

# Review Committee

## Review of 2022/2023

### Overview:

In 2022/23 the Parole Board reviewed the risk of 15,103 prisoners. In total, 11,466 prisoners were refused release and 3,637 prisoners were released, giving a release rate of under one in four prisoners. When deciding whether to release a prisoner, or not, public protection is always a panel's primary concern.

Despite our very best efforts, our decisions cannot be risk free and each year some Serious Further Offences (SFO)<sup>1</sup> occur. The key criterion for the referral of an SFO to the Parole Board is that a prisoner released by the Parole Board or in open conditions following the recommendation of the Parole Board, has committed an SFO as defined by Schedule 15A 2003 Criminal Justice Act. SFOs can include murder, attempted murder, rape, aggravated burglary, kidnap and false imprisonment.

In 2022/23, 28 SFOs were referred to the Parole Board. This represents around 0.7% of release decisions. It should be noted that SFOs are referred to the Parole Board when a prisoner is charged. However, it may be that subsequently the charges are dropped, or lessened so that they no longer qualify as an SFO or the prisoner may be found not guilty. The SFO rate for convicted SFOs is therefore always lower than the number of cases originally referred to the Parole Board. For many years the Parole Board's SFO referral rate has been at or below 1% with the convicted SFO rate at or below 0.5%. However, no matter how few the numbers, if there has been an SFO, it is a tragedy that will affect the victims concerned, as well as the victims of the original crime and the Parole Board is determined to learn from every SFO.

The Review Committee's remit is to review the Parole Board panel's decision and written reasons, where a prisoner released on parole and on licence is recalled and charged with committing an SFO, or on very rare occasions, commits a serious further offence whilst in open conditions. The Review Committee forensically reviews the decision-making, the evidence that the members received, whether they could have asked different questions and whether there was anything more that could have been done that would have reduced the risk of the SFO. When reviewing a decision, the Review Committee is considering how the evidence was analysed, whether the correct test was applied, whether the decision-making

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<sup>1</sup> Serious Further Offences (SFOs) are qualifying violent or sexual offences listed in Schedule 15a to the Criminal Justice Act 2003, committed by individuals who are the subject of probation supervision. The full list of qualifying offences can be found here: [Annex A - Serious Further Offences qualifying list.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

framework was followed, whether the reasons are accurate, clear, analytics, evidence-based, risk focused and that the decision flows logically from the reasons. The Review Committee then assesses whether the decision to release the prisoner was a decision that most panels would have made, taking account of the information available to the panel at the time, and whether the reasons are satisfactory, taking account of the guidance issued to panels by the Board. The Review Committee also periodically considers lessons that can be learned from SFO referrals and this learning is disseminated to the Parole Board's c350 members.

During 2022/23, the Review Committee met four times and considered a total of 28 cases with a range of sentence types; 10 IPP prisoners, 12 extended sentence, 5 standard determinate sentence and 1 life sentence. 20 cases reviewed by the Review Committee were found to be decisions with reasons which most Parole Board panels would or may have made. 8 cases reviewed by the Committee were found to be decisions with reasons which most panels would have done differently.

The Review Committee seek to identify general learning from their review of cases and decisions. Examples of themes captured during 2022/23 are attached as an annex.

### **Membership:**

The Committee is chaired by a serving judicial member; HH Judge Anthony Bate, alongside Pamela Badley, Retired Judicial Member and Vice Chair; Sue Vivian-Byrne, Specialist Member; Steve Pepper and Jennie Sugden, Independent Members. Stephanie McIntosh, Director of Special Projects, is an executive member of the Committee and also an Independent Member of the Board.

There are three External Members who serve to provide challenge and external scrutiny of the process of review where SFOs have taken place. In October 2022 the Committee welcomed Rosamund Hamilton, a former senior director in the Probation Service, to its membership joining Dr Colin Campbell, Consultant forensic psychiatrist and Richard Walton former Head of Counter Terrorism at the Metropolitan Police.

The Committee is served by four Reviewers who prepare the cases for the Committee's consideration prior to the meeting. They are Lorraine Mosson-Jones, Specialist Member, Clare Mitchell, Angharad Davies and Rebecca Hunt, Independent Members.

All panels that have a case considered by the Review Committee receive a letter from the Chair or Vice Chair of the Committee explaining how the committee arrived at their grading and highlighting any areas of learning.

During the first quarter of 2022, an internal audit of the Review Committee's effectiveness, remit and structure was carried out. The auditors found that the Review Committee has sufficient skills, knowledge, and experience to undertake its role.

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working with others  
to protect the public

## Review Committee Learning Themes 2022/2023

The Review Committee meets four times a year to review decisions where the offender was charged with committing a Serious Further Offence (SFO) within three years of release or move to open conditions.

The following learning themes were highlighted at our last two Review Committee meetings on 14<sup>th</sup> December 2022 and 8<sup>th</sup> February 2023.



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## Remit

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- 1. Test for Release**
  - *Every reference to the statutory test for release must be quoted exactly. The test is quoted correctly on the front sheet of the Reasons template. If a panel wishes to repeat the test in the body of the text, they should use only that wording.*
  
- 2. Open Conditions**
  - *While panels are required to consider whether to direct release and only to consider a recommendation for open conditions if the test for release is not met, it is helpful for panels to comment on any consideration they have given to recommending open conditions, even where they decide the test for release is met.*
  - *If any witness is recommending open conditions, panels must explain how they weighed that into their decision-making.*
  - *Where a move to a specific establishment is mentioned in the Reasons, it is helpful to clarify the relevance of that move. For example, if it is an open prison, contributing to the prisoner's custodial journey and allowing further testing of their risk.*

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# Directions

### **3. Necessary information**

- *Panels are reminded to direct the reports that they consider are needed to make a full assessment of risk. Whilst the length of time a report may take and the resources involved in compiling it may be relevant, these should not be deciding factors in whether a report is required.*

### **4. Split decisions**

- *If a panel has a split decision it should not be referred to in the Reasons. Panels should refer to the Oral Hearings Guidance, section 6.17. No explicit reference to a majority decision must be made in the decision but the decision can be described as finely balanced.*
- *When two member panels cannot agree, and thus there is no majority, they should carefully consider whether further written or oral evidence may assist them, and if so, whether to adjourn to enable this to be obtained. This should be information currently available rather than requiring a lengthy adjournment.*

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# Directions Continued...

### **5. Psychology Reports and Assessments**

- *It is helpful when directing a psychological risk assessment to specify that the assessment should include an executive summary.*
- *The term "prisoner-commissioned psychologist", and not 'independent psychologist', is the correct way to describe psychologist witnesses who are not commissioned by HMPPS.*
- *Where it has been identified that the prisoner has a low IQ score or communication and learning difficulties, the panel may wish to direct a psychological risk assessment (PRA) to gain a better understanding of the link between psychological and/or mental health difficulties and risk.*
- *If a PRA has been done previously, an addendum can be directed. However, panels should bear in mind that it is not appropriate to direct an update to a report that is still within the valid timeframe of the risk assessment tools used unless there have been significant developments or the tools used in the assessment specify that they should be re-administered over a shorter timescale.*

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# Analysis of Offending

## **6. Prisoners Account**

- Panels should take a 'professionally critical' approach when testing the prisoner's account of their offending behaviour. The prisoner's account should be balanced with other available evidence and given appropriate weight.
- It is essential that the prisoner's views and accounts of their own offending behaviour and risks are analysed and if necessary, challenged. Panels should not accept self-reporting without further exploration and analysis.
- There should always be an independent account of the index offence(s), such as the Judge's Sentencing Remarks or a pre-sentence report.

## **7. Historical Issues**

- When analysing previous offending history, it may be necessary to explore an offence in more detail rather than just the 'type' of offence e.g. burglary, as this may highlight or contribute to understanding of risk.

## **8. Robbery/violence**

- The Committee noted a theme over several meetings that panels were at times not appearing to recognise violent offences such as robbery. It does not need to be aggravated robbery to be considered violent.

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# Analysis of Change

## **9. Custodial History**

- Panels are reminded to consider the prisoner's custodial history across the sentence; this is particularly helpful at the first review following determinate recall cases where the prisoner has been automatically released and the Parole Board will not have previously assessed their risk.
- Panels are entitled to direct a full copy of the previous convictions to inform their analysis where an incomplete list has been provided.
- Panels are reminded that behaviours in custody which resulted in restraint or barricading carry a related threat of violence. This is relevant in assessing risk and panels may wish to explore such incidents further.

## **10. Risk Assessments**

- A panel's risk assessment should take account of progress over the whole sentence to ensure the significance of more recent behaviour, such as when on licence, is assessed within the context of the whole offending history. This assists panels to identify parallels and patterns of behaviour and weigh them appropriately.

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# Analysis of Change Continued...

## **11. Gang Risk**

- *Panels should be alert to potential gang related activity and the implications of that. A workshop at the 2023 conference informed about strategies to manage gang risk, and the links between gangs in the community and gangs in prison. A recording is available from the Learning and Development Team.*
- *The name of a prisoner in custody is automatically taken off the London gang violence matrix, so their absence from the matrix is not an indicator of absence of gang involvement.*
- *It was further noted that police intelligence is often essential in gang related cases and can be very difficult to get. Access to information from the police will inform the panel's risk assessment and give the police the opportunity to comment on risk and risk management.*

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# Reasons

## **12. Cutting and Pasting**

- *Panels should refrain from extensive cutting and pasting from reports and previous decisions. The views and decisions of previous panels should not detract from or replace the panel's own independent analysis which is the basis of the content of the Reasons.*

## **13. Index Offences**

- *It is important to accurately record the index offence in the Reasons. It is also important to record the exact sentence type as there are multiple types of indeterminate sentences. An IPP sentence should be recorded as 'imprisonment for public protection.'*

## **14. Witnesses**

- *In the Reasons, refer to witnesses by their role in the body of the text. Their name and job title will be recorded on the front sheet. This adds clarity for the reader particularly in cases where there are multiple witnesses.*
- *Panels are entitled to assign weight to evidence from different witnesses and should detail this in the Reasons. However caution is advised where a witness's evidence is given little weight based solely on the fact that they have had little contact with the prisoner.*
- *Panels are entitled to disagree with opinions and recommendations from witnesses. However, where this is the case the Reasons should clearly set out why the panel took a different view and how this informed their overall decision.*

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# Reasons

## **15. Child Victims**

*Panels should refrain from referring to child victims by name in the Reasons. Generally the use of initials is a neutral way to identify persons who are not the parties or witnesses.*

## **16. Risk Factors**

- *If risk factors are given as a list in the Reasons, the panel needs to go on to give a full analysis of those risk factors. Any protective factors should also be identified and analysed.*

## **17. Risk Scores**

- *Set out the risk scores (Risk of Serious Recidivism (RSR), Offender General Reconviction Scale (OGRS), Offender Violence Prediction (OVP) and Offender General Prediction (OGP)) and the panel's own views on these scores.*

## **18. Conclusion**

- *The conclusion of the Reasons should read as a freestanding summation that balances the evidence for and against the test for release being met to demonstrate how the panel came to its decision. It is not good practice to refer to a matter for the first time in the conclusion when not previously addressed elsewhere in the Reasons.*