

# Observers at Private Parole Oral Hearings Member Guidance

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## Document History

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## 1 **Overview**

- 1.1 Under rule 14 of the *Parole Board Rules 2019 (as amended)* (“the Rules”), applications can be made for observers to attend a Parole Board private oral hearing (“the hearing”). Annex A contains an extract of the Rules.
- 1.2 There are two parties to parole hearings: the prisoner and the Secretary of State for Justice. The Rules set out the process for either one of the parties to apply for an observer to attend. The Rules also set out the process for any other person to apply to observe.
- 1.3 This guidance is intended to cover the range of circumstances where an application to observe a hearing is made. Applications are ordinarily considered by the oral hearing panel chair but may be put before a duty member, where appropriate. The guidance sets out the principles and factors that the panel chair (or duty member) may wish to consider in deciding whether to grant an application and provides advice on the process to be followed.
- 1.4 Separate guidance has been produced for circumstances where an application to observe a hearing has been received along with an application that the hearing be held in public, as provided for by rule 15. Applications for a hearing to be held in public are considered by the Chair of the Parole Board. If the Chair of the Parole Board determines that the hearing is to be held in public, (see section 12), the relevant panel chair will then consider the attendance of anyone who has registered to observe the public hearing.

## 2 **Principles for private parole oral hearings**

- 2.1 The following general principles apply for hearings that are held in private, in relation to observers.
- 2.2 Whilst the Parole Board is committed to transparency about its work, the Rules require that hearings are held in private, and matters discussed are confidential. Hearings are not routinely open to the public and only hearing participants and observers permitted by the panel chair may attend<sup>1</sup>.
- 2.3 This is set out in rule 15(3):  
  
*“15(3) An oral hearing (including a directions hearing or case management conference) must be held in private unless the Board chair considers, on their own initiative or on an application to the Board, that it is in the interests of justice for the oral hearing to be held in public.”*
- 2.4 Observers may be permitted to attend where it will assist for a professional purpose, or a purpose connected to the parole process. More information about this can be read in section four.

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<sup>1</sup> Subject to any request for the oral hearing to be held in public under rule 15.

- 2.5 Rule 14(1) sets out that either party, who wishes to be accompanied at a hearing by an observer, must make a written application to the Board no later than 12 weeks before the date allocated for that hearing.
- 2.6 Under rule 14(2), the party who makes the application must at the same time serve a copy of the application on the other party. Under rule 14(3), the other party may submit representations within 14 days of receipt of the application.
- 2.7 An application from either party made less than 12 weeks before the date of the hearing may only be considered by the panel chair where there is a reasonable explanation for making a late request. Late applications must be accompanied by a request for it to be considered out of time with ***cogent*** reasons provided for its late submission. It is then for the panel chair to decide whether to accept the late application using the power contained in rule 9 to vary the timeframe.
- 2.8 Rule 14(4B) sets out that any other person may request admittance to a hearing as an observer by making a written application to the Board, but such an application may not be made later than three weeks before the date allocated for that hearing. Late applications must be accompanied by a request for it to be considered out of time with ***cogent*** reasons provided for its late submission. It is then for the panel chair to decide whether to accept the late application using the power contained in rule 9 to vary the timeframe.
- 2.9 Once an application to observe a hearing is received under rule 14(4B), the Parole Board will notify the parties and provide an opportunity for them to submit representations, as outlined in rule 14(4C). There is no set timeframe for submitting representations, but the rule does require that the Board "*... must provide an opportunity for the parties to make representations to the Board on the application*". Depending on when the hearing is listed, an appropriate timeframe (not longer than seven days) will be set in order for the application to be considered fully, ahead of the hearing.
- 2.10 Applications received before a case has been through the Member Case Assessment (MCA) paper review will be initially decided by the MCA panel, once appointed<sup>2</sup>. Where an MCA direction for an oral hearing has been issued but a panel chair has not yet been appointed, the application will be sent to a duty member to make an initial determination. The final decision, however, remains at the discretion of the appointed oral hearing panel chair who can revoke any previous decision if they consider it appropriate to do so.
- 2.11 Where a hearing date has been set, the attendance of observers is at the discretion of the panel chair, after taking into consideration any representations from the parties.

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<sup>2</sup> It should be noted that an oral hearing may not be required and agreement for an observer to attend by the MCA panel will be notional at this point.

- 2.12 In deciding whether to permit an observer, the panel chair will have due regard to fairness to the prisoner and the effectiveness of the hearing. This includes the need for the prisoner and witnesses to feel able to participate freely and effectively and to give best evidence.
- 2.13 It is important that all applications are submitted in good time in order for both parties to give due consideration to the request and provide submissions to the panel chair.
- 2.14 There is a need for transparency about observers; it is important to avoid actual or perceived conflicts of interest between the panel and observers. Individuals wishing to observe a hearing may from time to time have a professional or personal connection with a panel member. In general, individuals should not observe hearings where they have such a connection with a panel member, to avoid the appearance or perception of a conflict of interest or possible influence.
- 2.15 Where an observer will be attending a prison or secure mental health setting in person, the request will additionally be subject to the agreement of the prison Governor or Director, or other authorised official (such as a hospital or Mental Health Unit official), as set out in rule 14(5). It is the Board's expectation that these will usually be agreed to unless there are compelling reasons.
- 2.16 It should be noted that there is no appeal process following a decision made by a panel chair about the attendance of an observer. Such decisions are judicial in nature and can only be challenged by way of judicial review through the administrative court.
- 2.17 However, if the applicant believes further information might assist or provide more context, then this can be submitted with a request that the panel chair further considers the application.
- 2.18 If there are concerns about how the decision was made, or the conduct of anyone involved in the procedure, then a complaint can be submitted by following the Parole Board complaints procedure: [Parole Board Complaints Procedure](#)

### **3 Confidentiality**

- 3.1 Information from the proceedings is confidential<sup>3</sup> and must not be disclosed, as set out in rule 15 "*Public and private hearings and locations*". In particular, rule 15(3) states:

*15(3) An oral hearing (including a directions hearing or case management conference) must be held in private unless the Board chair considers, on their own initiative or on an application to the Board, that it is in the interests of justice for the oral hearing to be held in public.*

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<sup>3</sup> See paragraph 6.1-6.4 for additional information about confidentiality of hearings.

3.2 Rule 27 *Summaries and disclosure* sets out some of the potential consequences of disclosing information from proceedings. In particular, rule 27(5) and rule 27(7) state:

*27(5) Subject to paragraph (1) and rule 17, the Board chair may prohibit or permit the disclosure, recording or publication of proceedings or information about proceedings under these Rules.*

*27(7) A contravention of paragraphs (5) or (6), is actionable as a breach of statutory duty by any person who suffers loss or damage as a result.*

3.3 Breaching the Rules could render a person liable to be sued for breach of statutory duty; and, where the breach involves disclosure of a Parole Board direction, decision or other document, potentially contempt of court<sup>4</sup>.

3.4 In addition to the Parole Board rules 15 and 27, section 170 of the Data Protection Act 2018 ("DPA") ("section 170") is relevant. Should observers share information relating to the hearing, they may be committing a criminal offence<sup>5</sup> and could be subject to prosecution. If convicted of knowingly or recklessly disclosing personal data without the consent of the data controller<sup>6</sup>, observers are at risk of incurring a fine and/or other sanctions.

3.5 Observers do not have the consent of the various data controllers to disclose any personal data they receive in the parole proceedings. Under section 170 "*Personal data*" has a very wide definition and means **any** personal information relating to an identified or identifiable living individual.

3.6 Parole Board rules 15 and 27, and section 170 of the DPA apply to the passing on of information that includes (but is not limited to):

- the circumstances of any crime;
- information about previous convictions;
- information about rehabilitation;
- the management of the prisoner; and
- the name of any person concerned in the proceedings such as (but not limited to) the name of any victim, the prisoner, any social worker, prison staff, the author of any report, any witness appearing at the hearing, the prisoner's representative and the members of the parole panel and Parole Board staff.

3.7 This means that observers must not pass on any information they hear in the hearing to any person not involved in those proceedings, such as, but not limited to, members of the public, friends, relatives, or the press and media (but see the exceptions set out in paragraphs 3.11 to 3.13).

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<sup>4</sup> Any breach may be referred to the Attorney-General for action.

<sup>5</sup> Under [s170 of the DPA](#), it is a criminal offence to: Knowingly or recklessly obtain, disclose or procure personal data without the consent of the data controller.

<sup>6</sup> A data controller is a key decision maker. Data controllers have overall say and control about how data may be shared.

3.8 The observer will need to sign a confidentiality agreement (although there are some exemptions) which will be provided by the Parole Board case manager. This form sets out the restrictions on sharing information that must be followed. It should be noted that the observer will be held liable for any information shared with a third party that is then disclosed publicly and may face the consequences, as outlined above.

3.9 It is strongly recommended that in any hearing where an observer is in attendance (either in person or via remote means) the panel chair should make an announcement about the privacy of the proceedings at the start. Suggested wording is set out below:

*"Under the Parole Board Rules, these proceedings are to remain private and the names of the people taking part must not be disclosed and information that you hear must not be shared. 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."*

3.10 For all remote hearings taking place via the Cloud Video Platform (CVP) the following message appears when entering the virtual room:

**The Parole Board will make an official audio recording of this hearing.**

**IT IS AGAINST THE LAW FOR ANY OTHER PERSON TO RECORD OR TRANSMIT ALL OR ANY PART OF THE HEARING.**

**This includes taking or allowing anyone else to take any screenshot or video capture from any device, including a mobile phone. Legal action can be taken against any person who does so.**

3.11 Individuals observing as part of professional training may discuss the hearing with their supervisor, within the context of professional learning and development, and subject to professional confidentiality protocols.

3.12 Victims observing are permitted to discuss the information they hear during the proceedings in the context of any treatment/therapy they may be receiving from qualified professionals, or in conversation with an HM Prison and Probation Service (HMPPS) Victim Representative or Victim Liaison Officer (VLO).

3.13 The exception to this confidentiality principle is where prior agreement has been sought from both parties and permission has been given to use the information for research purposes. However, even in these circumstances individuals must not be identified and the use of information will be governed by a Data Sharing Agreement<sup>7</sup>.

<sup>7</sup> Please refer to the [Parole Board Research Framework](#) for more information.



## 4 **Reasons for observers**

4.1 Individuals may wish to observe a parole hearing for a range of reasons or at the request of one of the parties. Individuals may apply to observe for particular professional purposes or purposes connected to the parole process. Appropriate reasons include:

- **Internal Parole Board observers attending for training/professional development or quality assurance** – newly appointed Parole Board members are required to observe a certain number of hearings as part of their induction training. Parole Board staff are encouraged to observe hearings to learn more about the parole process and gain insight into the roles of those present at a parole hearing. Parole Board members or staff may also observe hearings as part of quality assurance purposes<sup>8</sup>. As these are internal requests, and required as professional training and development, there is a presumption that they will be agreed to and a less formal approach is taken.
- **Prospective Parole Board members** - due to the timescales involved and numbers of individuals potentially applying it is not possible to offer opportunities to observe a hearing during a recruitment campaign window. Individuals considering applying to become a Parole Board member should check the online recruitment campaign information resources, which could include video, audio and/or written materials about parole hearings and decision making.
- **Family or friends supporting the prisoner** – the prisoner/their representative (if they have one) may request that one or more individuals attend as an observer to support the prisoner. This may include family members, friends, or pastoral advisors or guides.
- **Victim or representative of a victim**<sup>9</sup> – a victim who has been harmed in some way by a prisoner may ask to observe the hearing and may wish to be accompanied by someone who will support them. See section eleven for more information.
- **Training/professional development of participants in the parole process** – individuals such as trainee psychologists, prison offender managers, community offender managers, prison law representatives, VLOs, or other HMPPS/Ministry of Justice (MoJ) staff, may request to observe a hearing where they are expected to participate in future parole hearings as witnesses, or need to understand the parole process to carry out their duties. Observing parole hearings may form part of a planned training programme for individuals in this category. Rather than approaching the Parole Board or a member directly, individuals should follow the usual professional development route in their area i.e., arrange for their supervisor or colleague involved in a hearing to make the observer application on their behalf.

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<sup>8</sup> More information about the Board's approach to quality assurance can be read here: [Quality Assurance Framework - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

<sup>9</sup> At time of publication, the Parole Board is operating a testing phase for victims to observe.

- **Other professional purposes** – occasionally individuals will be permitted to observe for other professional purposes that align with the Parole Board’s business priorities, such as official visitors, ministers and parliamentarians, civil servants, public and third sector representatives, or other professionals seeking an understanding of the parole oral hearing proceedings. *Note:* additional permission is required for observers in this category, see table in the General Application Process section.
- **Academic/research purposes** – academics/researchers may request to observe hearings as part of a Parole Board approved or proposed research study. Students wishing to attend for general interest are not usually permitted. *Note:* additional permission is required for observers in this category, see table in the General Application Process section.
- **Media and Press** – members of the media or press can request to observe a hearing, for example to learn about parole proceedings, but reporting restrictions will be in place. *Note:* additional permission is required for observers in this category, see table in the General Application Process section.

It will most likely be more appropriate for the media/press to request that the hearing they are interested in be heard in public; however, it should be noted that public hearings will only take place in limited circumstances, where it is deemed to be in the interest of justice. If such a request is agreed, this will allow for wider reporting possibilities and for other individuals to also register to attend to observe.

- **Members of the public** - should a member of the public wish to observe a hearing they should make enquiries to the Head of Communications about any upcoming hearings that are due to be held in *public* and register to attend one. Members of the public can also make an application for a hearing to be held in public but will need to set out their reasons in writing as to why it is in the interests of justice that the case should be heard in public as opposed to remaining in private. It should be noted that public hearings will only take place in limited circumstances, where it is deemed to be in the interest of justice.

Separate information has been produced about public hearings, which can be read here: [Public Hearings](#).

## 5 **Points for observers to note**

- 5.1 Observers do not take part in the hearing proceedings and do not give evidence to the panel. They are not entitled to intervene, ask questions of the witnesses, or address the panel and can be removed if they become disruptive. Observers cannot act as a representative for a prisoner.
- 5.2 The majority of hearings are held remotely via video or telephone and so in most cases individuals will observe remotely.

- 5.3 Observers should request permission from the panel chair in advance, with reasons, before taking notes. Where permission is granted, notes containing details of the proceedings must be stored and disposed of securely.
- 5.4 The digital audio recording, video, or any other recording, including (but not limited to) screenshots or downloads of hearings by an observer is strictly forbidden.
- 5.5 Details of the hearing, including location of the prisoner, the names, personal circumstances and any information in the dossier or hearing must not be discussed with anyone other than Parole Board staff or members, as appropriate. See section three for more information about the confidential nature of hearings.
- 5.6 The observer must abide by any conditions imposed on their attendance by the panel chair, as set out in rules 14(4) and 14(4A)(b).
- 5.7 Any person wishing to observe a hearing where they will be attending in person at the prison, hospital, or other establishment must adhere to relevant policies and security requirements issued by the establishment, for example be aged 18 or over. Each establishment will have its own requirements which must be followed<sup>10</sup>.
- 5.8 Observers attending a prison, hospital or other establishment in person will need photographic identification which must be presented to the Prison Security, or other authority, in order to gain access.
- 5.9 Any person wishing to observe a hearing where they will be doing so remotely, will need to have access to secure and stable network technology in terms of the video or telephone connection. If an unstable network is used and the connection is lost the proceedings will continue and there is no guarantee that the observer will be readmitted. This will depend on the stage of the proceedings and the level of disruption that may be caused.
- 5.10 MoJ/HMPPS observers may need to consider travelling to a local MoJ official building (such as a probation office, court, or other premises) for this; observers requested by the prisoner may need to consider travelling to the representative's office (if there is one), or other secure venue.
- 5.11 Victims will always need to travel to a local MoJ official building or other suitable venue so that appropriate support can be provided. In circumstances where there are multiple victims in locations across the country, it may be necessary for them to attend a central venue, such as the Parole Board offices in London to observe by remote means. The most convenient venue will be identified by HMPPS staff.

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<sup>10</sup> Information about prisons can be found here: [Prisons in England and Wales - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

- 5.12 Where attending via video or telephone, observers will be required to confirm their identity by presenting some form of photographic identification to the camera if attending via video, or submitting a copy of the photographic identification in advance, where attending via telephone. The observer will also need to confirm that there is no other person in the vicinity who could watch or overhear the proceedings, who has not been authorised to observe by the panel chair. Observing from a public space or open plan office is not appropriate.
- 5.13 Observers must declare if they know, or are known to, any person involved in the hearing, and the nature of the relationship. They must consider if there are any actual or perceived conflicts of interest with any person present, whether professional or personal. This includes notifying the panel chair immediately if this becomes apparent on the day.
- 5.14 Information discussed at hearings can be graphic in nature and distressing. It is the responsibility of the observer to ensure they have adequate support following the hearing, should they require it.
- 5.15 Observers should be aware that if they attempt to participate in the proceedings, or become disruptive, the panel chair can direct that they be removed as set out in rule 24(4).
- 5.16 As a general principle, anyone aged under 18 is not permitted to observe a parole hearing. Only in rare and specific circumstances may this be agreed to. An Appropriate Adult, for example a parent, guardian, Social Worker, or Court of Protection appointee would need to give their permission (in most cases) and robust support arrangements would need to be put in place.

## **6 Factors for the panel chair to consider (non-victim observers)**

- 6.1 Factors the panel chair (or duty member) may wish to take into account when deciding whether to approve an application for an observer:
- The purpose for which the individual is applying to observe.
  - Representations from the parties about the individual observing. All HMPPS representations must come via the Public Protection Casework Section (PPCS).
  - Fairness/efficacy of the hearing and the need for the prisoner and witnesses to give best evidence freely and effectively.
  - Any particular circumstances or characteristics of the prisoner or the hearing that indicate observers should be limited or refused. For example, observers other than those requested by the prisoner may not necessarily be appropriate for hearings involving a vulnerable prisoner.

- Whether the observer is there to provide support for a prisoner who is unrepresented, for example a key worker or other appropriate person<sup>11</sup>. In such circumstances the prison will make an observer application via PPCS which will set out full reasons.
- Observers should not generally be permitted for hearings where the prisoner is under the age of 18, unless they are there as personal support for the prisoner, acting as an Appropriate Adult, or in an official capacity for the Parole Board.
- Whether the individual is known to any of the panel members in a personal or social capacity, in which case it is preferable for the individual to arrange to observe a different hearing if possible).
- Any risk issues that may arise from the individual's attendance either in person or remotely.
- Any actual or perceived conflicts of interest between the individual and any other person present at the hearing, whether professional or personal. Panel chairs should be alert to any conflicts arising on the day of the hearing, for example if there is a late substitute witness, or a connection is identified as the hearing proceeds.
- Whether it is appropriate to impose any additional conditions on the observer to enable them to attend, as set out in rule 14(4A)(b).
- Any other factors<sup>12</sup> the panel chair considers relevant.

#### In person attendance considerations

6.2 The following are additional factors to consider if the individual has applied to attend and observe in person:

- Panel chairs should consider the rationale behind the request for the observer 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 individual's attendance can best be fulfilled if they are physically in the hearing room, for example to provide moral or pastoral support to the prisoner.
- Capacity of the hearing room – the number of witnesses and hearing participants that will also be in the room and whether any other observers have already been agreed, which may impact on capacity or safety.

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<sup>11</sup> The HMPPS [Parole Board Oral Hearing Administration & Attendance Policy Framework](#) at section 5.11 sets out that where additional support is needed, prisons should request that PPCS make an observer application, providing full reasons for the application.

<sup>12</sup> See section 11 in relation to victim observers.

- Physical layout/suitability of the hearing room if the individual will be attending in person to observe - the panel chair should consider the layout and space available in the hearing room and whether seating can be arranged to limit the impact of the observer's presence where appropriate, such as seating them behind or away from the prisoner and witnesses. It is important to avoid overwhelming the prisoner where possible. It may be that if this is a likely risk, the request should be refused.
- Consider a hybrid arrangement for attendees - some individuals attending in person and others joining remotely which may alleviate pressure on the technology and room space. However, the format of the hearing should be tailored to the needs of the case and not be influenced unnecessarily by an observer's attendance.
- Whether there is any victim involvement/victim attendance at the hearing to read out their Victim Personal Statement (VPS) – would an additional individual in the room add to anxiety, for example if the victim is attending the prison, hospital/mental health setting, or other establishment in person.
- Ensuring that the Prison Governor, Director, or other authorised official (hospital or mental health unit official) has agreed to the admittance of the observer, as set out in rule 14(5).

#### Remote attendance considerations

6.3 The following are additional factors to consider if the individual has applied to attend and observe remotely:

- Panel chairs should consider the rationale behind the request for the observer 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 individual's attendance can still be fulfilled if they are not physically in the hearing room.
- This may be fairly straightforward where the individual is attending as part of professional training or development, as part of approved research, or other professional purposes. In these instances, the individual 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 individual 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.
- It may be helpful to seek views from both parties on how practical such remote attendance will be. The prison offender manager may be well placed to give a view if they have regular interaction with the prisoner<sup>13</sup>. For example, the following scenarios may still be appropriate:

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<sup>13</sup> All views from HMPPS staff must be submitted via PPCS.

- The prisoner is vulnerable and knowing that someone familiar and whom they trust is present reduces their anxiety or distress.
  - Where the individual may be a protective factor (although care should be taken here as the individual is not there to answer questions or provide any other information).
  - 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. This may also be a legal requirement in some circumstances and will need to be considered on a case-by-case basis.
- Where support for the prisoner is the key reason for the individual observing it may be more supportive to attend via video than via telephone. Whether an individual observing 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 individual, 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 individual attending the prison in person to observe. This may be where the individual's attendance is seen as pivotal to putting the prisoner at ease. The Prison Governor, Director or other official (hospital or mental health unit official) would need to make any final decision about this in terms of access to the prison.
  - Where the hearing is taking place via video, panel chairs will need to satisfy themselves at the start of the hearing that:
    - the individual is who they say they are (presenting original photographic evidence to the camera may address this);
    - they are alone (unless another authorised observer has been agreed);
    - they are in a private location that cannot be overheard; and
    - they are not digitally recording or making any other record or image of the proceedings.
  - 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.
  - Alternatively, consideration could be given to the observer joining from the same location as the prisoner's representative (for observers supporting the prisoner) or from a local MoJ official building or the Parole Board office (for other observers) which may offer a more secure option.
  - The proceedings of the hearing should be as fair as possible and panel chairs should not unduly refuse requests for an individual to observe unless security and privacy concerns appear to be significant and unmanageable.

- If arrangements prove difficult to put in place, and the individual's presence is regarded as essential, this might suggest the case is not suitable to proceed as a remote hearing.

**6.4 In all cases where an observer is in attendance it is strongly recommended that the panel chair makes an announcement about the privacy of the proceedings at the start. Suggested wording is provided in paragraph 3.9 above.**

**NOTE ONE:** Panel chairs should seek advice from the Practice Advisor where a request to observe is received from a victim as this is currently being tested in selected regions only and not generally available across England and Wales. See section eleven for more information about applications from victims.

**NOTE TWO:** Panel chairs should seek advice from the Head of Communications where a request to observe is received from a member of the public, or the media/press. The Board needs to ensure it is 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. See section twelve for more information.

## **7 Case Management Conferences and Directions Hearings**

- 7.1 It may be helpful for the panel chair to hold a Case Management Conference or Directions Hearing to discuss observer requests if there appear to be complexities related to the attendance of an observer. This is particularly recommended where a victim is observing.
- 7.2 This will be important where some parts of the proceedings will involve discussions around very personal information, including medical details, or proposed release plans that may compromise the safety and security of the prisoner if the information was to fall into the public domain. Whilst it is important to adopt the usual approach to proceedings, where an observer is attending, consideration may need to be given to holding some discussions in closed session without the observer present.
- 7.3 A Case Management Conference or Directions Hearing<sup>14</sup> can identify parts of the proceedings that may need to be held in closed session. However, the main principle is to hold as much as possible in the presence of observers.

## **8 General application process**

- 8.1 The table on the following page provides a summary of how different observers apply to observe a private parole oral hearing.

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<sup>14</sup> More information can be found here [Case Management Conferences and Directions Hearings](#)



<b>Category</b>	<b>Process</b>
Internal Parole Board members and staff	Parole Board operational staff will inform the panel chair via email and notify the parties.
Family or friends supporting the prisoner	The Prisoner/their representative should request permission from the panel chair via the Parole Board case manager using a Stakeholder Response Form (SHRF).
Victim or representative of a victim	Where a victim (or their representative) is signed up to the Victim Contact Scheme (VCS), the application to observe should be made by the HMPPS Victim's Team using an SHRF. Victims not signed up to the VCS should apply direct to the Parole Board. The Parole Board case manager will send the request to the panel chair.
Training/ development of participants in the parole process	The supervisor/witness/representative should seek permission for a trainee/colleague to observe from the panel chair via the Parole Board case manager using an SHRF. For HMPPS staff the SHRF must be submitted by PPCS.
Other professional purposes	Additional permission is required from the Chief Operating Officer. If agreed in principle, the Parole Board case manager will send the request to the panel chair for approval.
Academic/ researchers	Additional permission is required from the Research Governance Group. If agreed in principle, the Parole Board case manager will send the request to the panel chair for approval.
Media and Press <sup>15</sup>	Requests should be made through the Head of Communications. If agreed in principle, the Parole Board case manager will send the request via email to the panel chair for approval.

8.2 If making a request to observe in the "academic/researchers", "other professional purposes" or "media and press" categories above, additional permission is required first before submitting a request to the appointed panel chair – see Step One. Individuals in the other categories above should proceed straight to Step Two.

Step One (where additional agreement is required)

8.3 **Academic/research purposes:** before agreement can be given to observe a hearing, a successful research application approved by the Parole Board Research Governance Group is required. Please refer to the [Parole Board Research Framework](#) for further information.

8.4 **Other professional purposes:** a written application should be submitted to the Chief Operating Officer, detailing the reason for the request to observe a hearing. Please address the email to the "Chief Operating Officer".

<sup>15</sup> This is for requests to observe a private parole hearing and **not** a public parole hearing.

- 8.5 **Media and Press:** a written application should be made to the Head of Communications at the Parole Board, detailing the reason for the request to observe a hearing. Please email addressing the email to the "Head of Communications".

### Step Two

- 8.6 Once any additional permission required for the individual to observe as set out in Step One has been given, the application will be sent to the appointed panel chair for the specific case. In some circumstances, such as official visitors wishing to attend a hearing, or academics undertaking research, Parole Board staff will identify a suitable case and make this request to the panel chair on behalf of the prospective observer. The panel chair will make the final decision.
- 8.7 Applications should provide the full name of the individual, clearly state the reason for why they wish to observe and their relationship, if any, to the oral hearing participants, including the prisoner, witnesses, and panel members.
- 8.8 Applications should be made as far in advance of the hearing as possible, but, as set out in rule 14, no later than 12 weeks before the date allocated for the oral hearing if being requested by one of the parties, or at least three weeks ahead of the date allocated for the oral hearing for any other person. Late applications may not provide sufficient time for the panel chair to consider them, and they may be refused on this basis (see paragraphs 2.7 and 2.8 on late applications).
- 8.9 Applications for observers from the prisoner or their representative should be made on an SHRF and copied to the case manager in PPCS.
- 8.10 Applications for observers from HMPPS professionals such as prison, probation, or psychology staff are applications from the Secretary of State for an observer. These requests should be made via PPCS on an SHRF and copied to the prisoner/their representative.
- 8.11 Applications to observe from victims (or their representative) who are signed up to the VCS, either on a statutory or discretionary basis, are currently submitted by the HMPPS Victim's Team using an SHRF; however this will be undertaken by PPCS in the future.
- 8.12 Applications from victims or their representative to observe who are not signed up to the VCS, and any other individual not mentioned above should apply direct to the Parole Board.
- 8.13 For all observer applications from either party, the Parole Board case manager will seek the views of the other party, either the Secretary of State (via PPCS) or the prisoner/their representative. The panel chair will take any views submitted into account when deciding whether to grant the request. The Secretary of State and the prisoner/their representative should be made aware of the reason the individual wishes to observe.

- 8.14 Where the application is from an individual not aligned with either the Secretary of State or the prisoner, e.g., an official visitor, non-statutory victim etc. then the Parole Board case manager will seek the views of both parties for the panel chair to take into account when deciding whether to grant the application.
- 8.15 The panel chair will consider the application and make a decision, taking into account the views of both parties. If refusing the application, the panel chair will give reasons why it has not been granted. Where the application is agreed, the panel chair can impose conditions as set out in rule 14(4A)(b), for example that the individual only observe part of the hearing. If this is the case the panel chair will provide an explanation.
- 8.16 In some cases, the panel chair may convene a Case Management Conference or Directions Hearing<sup>16</sup> in order to consider the application and any arrangements that may need to be put in place, or to identify any parts of the hearing that may need to be held confidentially in closed session in the absence of observers. A Case Management Conference or Directions Hearing may identify circumstances that mean a previously agreed observer is no longer appropriate. If this is the case the panel chair will provide an explanation.
- 8.17 The individual will need to sign a confidentiality agreement which will be provided by the Parole Board case manager. A copy can be found at Annex B. This is not required for Parole Board staff, Parole Board members, or HMPPS staff who are already bound by confidentiality in their Terms of Employment.
- 8.18 It is also not required to be signed by observers requested by the prisoner. Prisoners requesting individuals to observe for support are taken to have agreed responsibility for any information shared with the individual. Any breach of the DPA or GDPR will be the responsibility of the prisoner.
- 8.19 The individual will need the agreement of the prison to observe the hearing where they will be attending in person (or other institution where the hearing is taking place). This will usually be co-ordinated through the Offender Management Unit of the prison, or other official, and the Parole Board case manager will make the request. A Governor, Director, or other official can refuse permission of any individual who will need to have access to the prison/other institution to observe.
- 8.20 Once approval is given by the panel chair and the prison/institution (where the individual will be attending in person), the Parole Board case manager will add the observer to the hearing timetable and circulate this to all parties.

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<sup>16</sup> More information about these can be found here [Case Management Conferences and Directions Hearings](#)

## **9 Process for internal Parole Board observers**

- 9.1 For internal Parole Board observers (such as newly appointed Parole Board members, staff, and for quality assurance purposes), the process will be as set out below.
- 9.2 The Parole Board case manager will seek permission from the panel chair via email.
- 9.3 The Parole Board case manager will notify the prisoner/their representative and the Secretary of State. Representations can be submitted by either party who may wish to raise any particular circumstances or characteristics of the case that indicate it would not be suitable to have an observer.
- 9.4 The panel chair will consider any issues raised in representations and make the final decision about whether an observer is permitted.
- 9.5 Where permission is given, the individual will be added to the hearing timetable as an observer, and this will be circulated to all parties.
- 9.6 Internal Parole Board observers will have access to the dossier to support their learning and may observe pre-hearing and post-hearing discussions (at the discretion of the panel chair) but will not participate in the proceedings or decision-making of the panel.

## **10 Process for family or friends of the prisoner as observers**

- 10.1 The prisoner may apply for a family member, friend, or other individual to attend as an observer to support them during their parole hearing. This can provide the prisoner with comfort, reduce anxiety, or help encourage them to participate fully in the hearing.
- 10.2 The application must come from the prisoner, or from their representative with the prisoner's agreement, on an SHRF.
- 10.3 The application will need to be made within the timeframes set out in the Rules. Rule 14(1) sets out that an application from one of the parties must be made no later than 12 weeks before the oral hearing.
- 10.4 When determining a request for a family member, friend, or other individual to observe a hearing, the panel chair will take into consideration a number of factors and in some cases, safety or security may mean that the request is refused. Consideration will need to be given as to whether their attendance may inhibit the frankness of evidence or adversely impact the dynamics of the hearing.
- 10.5 Observers will hear detailed and personal information about the prisoner. They may hear extremely graphic information about the prisoner and the index offence, as well as any other offending, which may be distressing for them and the prisoner.

- 10.6 The panel chair will take account that family and friend observers particularly may become frustrated hearing evidence or a line of questioning that they may not agree with, and about which they can say nothing. Whilst it is the responsibility of the prisoner and their requested observer(s) to understand the implications of attending the hearing, the panel chair will wish to consider the effectiveness of the hearing in such circumstances. Panel chairs may also wish to highlight these sensitivities in their response to the application.
- 10.7 A short information awareness note about families of prisoners serving the Imprisonment for Public Protection (IPP) sentence has been provided for Parole Board members at Annex C. Whilst the focus is on the impact on families of IPP sentenced prisoners, the information will be applicable to family and friends of other prisoners which may be useful for panel chairs when considering applications to observe.

## **11 Process for victims as observers**

- 11.1 At the time of publication, the Parole Board is operating a testing phase for victims to observe hearings. The option for a victim to observe is currently limited to cases within selected testing regions and only for victims signed up to the VCS, either on a statutory or discretionary basis. The option will be rolled out more widely once proposed arrangements have been fully implemented. Whilst every application must be dealt with on its individual merits, the Board's position is that applications from victims should be treated sympathetically and sensitively since they are likely to have been significantly impacted by the index offences(s).
- 11.2 Victims should talk to their VLO if they wish to observe a hearing and are unsure if they are eligible.

**The information set out in paragraphs 11.3 – 11.15 below is currently applicable ONLY to victims who are within the selected testing regions, or have exceptionally been granted permission to observe.**

- 11.3 Statutory victims signed up to the VCS are entitled to request that the Secretary of State make an application to the Parole Board for them to observe a hearing<sup>17</sup>.
- 11.4 Statutory victims should ask their VLO to notify the HMPPS Victims Team (and PPCS), who in turn will make the request to the Parole Board.
- 11.5 Victims who are signed up to the VCS on a discretionary basis will need to discuss with their VLO the options available to them. In general, they are not permitted to submit a VPS, however, they should be able to consider applying to observe a hearing.

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<sup>17</sup> *Victims observing oral hearings is limited to a controlled testing period within selected testing regions and is not generally available across England and Wales. Once the testing is extended more widely, this guidance will be revised. The principles set out in this guidance should be followed until further notice.*

- 11.6 Victims who are not signed up to the VCS should apply to the Parole Board direct if they wish to observe the prisoner's hearing.
- 11.7 The application will need to be made within the timeframes set out in the Rules. Rule 14(4B) sets out that an application from any other person, which includes victims, must be made no later than three weeks before the oral hearing (please see paragraphs 2.7 and 2.8 on late applications).
- 11.8 The Parole Board will consider applications from victims to observe a hearing sympathetically. Given the way in which victims are likely to have been harmed by the index offending, they have a legitimate interest in understanding how the Board makes its decisions. Where the victim is signed up to the VCS, these applications will usually be agreed to, unless there are any compelling objections received from either of the parties, or if there are safety or security concerns, or there is insufficient time to make arrangements.
- 11.9 It should be noted that the panel chair may revoke the decision for an observer to attend at a later date if they consider it appropriate to do so should circumstances change. In such instances, the panel chair will offer alternative options for providing the victim with information, as set out in 11.11 below.
- 11.10 A victim not signed up to the VCS will need to explain the reasons for wishing to observe, setting out any links they have with the case. The panel chair will consider carefully whether the reasons are of a nature that deem it appropriate for the victim to observe. It should be noted that in these instances, the victim will not be provided with support from HMPPS and may need to travel to the Parole Board offices in London to observe the hearing. If the victim is eligible for the VCS they will be encouraged to consider signing up, which will then allow them to access support.
- 11.11 Victims approved to observe will do so via a live-stream link from a previously agreed location. Victims can make their wishes known as to whether they wish to see the prisoner on screen, and the panel chair will take this into consideration when setting the arrangements. If a victim is going to read out their VPS to the panel this will usually take place ahead of the formal parole proceedings via a telephone or video-link using MS Teams. Once the VPS has been read out, that link will be closed, and the live-stream link for the hearing will be activated.
- 11.12 Where a victim attends as an observer and they are signed up to the VCS, an HMPPS Victim Representative will be in attendance to support them. They will normally meet at a local Probation Service office or other MoJ official building to link into the proceedings. However, this will be arranged on a case-by-case basis through the HMPPS Victim Representative and the VLO.
- 11.13 Victims observing a hearing will need to sign a confidentiality form.

11.14 Before making an application to observe a hearing, victims may wish to consider other options which might be less traumatic for them, or otherwise meet their needs:

- a) Request a summary of the Parole Board Decision Letter (PBDS);
- b) Request to attend to read out their VPS to the panel but not stay for the rest of the parole hearing; or
- c) Request that the hearing be held in public.

11.15 More detailed information for panel chairs on considering applications from victims to observe a hearing can be found at Annex D.

## 12 **Public Hearings**

12.1 Rule 15 provides the ability for applications to be made for a parole hearing to be held in public where it is in the interests of justice to do so.

12.2 This is different to applying to observe a private parole oral hearing.

12.3 The Secretary of State, prisoner, victim, the media, or the wider public may make an application requesting that a hearing be heard in public.

12.4 The Chair of the Parole Board will decide whether it is in the interest of justice for the hearing to be held in public.

12.5 If a hearing is to be held in public anyone can register to observe the proceedings. Admittance of anyone registering to observe a public hearing is at the discretion of the appointed panel chair for the case.

12.6 Observers will need to travel to an identified location where the hearing will be live-streamed. Registrations will be logged on a first come first serve basis as there may be limits on capacity.

12.7 The Chair of the Parole Board may revoke the decision about a public hearing if they consider it appropriate to do so should circumstances change.

12.8 More information about public hearings can be found here:

[Applying for a parole review to be public](#)