or proceedings that are unlikely to be resolved in the next 8 weeks?**

**A:** It may be appropriate to decide the case on the papers as it is unlikely that the criminal investigations or proceedings will be concluded in that time. In such a case, setting extended adjournments or deferrals will not give the prisoner a speedy review of their detention, and so the member should try and conclude the review speedily and on the basis of the information that they do have (as further information is unlikely to be forthcoming soon). The Secretary of State can always make a further referral, if necessary, when investigations or proceedings have concluded. There may be exceptional cases where this approach is not appropriate, and if the member thinks that is the case, they should set out the reasoning for this.

## **Children (under 18 years of age)<sup>1</sup>**

### **Q: Is the following policy still paused: *Automatic granting of an oral hearing, if the prisoner cannot be released on the papers, for prisoners who are under the age of 18 at the point of referral?***

**A:** As mentioned above, this policy remains paused, but the underlying principles still apply.

An oral hearing of some form (telephone, video, or face to face) may still be a better option than a paper review, even if it results in a negative decision. An oral hearing provides focus for the child to engage more fully in their review and can assist HMPPS in developing risk management and release plans, as well as engaging third-party providers.

Members can conclude the case on papers with a negative decision after considering the guidance set out below and any representations, if there are compelling circumstances that point to it being the best option.

### **Q: What format of oral hearing proceedings is most appropriate for a child?**

**A:** It is essential to ensure that the child can participate effectively in the review, whether on the papers or by way of an oral hearing.

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<sup>1</sup> The Parole Board Guidance on Children is being developed

Where an oral hearing is deemed necessary, consideration will need to be given to the most appropriate format for proceedings. An assessment of the child's ability to participate in the hearing, and in particular the mode of the hearing, will be important. Members will need to consider whether the child is able to contribute and follow proceedings if held as a telephone hearing, or whether a video hearing would be more suitable and easier for the child, or whether the case would need a face to face or hybrid hearing. Opting for the arrangement that will best suit the needs of the child will be an important consideration.

There will need to be a balancing act against the time needed to schedule the most suitable hearing arrangements against the capacity of the child to contribute and have a fair hearing. A telephone hearing may provide a swifter option than a video hearing, which in turn will be much quicker than waiting for a face-to-face hearing. Members will need to reflect on any delay each of these options will involve (and its effect on the child and process), and the rights of the child to a speedy review.

Some of the steps below may support a viable remote hearing, where it is deemed suitable to proceed, for the:

- Children in the care system will have an allocated care worker (Social Worker or Leaving Care worker) and a Leaving Care Pathway Plan in place; it may be helpful if they can attend any oral hearing
- Check whether the child has a communication passport, seek tips from professionals who work with the child as to their communication and learning style/needs
- Allow the legal representative to lead the child's evidence which will assist to settle them: in exceptional cases, allow written evidence to be submitted as a starting point

Additional steps to consider are as referenced in the *Parole Board Guidance on Oral Hearings* in paragraph 5.14 onwards.

**Q: What style of questioning is most appropriate for a Child?**

**A:** Assistance on composing questions for vulnerable prisoners can be found on the Advocate's Gateway website <https://www.theadvocatesgateway.org/>.

**Q: What should panels consider if a Child is unrepresented?**

**A:** Representations (from the child/appropriate adult or, more likely, a lawyer) are likely to assist in determining how to proceed and so it is important to ensure every opportunity is given for them to be made. If the child is unrepresented, members should ask that the Secretariat contact the Association of Prison Lawyers so that they can make arrangements for a prison law firm to make contact with the child (or their guardian/appropriate adult) to seek appointment. This is facilitated by the Secretariat activating its process on unrepresented prisoners which is overseen by a Senior Operations Manager.

An adjournment with a minimum of 14 days is recommended to allow for a lawyer to be appointed and representations to be submitted.

## **Mental Health**<sup>2</sup>

**Q: Is the policy to direct an oral hearing in cases held within a mental health unit (MHU) or secure hospital setting (SHS), or first review following discharge if they cannot be released on the papers still paused?**

**A:** Yes, although the underlying principles continue to apply to ensure that prisoners (transferred as restricted patients) are not disadvantaged.

An oral hearing of some format (telephone, video, or face to face) may still be a better option than a paper review, even if it results in a negative decision. An oral hearing provides focus for the restricted patient to engage more fully in their review and can assist HMPPS in developing risk management and release plans, as well as engaging third-party providers.

After seeking representations, members can still conclude the case with a negative paper decision if there are compelling circumstances that point to it being the best option.

**Q: What considerations should members apply to cases that have recently been discharged by a Mental Health Tribunal (MHT), however continue to be held within an MHU or SHS?**<sup>3</sup>

**A:** Restricted patients who continue to be held within an SHS or MHU will have previously been notionally conditionally discharged by an MHT but will have been kept in the SHS or MHU, following concerns around the impact of a return to the prison estate, or if directions from the Board about their release and licence conditions are required.

The key aim with these cases is to ensure a speedy review. An MHT will have already notionally conditionally discharged the restricted patient from being detained under the Mental Health Act 1983 (MHA), and now it is for the Board to determine if the restricted patient can safely be released back into the community.

Any significant delay to concluding a review of a restricted patient in either an SHS or MHU could lead to:

- a deterioration in the mental health of the restricted patient and increased anxiety whilst awaiting a decision
- funding for a specialist community placement being potentially withdrawn and making new subsequent arrangements is likely to take much longer, leading to further delay
- increasing the pressure on the public purse by keeping restricted patients in expensive and limited specialist units longer than needed.

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<sup>2</sup> For more information, please refer to the *Parole Board Guidance on Restricted Patients and the Mental Health Act*.

<sup>3</sup> These cases are being managed within the Mental Health Streamlining Project Pilot – separate guidance is available about this.

**Q: What form of oral hearing is most suitable for restricted patient cases?**

**A:** Where an oral hearing is deemed necessary, consideration will need to be given to the most appropriate format for proceedings. An assessment of the restricted patient's ability to participate in the hearing, and in particular the mode of the hearing, will be important.

There will need to be a balancing act against the time needed to schedule the most suitable hearing arrangements against the capacity of the restricted patient to contribute and have a fair hearing. Seeking views from both parties about this will assist, and particularly the Responsible Clinician.

MHTs have been conducted remotely throughout the pandemic where a restricted patient seeks to challenge the grounds for his or her detention under the MHA. As such, the MHT administration has supported many establishments to facilitate such hearings. The situation should be fully explored before discounting proceeding as either a telephone or video hearing if the nature of the case does not in itself indicate a face-to-face hearing needs to take place.

**Q: What should be considered when convening a remote hearing for restricted patients?**

**A:** The following points may assist in convening a viable remote hearing, where it is deemed suitable:

- Allocate a longer time than usual for hearings of restricted patients
- Invite the Responsible Clinician to advise if there are any further matters the panel should take into account when ensuring the restricted patient can give their "best" evidence
- These cases usually have more witnesses and so planning the order of evidence taking and allowing sufficient time will be very important
- It may be more appropriate to ask the legal representative to lead with the restricted patient's evidence, which will assist to settle them; in extreme cases evidence could be submitted in writing as the starting point
- In some cases, it may be helpful to hear first from the restricted patient and allow them to leave the hearing if (having discussed this with the patient's representative) they wish to do so
- MHTs will usually hear from the Responsible Clinician/Medical Officer, a Social Worker, and a member of nursing staff. It is essential that the panel hears from at least these three individuals in most cases
- Consideration will need to be given as to whether other members of the care team, for example, the psychologist, will also be required to give first-hand oral evidence. However, in most cases the Responsible Clinician will have incorporated the views of the psychologist in their report to the MHT and the attendance of the psychologist may be superfluous
- Ask straight-forward questions in a logical manner
- Adjust the vocabulary used and the manner in which information is conveyed using plain language and avoiding jargon and legal terminology
- Break down questions into smaller sections, preparing the restricted patient for each stage of the communication
- Proceed slowly to allow the restricted patient to digest the question or request and have time to think about their response



- If the restricted patient appears confused or not to have understood something, then repeat the question or rephrase it and explain what you are asking
- Give the Responsible Clinician or other person supporting the restricted patient within the SHS or MHU time to intervene if they are becoming distressed or agitated
- Take regular breaks (bearing in mind concentration levels are likely to be shorter in remote hearings)
- Regularly check that the restricted patient is following proceedings, slowing the pace if necessary
- Ask at the end of the hearing if everyone is clear on what has taken place
- Invite the legal representative to submit a written closing statement, if appropriate

## **Victims<sup>4</sup>**

### **Q: Can victims read their Victim Personal Statements (VPS) at remote hearings?**

**A:** Yes, the Board adopts a policy whereby there is a presumption that victims can attend oral hearings to read out their VPS. However, further considerations need to be applied where the hearing is to be held remotely.

Victims can opt to:

- link into an MS Teams meeting and read out their VPS
- ask that a Secretary of State Victim Support Representative read the VPS on their behalf
- ask that a third party read the VPS on their behalf (someone from the prison ideally not connected to the case, for example someone from the OMU, a spiritual or religious guide etc)

Panel chairs will need to:

- confirm the date and time for the VPS to be read out
- confirm whether they will be happy to use MS Teams telephone or video

Who should be invited to attend:

- The panel
- The prisoner's representative (unless they have opted not to attend, after taking instruction from their client)
- Where a prisoner is unrepresented then someone from the prison should attend to provide reassurances that only the VPS was read out and no other discussion took place, save for the usual introductions
- A representative from the Secretary of State. In most cases a Secretary of State Victim Representative will attend to support the victim and will be the main point of contact with the case manager when making the arrangements)
- The victim\* and any agreed support person they may have with them

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<sup>4</sup> For more information, please refer to the *Parole Board Guidance on Victims*.

\* The victim may not be attending if they have elected for the SofS Victim Representative (or a third-party) to read the VPS out on their behalf.

No one else should participate (unless by agreement of the panel chair).

**Q: Can the prisoner be present during the reading of the VPS?**

**A:** In principle yes. However, for the reading of the VPS using remote technology, the prisoner is not ordinarily present unless the victim has requested they attend, and the prisoner has agreed. There may be occasions when a prisoner wishes to be present at the reading but this is against the wishes of the victim. When determining how to proceed in such circumstances, panel chairs may wish to bear in mind that going against the wishes of the victim may result in their withdrawal from the process and foregoing their entitlement to read their VPS.

As the VPS should have nothing relevant to risk within it and has no bearing on the assessment of risk it should not disadvantage the prisoner if they are not present for the reading. It should be remembered that the written VPS will have been seen by the prisoner (subject to any non-disclosure). In such circumstances, it would be usual for the legal representative to be present during the reading to provide assurances to the prisoner that only the reading of the VPS took place and nothing else was discussed save for the usual introductions etc.

If the VPS is subject to non-disclosure the prisoner cannot be present. In these instances, panel chairs should rely on Rule 24(8) which provides for the removal of any person present to leave the hearing where evidence which has been directed to be withheld from the prisoner or the prisoner and their representative under Rule 17 is to be considered. The prisoner does not have an absolute right to be present all the time. Other requirements, such as Rule 17, are also relevant. Again, it would be usual for the legal representative to be present, however in these instances they will be required to give the undertaking not to disclose the information to their client.

**Q: What role will the Secretary of State (SofS) Representative<sup>5</sup> have when a VPS is to be heard remotely?**

**A:** The SofS Victim Representative will support the victim throughout the process, as it can be quite traumatic. They will have contact with the victim and the Victim Liaison Officer (VLO) in advance of the hearing to explain and confirm the proceedings. They will check how the victim is feeling and ensure they are in a location where they cannot be interrupted or overheard. Should the victim feel they are unable to complete the reading, the SofS Representative can take over and will be present for the duration of the reading of the VPS. It should be noted that the SofS Representative will not usually be physically located with the victim and will provide support remotely.

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<sup>5</sup> The Secretary of State Representative is attending to support the victim and is not to be confused with the PPCS Secretary of State advocate.

**Q: When applying Rule 21 or 23 and concluding a case on the papers after a directing an Oral Hearing, should a VPS still be heard?**

**A:** There is no entitlement for a victim to read their VPS to a paper panel at the MCA stage. However, where a case was directed to oral hearing at the MCA stage, but subsequently is to be concluded on the papers using Rule 21 or 23, any request previously agreed should be honoured, where possible. The victim should still be offered the opportunity to read their VPS to the paper panel. A short MS Teams meeting can be set up for this (usually no more than 30 minutes) either on the day the paper decision is made or at any other time deemed suitable, but should be before the decision is issued. If this is not possible then it may be helpful to provide a note that can be given to the VLO so that the reasons can be explained to the victim.

**Observers**

**Q: Can observers attend hearings remotely?**

**A:** Yes, however the general principles and reasons for observers set out in sections two and three of the *Parole Board Observer Policy Guidance*<sup>6</sup> continue to apply.

Panel chairs should consider the rationale behind the request as a starting point. Where a request is felt to be appropriate (it does not necessarily need to be considered essential) it is then a matter of deciding whether the purpose of the observer's attendance can still be fulfilled if they are not physically in the room at the prison establishment.

This may be fairly straightforward where the observer is attending as part of professional training or development, as part of approved research, or other professional purposes. In these instances, the observer is likely to be able to gain a similar experience whether attending remotely or in person.

There are likely to be additional considerations when the observer is there to provide support to the prisoner. In these situations, panel chairs will need to consider whether the desired support can still effectively be provided remotely. Where the prisoner is legally represented, it may be helpful to seek views from both parties on how practical such remote attendance will be. The reasons the prisoner provides should be considered alongside these. The POM may also be well placed to give a view if they have regular interaction with the prisoner. For example, the following scenarios may still be appropriate:

- The prisoner is under 18 and knowing that a family member, Appropriate Adult, or friend is present may provide some assurances or comfort to them and encourage their effective engagement in the proceedings
- The prisoner is vulnerable and knowing that someone familiar and that they trust is present reduces their anxiety or distress

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<sup>6</sup> The Parole Board Observer Policy guidance is under review and will be revised in due course.

In such circumstances, observing via a video is probably more supportive than via telephone. Whether an observer attending via video should have their video camera on or off is to be decided by the panel chair depending on the purpose of the presence of the observer, the nature of the case, and the need to maintain the fairness of the proceedings.

Whilst the panel and witnesses may be attending remotely, consideration could be given to the observer attending the prison in person. The Prison Governor would need to make any final decision about this in terms of access to the prison. If arrangements prove difficult to put in place, and the observer's presence is regarded as essential, this might suggest the case is not suitable to proceed as a remote hearing.

The proceedings of the hearing should be as fair as possible and panel chairs should not unduly refuse requests for an observer unless security and privacy concerns appear to be significant and unmanageable.

It is important to remember that Rule 15 requires that hearings must be held in private. For hearings taking place remotely (by video or telephone) where an observer will be attending remotely, it may be difficult to ensure privacy of proceedings. The panel chair might state at the start of the hearing:

*"Under the Parole Board Rules 2019, these proceedings are to remain private and the names of the people taking part in it must not be disclosed. What this means is that you must not talk about anything you hear today with other people, and you must not pass on any names that you learn during this hearing. You should be aware that this is forbidden by law and action may be taken against anyone who does not comply with this, so please make sure that you do not pass on any information or names outside of these proceedings."*

Where the hearing is taking place via video, panel chairs will need to satisfy themselves, as far as possible, at the start of the hearing that:

- the observer is who they say they are (presenting original photographic evidence to the camera)
- they are alone (unless another authorised observer has been agreed)
- they are in a private location that cannot be overheard
- they are not digitally recording or making any other record or image of the proceedings (unless previously agreed by the panel chair)

Observers can be asked to provide written confirmation that they understand the restrictions that must be followed (see Annex 1 of the *Parole Board Oral Hearing guidance*).

If the hearing is taking place by telephone, panel chairs will need to consider whether the above points can be confirmed. It may be that a telephone hearing is unsuitable for an observer to attend.

Consideration could also be given to the observer joining from the same location as the legal representative (for observers supporting the prisoner) or from an

MoJ premises or the Parole Board office (for other observers) which may offer a more secure option.

More advice on dealing with applications and practical arrangements for observers attending oral hearings is set out in the *Parole Board Oral Hearing guidance* paragraphs 2.46 – 2.57 and annex 1, as well as the *Parole Board Observer Policy guidance*.

Panel chairs should seek advice from the Practice Advisor where a request to observe is received from a victim, member of the public, or the media/press. Policy on these categories of observers is currently under review<sup>7</sup>. The Board needs to ensure we are not seen, or perceived to be seen, to adopt measures that may be unlawfully restrictive, in terms of advice on the general public attending as observers, and circumstances for when the media/press might be permitted to observe.

### **Witnesses**

#### **Q: Can witnesses link into hearings from locations that do not include their office?**

**A:** Yes, however, panel chairs will need to remember that hearings must take place in private. Therefore, witnesses (who will be attending remotely) should be asked to confirm the following in writing (via the case manager):

- That they will be dialling in from a private location where their conversations cannot be over-heard, and any notes/laptops cannot be overseen.
- That their internet connection is stable and reliable.
- That they will not be in a location with an unreasonable risk of distractions, sensitive or personal information on display, or background noise.

An email could go to the witnesses (by the Parole Board Case Manager) as noted in Annex 1 of the *Parole Board Oral Hearing Guidance*.

### **Interpreters**

#### **Q: When an interpreter is required, are they to attend in person or remotely?**

**A:** On occasion it may be necessary for an interpreter to be directed to attend to translate the proceedings. The Board has published guidance on this which can be read here: *Parole Board Translations and Interpreters Guidance*.

The guidance (and HMPPS Policy Framework) is quite clear that it is usual practice for the interpreter to attend on a face-to-face basis (paragraph 6.4) and

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<sup>7</sup> The following sections of the Observer Policy have been suspended: Reasons for Observers - Section 3, relating to Media and Press; and Section 4 on Members of the Public. Any other references to media and press or members of the public throughout the policy are not currently being implemented.

it is not appropriate to rely on a telephone-based service for an interpreter at an oral hearing (paragraph 6.5).

However, it does go on to caveat this at paragraph 6.6:

*Whilst there is a requirement for a face-to-face interpreter within the Framework, there may be occasions where, with the agreement of the parties, interpreter services could be delivered remotely over the telephone or video-link. The MCA member or panel chair may have to take a decision on this following full appraisal of the evidence and submissions.*

As the majority of oral hearings are still held remotely, the frequency of requests for an interpreter to attend remotely is likely to increase. As mentioned above, a decision will need to be made on this following a review of the circumstances and after taking the views of both parties.

In particular, an assessment of whether the interpreter is able to do their job at the end of a telephone line is required. For interpreters joining by telephone should the link be lost there is no guarantee that the same interpreter will be available when the number is redialled. If this is felt to be unsuitable then panels can insist that one be physically present at the prison. This may require the SSJ to look for alternative options on commissioning the service.

## **Risk Management Plans**

### **Q: How are Approved Premises currently working in line with Covid restrictions?**

**A:** Due to increasing levels of Covid infections, all Approved Premises (APs) are currently working to an exceptional delivery model (EDM) which sets out three rated levels of delivery (red/amber/green). APs with outbreaks of Covid are managed at Red. These sites do not accept new residents during the outbreak and only allow visitors regarded as essential for public protection purposes. Green is the usual AP delivery model, with Amber being a mixed delivery model. For each level of delivery, security, staffing and drug/alcohol testing arrangements, remain in place together with single occupancy rooms. These restrictions can significantly reduce the capacity that is available in a specific AP.

### **Q: Are Approved Premises prioritising Parole cases?**

**A:** Allocation of AP bedspaces continues to be via a prioritisation framework. The priority rating for a case will be decided by the AP Management team. The Probation Service has confirmed that they expect most cases where the Parole Board is directing release will meet the requirements for priority one status (if it is essential that the individual has a placement in an AP for public protection, the protection of individuals or to avoid compromise to the risk management plan). Where that is not the case, they will look at these cases on an individual basis to try to accommodate them. Liaison will take place between

the community offender manager (COM) and HMPPS Public Protection Team to review status for other accommodation options/licence conditions.

**Q: How do I manage a case that requires an Approved Premises with a specific geographical location or regime?**

**A:** Whilst parole cases are a priority, the current restrictions mean that bedspaces might not be available in a specific AP within the required timescale. If an AP in a different area is proposed, panels may wish to explore with the COM what support networks and services are available within that location to support risk management and the offender's reintegration into the community. If alternative accommodation is put forward, panels should ascertain from the COM the suitability of the proposed accommodation and how the structured environment, support and supervision that would have been provided by an AP will now be achieved. Families are often cited as a protective factor when it is more accurate to say they are "supportive". This needs to be considered if accommodation with family members is being proposed. The impact on families of self-isolation and the additional pressure of the prisoner potentially living there on release also needs to be considered, including the needs and vulnerabilities of the prisoner and other residents in the proposed alternative accommodation.

If a panel cannot be assured that a risk management plan is viable, either as originally devised or amended with alternative arrangements, they will need to reflect on whether the test for release with its emphasis on public protection can be regarded as having been properly met.

**Q: How can Panels widen the likelihood of obtaining an Approved Premises placement when directing immediate release in recall cases?**

**A:** In recall cases where directing immediate release is an option (Life sentence recalls, IPP recalls, extended/determinate sentence recalls), panels may wish to consider directing immediate release to "a suitable AP". This may be appropriate to consider in cases where the structured environment, support and supervision of an AP is considered necessary to manage risk but residence at a specific AP due to its location or the services/regime it provides (for example, PIPE), is not considered necessary. Directing immediate release to a suitable AP provides the Probation Service with flexibility to find a suitable bed at the earliest opportunity. For extended/determinate recall cases, the panel still has the option of directing release at a future, fixed date where this is considered necessary for elements of a risk management plan to be put in place, including residence at a specific AP.

**Q: What is the escalation process when a prisoner has been waiting for an Approved Premises bedspace for a significant amount of time?**

**A:** Where there has been a significant delay in securing an AP bedspace, the Probation Service has an escalation process in place. The escalation route is from the COM to the regional AP Head of Public Protection and ultimately to the AP Head of Operations if the situation cannot be resolved. Panels should contact

the Parole Board case manager for assistance if they have a case that needs to be escalated.

**Q: How long do Approved Premises placements last?**

**A:** Where residence at an AP forms part of a risk management plan, the panel may wish to ask the COM to confirm whether the proposed period of occupancy is less than the standard 12 weeks, and what plans will be in place to manage the risk once the offender leaves the AP. The type of offence can increase the duration of AP placements (for example, terrorist risk offenders may reside in an AP for up to 12 months).

**Q: What other options are there when there is no move on accommodation?**

**A:** Where move on accommodation is a concern, panels may wish to ask the COM to confirm whether the homeless prevention team has been engaged to help secure suitable accommodation for an offender following a period at an Approved Premises.

**Q: What options do Panels have if there are concerns that a risk management plan may no longer be viable?**

**A:** Due to the impact of Covid, elements of a risk management plan may no longer be operationally viable in their current form. This may be due to lack of availability of AP space or probation staff to supervise an offender in the community, or to the closure of community drug/alcohol services or treatment programmes and mental health support services. Panels are encouraged to carefully investigate the impact the pandemic has had on the risk management plan.

If the panel is concerned that a risk management plan may no longer be operationally viable in its current form, it is open to the panel to direct a short adjournment of the case and direct the COM to confirm:

- what, if any, elements of the plan are not currently operationally viable
- what alternative risk management arrangements can be put in place to ensure management of the prisoner in the community will be robust and comprehensive.

Alternatively, a case conference could be held to discuss alternative risk management arrangements. This may be particularly useful if the assigned COM is not available or needs to discuss/identify possible alternative arrangements. However, it must be remembered that further evidence cannot be taken at a case conference.

If adjourning a case or during a case conference, the panel should not give an indication to the parties of the likely outcome or the panel's thinking in relation to the decision. To do so, could be interpreted as the panel having arrived at their decision.



When determining whether the test for release is met, panels are required to analyse the effectiveness of the actions designed to manage risk. This requires an evaluation of whether, if released, the risk presented by the prisoner is manageable under the proposed risk management plan.

If the panel cannot be assured that a risk management plan will be viable upon release, whether as originally devised or as amended with alternative arrangements, the panel will need to reflect on whether the test for release with its emphasis on public protection can be regarded as having been properly met.

## **Interventions<sup>8</sup>**

### **Q: Are accredited programmes still being delivered within prisons?**

**A:** HMPPS Intervention Services ('IS') have developed alternative delivery formats ('ADF') which allow accredited programmes to be delivered in alternative ways as opposed to face to face. The ADF has been endorsed by the Correctional Services Accreditation and Advice Panel (CSAAP). It was officially introduced into prisons on 24 July 2020. HMPPS Interventions Services provided an information sheet on the ADF in June 2020 that should be read in conjunction with the HMPPS addendum guidance produced in January 2022 noting the delivery options available and prisoner prioritisation.

Where it is safe, practical and in line with local and Public Health considerations, sites are able to deliver programmes in primary format; the ADF will also remain in place to assist with the current challenges of operational delivery. Members are advised to seek confirmation from the POM for establishment specific information regarding the stage they are working to, as referenced in the [Prisons](#) section below.

### **Q: Are accredited programmes still being delivered within the community?**

**A:** HMPPS Intervention Services ('IS') have developed alternative delivery formats ('ADF') which allow accredited programmes to be delivered in alternative ways as opposed to face to face. Panels may wish to ask the COM to confirm the level and type of contact that will be maintained with the offender should they be released from custody. HMPPS Interventions Services provided an information sheet on the ADF in June 2020 that should be read in conjunction with the HMPPS addendum guidance produced in January 2022 noting the delivery options available and prisoner prioritisation.

### **Q: What is the deadline for a Psychological Risk Assessment (PRA)?**

**A:** Due to the operational restrictions resulting from the Covid pandemic, the Covid-19 Guidance advised members to set a timeframe of 20 weeks for a psychological risk assessment rather than the usual 12 weeks. The Parole Board and HMPPS Psychology Services Group have been keeping the position under review and, as the restrictions have eased, data indicates that the average

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<sup>8</sup> Guidance on Interventions is currently under development.

timeframe for provision of a report is now between 13 and 14 weeks. However, Covid outbreaks within prisons and staff absences mean that, for some cases, provision of a report is taking significantly longer than this average. While we are not yet in a position to return to the 12 week timeframe, we are now in a position to take a step down approach towards this. From 1st February, members should set a timeframe of 16 weeks when directing a psychological risk assessment, recognising for some prisons access to prisoners remains challenging and the stakeholder response form will be used to indicate where this is not possible. We will continue to keep the data under review. The aim is to return to the business as usual position of 12 weeks at the beginning of April 2022, however this is dependent on operational circumstances at the time.

## **Prisons**

### **Q: How are prisons adapting to changing Covid restrictions?**

**A:** The position within prisons is being kept under review as individual establishments respond to changing numbers of suspected and confirmed cases of Covid. [The National Framework for Prisons](#) sets out 5 stages of recovery from (5) Complete Lockdown, (4) Lockdown, (3) Restrict, (2) Reduce, and (1) Prepare. Prisons will move up or down the stages in response to national or regional Covid-19 restrictions / tiers as well as localised outbreaks or spikes of infections in the prison. A mixture of national, regional and local government structures will be in place to tightly monitor progress and advise on the appropriate stage.

### **Q: Are prisoners able to transfer to other establishments?**

**A:** This is highly dependent on the stage the prison is operating within. Prisons are completing a testing phase that requires all newly transferred prisoners to enter prior to going into the main wing. This enables prison transfers to take place, however we are keeping the guidance as to whether prisoners are able to transfer under review as this can change at short notice.

### **Q: Is the Board still being asked to consider recommendations for Open Conditions for Indeterminate Sentence Prisoners?**

**A:** The ability for prisoners to move from closed to open conditions will depend on the stage the prisons are operating within. The Secretary of State continues to refer cases inviting the Board to consider a recommendation for open conditions if release is not directed. Members are to continue making such a recommendation to the Secretary of State; it is then the responsibility of the Secretary of State to determine the logistics of this move.

### **Q: Are prisons able to facilitate ROTLs?**

**A:** The ability to carry out ROTLs will depend on the stage (as above) the specific prison is operating in and what parts of the regime is available.

HMPPS recently issued Guidance on 'Alternatives to ROTL'. This details the other methods prisoners can improve and evidence their ability to self-manage, re-

integrate into a family environment, or build the work/life skills required in replace of ROTLs.