

Member Case Assessment (MCA)

Member Guidance

January 2025 (v3.0)

Document History

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| 1.1 | 10.03.2022 | <ul style="list-style-type: none">• Revision to revert to pre-Covid practices for determinate sentence recall cases• RADAR decision template and guidance amendments• Multi member panel update |
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- Secretary of State's Directions for open conditions 2023
- Operations Hub policies:
 - Determinate sentence cases with less than 26 weeks (previously 20) until SED should not be sent to Oral Hearing
 - MCA representations can only be submitted before the case is panelled

3.0

31.01.2025

The guidance was updated to reflect the changes following:

- The Victims and Prisoners Act 2024
 - The Parole Board (Amendment) Rules 2024
 - A table of changes can be found [here](#)
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Contents

| | |
|---|-----------|
| Executive Summary | 4 |
| 1 Introduction – what is MCA? | 6 |
| 2 MCA Process | 8 |
| 3 What is needed to complete an effective MCA? | 9 |
| <i>The Dossier</i> | 9 |
| <i>MCA templates</i> | 11 |
| 4 What information is necessary to effectively complete MCA? | 11 |
| 5 Types of sentence | 13 |
| 6 The Osborn, Booth & Reilly (OBR) judgment 2013 | 14 |
| <i>An overview</i> | 14 |
| <i>The Supreme Court’s summary of the OBR principles</i> | 14 |
| <i>Practice Guidance for applying the OBR principles</i> | 16 |
| <i>Standard wording for referring to the OBR judgment</i> | 17 |
| 7 Consultation with a specialist member or a duty member | 18 |
| 8 Multi-member MCA panels | 19 |
| 9 Options available to an MCA panel | 21 |
| <i>Adjourn for further information</i> | 22 |
| <i>Defer for further information</i> | 24 |
| <i>Issue a paper decision</i> | 25 |
| <i>Issuing a decision for release</i> | 26 |
| 10 The Prisoners (Disclosure of Information About Victims) Act 2020 (“Helen’s Law”) | 29 |
| 11 Releasing Imprisonment for Public Protection (IPP) or life sentence prisoners on the papers | 29 |
| 12 Recommending open conditions for indeterminate sentence prisoners | 30 |
| 13 Issuing a no release paper decision | 30 |
| 14 Options following a paper decision | 33 |
| 15 Direct the case to an oral hearing | 34 |
| 16 Directing a case management conference | 37 |
| 17 Send the case to oral hearing to be listed after a specified date | 38 |
| 18 Guidance on writing decisions | 38 |
| 19 Guidance on building an oral hearing and drafting directions | 39 |
| <i>Completing the directions template</i> | 39 |

| | |
|---|-----------|
| <i>The 'key issues and reasons' box</i> | 40 |
| <i>Identifying the 'issues' for the oral hearing</i> | 41 |
| <i>Representation.....</i> | 42 |
| <i>The logistics of an oral hearing</i> | 43 |
| <i>Identifying missing evidence and directing new documentation</i> | 43 |
| <i>Setting directions for submission of additional reports</i> | 45 |
| <i>Setting directions where there are allegations of wider offending.....</i> | 46 |
| <i>Setting deadlines for reports</i> | 47 |
| <i>Prisoners who are transferred during the parole window</i> | 48 |
| <i>Directing witnesses to an oral hearing.....</i> | 48 |
| <i>Why is a particular witness needed at the hearing?</i> | 48 |
| <i>Types of witness not usually called</i> | 50 |
| <i>Practicalities for witnesses</i> | 51 |
| 20 Oral Hearing logistics | 52 |
| <i>Tier Listing</i> | 52 |
| <i>The number of panel members</i> | 55 |
| <i>Panel composition and specialist members.....</i> | 56 |
| <i>Judicial Chair</i> | 59 |
| <i>Deciding the format of the oral hearing</i> | 59 |
| <i>Witness and prisoner representative attendance – remote or in person?.....</i> | 61 |
| <i>The prisoner's needs and support.....</i> | 61 |
| <i>The Secretary of State and Secretary of State Representatives</i> | 62 |
| <i>Victims</i> | 63 |
| <i>Expediting or prioritising an oral hearing</i> | 64 |
| <i>The 'Ready to List' box</i> | 66 |
| 21 What do I do when faced with...?..... | 66 |
| <i>Less than 26 weeks to SED in a determinate sentence recall case.....</i> | 66 |
| <i>No accommodation for a prisoner who could otherwise be released.....</i> | 67 |
| <i>Post-sentence supervision.....</i> | 68 |
| <i>The prisoner asks for an oral hearing but there are insufficient grounds for one</i> | 69 |
| <i>Using security intelligence.....</i> | 69 |

| | |
|--|-----------|
| <i>Prisoner sentenced under earlier legislation</i> | 70 |
| <i>"Stuck" cases.....</i> | 70 |
| <i>Late Representations.....</i> | 70 |
| <i>Combining reviews</i> | 71 |
| <i>Stakeholder Response Forms (SHRF).....</i> | 71 |
| <i>Further information submitted after a decision has been issued.....</i> | 72 |
| <i>Terrorism / Terrorism-connected prisoners</i> | 72 |
| <i>High profile Cases.....</i> | 72 |
| <i>Power to Detain (PTD) Standard Determinate Sentence Cases</i> | 73 |
| ANNEX 1 – Checklist for MCA Panels Directing an Oral Hearing | 74 |
| ANNEX 2 – Table of Reports..... | 76 |
| ANNEX 3 – Guidance for Writing Decisions | 93 |
| ANNEX 4 – Multi-Member Panel Table and Flowchart | 97 |

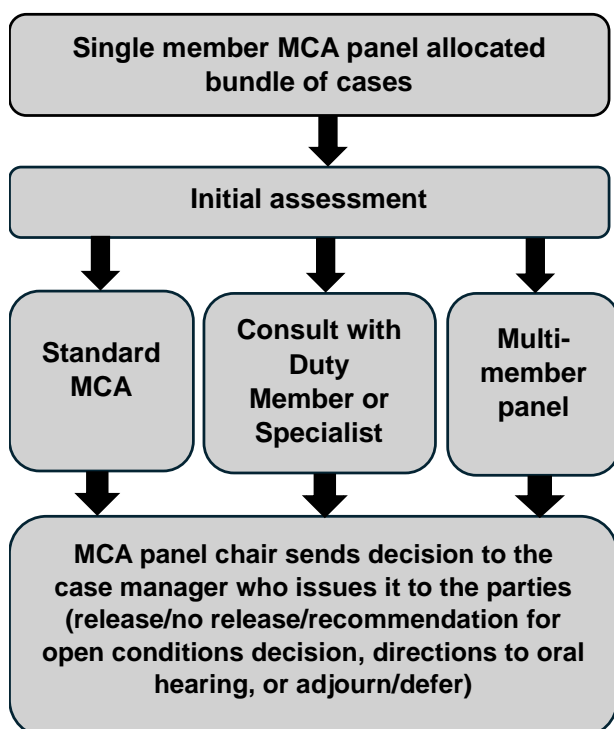
Executive Summary Member Case Assessment (MCA)

The full guidance can be read [here](#).

Introduction

MCA is the earliest opportunity for the Board to consider a case that has been referred to it by the Secretary of State. An accredited MCA panel will review the dossier and either determine that the case can be concluded on the papers or set out additional steps that are needed for the case to be determined fairly and swiftly. This might include directing further information, or for the case to be considered at an oral hearing.

The Board must comply with common law standards of procedural fairness, as well as its duty under Article 5(4) of the European Convention on Human Rights (ECHR) to provide a speedy review. This 'triage' approach of the MCA process enables fair, rigorous and timely reviews, defensible decisions, and consistency in the Board's approach to each case.



Key Points

Effective MCA (Sections 3 & 4)

- A complete dossier is vital for effective MCA. The dossier must include mandatory documents and where additional information is required, **the focus must be on what is essential to determine or progress the case.**
- Panels use one of two templates to complete MCA work: one for decisions and one for directions.
- **Panels must be clear on the terms of the referral from the Secretary of State and not act outside of them.**
- MCA decision making about risk must follow the [Decision-Making Framework](#).

There is no need to know everything about a prisoner to make a decision about progressing their case. A panel just needs enough information to make an evidence-based decision that is defensible and fair.

Osborn, Booth & Reilly (Section 6)

- **The Board must hold an oral hearing whenever fairness to the prisoner requires one, in light of the facts of the case and the importance of what is at stake.**
- By applying this principle, the Board is compliant with the common law and Article 5(4) of the ECHR.
- The perceived utility of an oral hearing is not a deciding factor.
- **The OBR principles do not require an oral hearing to take place in all cases. The test is whether fairness to the prisoner requires oral evidence to be heard.** It may be possible to fairly determine the matter on the papers without an oral hearing taking place.

Options following Initial Assessment (Sections 7 & 8)

- In certain circumstances, the MCA panel may wish to consult a specialist or duty member to discuss specific points, directions, case progression options, or licence conditions.

- The specialist/duty member does not need to consider the full dossier.
- For cases where such a consultation would be insufficient (i.e. the specialist/duty member would need to consider the full dossier), the MCA panel may determine a multi-member panel is required.
- This involves joint decision-making where a further member(s) joins the panel.

Adjournments/Deferrals (Section 9)

- These should generally be avoided, but may be necessary where additional information is required to make a balanced risk assessment and/or provide a fair hearing.
- Adjournments and deferrals should not exceed **four months** from the date of the panel unless there are exceptional circumstances.

Release Decision (Section 9)

- The Board has the power to release any prisoner on the papers. However, Parole Board policy sets some presumptions, which are:
 - **A first-time release of a life sentence prisoner should only take place following an oral hearing.**
 - **Recommendations for a life sentence prisoner to progress to open conditions should only take place following an oral hearing.**
- To issue a paper decision for release, there must be sufficient evidence to demonstrate that the prisoner meets the **Codified Public Protection Test**. This includes having regard to the protection of any victim of the prisoner.

No Release Decision (Sections 9, 13 & 14)

- Paper decisions declining release can be issued in all types of cases except prisoners who are **under 18 at the point of referral**, prisoners in a **secure hospital or mental health setting**, and prisoners **facing their first review after having been in a mental health unit or secure setting**.
- There is a presumption of an oral hearing for prisoners **aged 18–21**

(inclusive) at the point of referral if they cannot be released on the papers.

- Following issue of a no release decision on the papers, the prisoner has 28 days to request an oral hearing under rule 20.
- [Reconsideration](#) and [Set Aside](#) may be available if eligible once the 28 days has elapsed.

Directing a Case Management Conference (CMC) (Section 16)

- Chaired by the MCA panel, a CMC might be helpful to discuss what further information might allow a review to be completed on the papers, or to resolve complex issues and set directions for an effective oral hearing.

Drafting Oral Hearing Directions (Section 19)

- An MCA panel directing a case to an oral hearing must set appropriate logistics for the hearing, and directions to obtain information the oral hearing panel will need.
- The MCA panel should also provide the oral hearing panel chair with an overview of the case and key issues the panel may need to explore at the hearing.
- **The MCA panel must not impede any future panel that hears the case at the oral hearing, or provide, or appear to provide, an assessment of risk.**

Directions must always be relevant, proportionate, reasonable, necessary, lawful, and deliverable.

Oral Hearing Logistics (Section 20)

- **It is critical that the logistics are responsive to the individual circumstances of the case.**
- The MCA panel will need to consider which tier to allocate, the format of the oral hearing, witnesses, the prisoners needs, the Secretary of State and their representatives, and any victim involvement or observer applications. 7

1 Introduction – what is MCA?

- 1.1 This guidance is for Parole Board members carrying out **Member Case Assessment (MCA)** work. It provides an overview of the MCA process, the options open to members undertaking this work, and detailed guidance on best practice.
- 1.2 Every case referred to the Parole Board is required to go through the MCA process. MCA is a form of 'triage' because each case, at the earliest opportunity (the point of referral), is considered by an accredited MCA member¹ who either determines that the case can be concluded on the papers or sets out additional steps that are needed for the matter to be determined fairly and swiftly.
- 1.3 This approach enables cases to be dealt with consistently, appropriately, proportionately, effectively and in a timely manner by:
- Ensuring fair, rigorous, and timely reviews: the Parole Board has a duty under Article 5(4) of the European Convention on Human Rights to provide a speedy review
 - Identifying the key issues in each case at the earliest opportunity and enabling good quality analysis, defensible decisions, and viable directions leading to better compliance and understanding by agencies of what is required
 - Evidencing that a consistent approach has been taken for all cases
 - If an oral hearing is required, assisting a panel to make evidence-based assessments of risk by ensuring it has all the written information it needs, that relevant preparatory work is identified and directed (for example the need for interpreters, arrangements in relation to victims, etc), and by ensuring that relevant witnesses are identified

2 MCA Process

- 2.1 Parole Board members who are accredited to do so normally undertake MCA sitting as a single member; however, there is an option to create a multi-member MCA panel (please refer to [section eight](#) below).²
- 2.2 MCA panels are usually allocated a "bundle" of up to six cases, with the member having the option of requesting a further one to three cases.³ Members also have the ability to request "half bundles", where they will be sent three cases instead of six. Bundles are allocated in advance, with members providing availability via the Web Access Module (WAM) system⁴. The types of cases included in each bundle will be determined by the secretariat subject to the current business need.

¹ The Member Administrative Policies and Processes (MAPP) Guidance provides an overview of member accreditation.

² Where this guidance refers to the 'MCA panel', this accounts for both single and multi-member panels.

³ Requests should be sent to the MCA Team or entered on WAM.

⁴ WAM is the Parole Board member portal which gives access to cases.

- 2.3 The following types of cases are allocated to a specialist cohort of members and should not be found in regular MCA bundles. If a panel receives such a case in their regular bundle, please contact the Specialist Case Management Team.
- Terrorism/terrorism-connected and high-profile cases (refer to paragraphs [21.32](#) and [21.33](#) for more information)
 - Power to Detain (PTD) cases (refer to paragraph [21.34](#) for more information)
 - Mental health cases (refer to the SharePoint page for more information)
- 2.4 Case names are listed in a cover note that is emailed by the case manager. Dossiers are issued electronically on WAM and made available for download ten working days in advance of the panel date. The MCA panel reads and analyses each dossier, deciding how it should be determined or otherwise progressed, and records reasons or directions on the relevant MCA template.
- 2.5 The MCA decisions and directions are saved to "PB Saved Documents" on the member's C:Drive and on OneDrive. Documents may be saved in draft and, when completed and proofread, converted to finalised templates which are automatically given a filename based on the prisoner's name, prisoner's number, and panel decision. More information on MCA templates can be found at section 3.8 below.
- 2.6 On or shortly before the panel date, members submit completed MCA decisions to the case manager. This must be done before midnight on the assigned panel date.
- 2.7 Members are required to retain their decisions and the dossiers for four weeks after the panel date in case any follow-up action is required.
- 2.8 Remuneration for completing an MCA panel is set out in the fee section of the Member Administrative Policies and Processes Guidance (MAPP). Members do not need to claim for MCA work as this is automated. Details of MCAs completed will be extracted from PPUD on the first day of the month and sent to each member to check that it correctly reflects the MCA cases they completed. Please refer to the MAPP Guidance for further information.

3 What is needed to complete an effective MCA?

- 3.1 The information likely to be needed for an effective MCA is set out in later sections; however, on a practical basis, members will need a complete dossier for each case and up-to-date MCA templates.

The Dossier

- 3.2 The dossier is the vital starting point. The quality and completeness of the evidence it contains will have a significant impact on the effectiveness of the assessment to be undertaken.
- 3.3 Panels should use the referral from the Secretary of State for Justice to determine the case type and what the Parole Board panel is being invited to do.⁵ In determinate sentence recall cases the Secretary of State's referral is not always in the same format as for other cases, but its nature will be clear from the Dossier Cover Sheet. Panels should ensure that they are clear on the terms of the referral and seek clarification from PPCS, via the case manager, where it is not clear. Mandatory documents should be included in dossiers for all types of cases; however, the nature and extent of documentation will vary according to the type of case being considered.
- 3.4 A dossier must include all documents that are mandated by the Schedule to the Parole Board Rules 2019 (as amended)⁶ ("the Rules") (Part A (information relating to the prisoner) and Part B (reports relating to the prisoner)) for a referral to be considered as having been made. The core dossier includes mandatory documents. Although the dossier will have been screened by the Secretariat before it is allocated (and rejected if mandatory reports are missing without an explanation), the MCA panel must also check that mandatory reports have been received.
- 3.5 If a mandatory document is not available, PPCS are required to add a note to the dossier at the time of referral and provide an explanation which sets out why the mandatory document is not available and what action they have taken to find it. The MCA panel should check that an acceptable explanation has been provided for any document that is not available. The MCA panel should seek clarification from PPCS, via the case manager, if there are any questions or concerns as to why the document is not available. If a mandatory document is missing, for example a missing pre-sentence report, the MCA panel must decide whether the explanation as to its omission is acceptable. If the explanation is not acceptable, the mandatory document should be directed. Where the MCA panel considers that the explanation provided is acceptable and decides that the dossier contains sufficient information to make a decision, despite missing mandatory documents, this should be explicitly noted in the decision with an explanation as to how the panel were able to make a decision without the mandatory document.
- 3.6 Where a member requires additional information, **the focus must be on what is essential to determine or progress the case.** A formulaic approach to requesting additional information must be avoided. Every case referred to the Board is different and should be treated as such. This means avoiding generalised directions such as always calling for post-programme review reports, or the previous dossier seen by an earlier panel. Directions for information should be proportionate, reflecting their

⁵ Please refer to the *Types of Cases Guidance* for more information.

⁶ Please note the *Parole Board Rules* have been amended several times, most recently in 2024. References to the *Rules* in this guidance take account of this.

relevance to the case and to the decision to be made and the need to follow a fair process. The baseline should be whether the existing dossier is adequate to allow a fair, effective, and timely decision to be made.

- 3.7 Where required material is missing, the MCA panel should adjourn or defer (an adjournment should always be considered before a deferral).⁷ Directions should be issued using the MCA template stipulating the required information and setting associated deadlines. Once the material has been provided, it should allow the MCA panel to complete the case by making a determination or directing the matter to an oral hearing.
- 3.8 Previous Parole Board decisions should be added to the dossier by the member of staff reviewing the Parole Board dossier. If the previous Parole Board decision is the only outstanding document required for the panel to make an informed decision, the MCA panel should request it from the MCA case manager, who will add the decision to the dossier as quickly as possible, rather than issuing a formal adjournment notice. However, if other information is missing, the MCA panel should adjourn and direct for that information.
- 3.9 For more detail on the options available at MCA stage please refer to [section 9](#).

MCA templates

- 3.10 There are two templates for MCA work, one for paper decisions (the substantive decision) and the other for directions (adjournments, deferrals, directing a case management conference (CMC), or directions to an oral hearing). Member laptops will have the MCA templates stored on them and any technological queries should be raised with the Parole Board's IT team. Detailed instructions for operating, saving and submitting the templates can be found on the IT SharePoint page. SharePoint also contains technical guidance on using the decision template.

4 What information is necessary to effectively complete MCA?

- 4.1 MCA decision-making about risk must follow the Decision-Making Framework (DMF) which provides a structured approach to independent professional judgement and stresses the need for analysis, consideration, reasoning, and reflection. See [Section 18](#) and [Annex 3](#) for more information on writing decisions.
- 4.2 Whether the case is concluded on the papers, or it is sent to an oral hearing, the MCA panel will need to apply the DMF. This includes:

⁷ *Adjourning should always be considered before a deferral. This ensures the case is retained by the MCA panel who will see the case through to conclusion or direction for an oral hearing. There may be exceptional circumstances where a case is not suitable for adjournment and a deferral is appropriate. For example, end of membership tenure, unavailability of member for a substantial period of time, conflicts of interest or another perceived procedural unfairness.*

- **Context:** the terms of referral, the codified public protection test⁸, sentence type, stage in the sentence and the powers and options of the MCA panel
- **Offending behaviour (the past):** the prisoner’s history, life circumstances, age and any unique or protected characteristics⁹ (such as mental health) will usually provide context to the type and details of the offence, previous convictions and patterns of behaviour, their impact, and allegations of harmful and risky behaviour in custody or in the community. Evidence can be taken, for example, from the pre-sentence report, the judge’s sentencing remarks, police computer printouts, OASys assessments, psychological and psychiatric reports, witness statements, and the Community Offender Manager (COM) reports. The reports may contain the prisoner’s version of events as told to the report writer. Any reports of previous offending should not be relied upon exclusively unless verified elsewhere. Victim Personal Statements (VPS) may be part of the dossier, although these should not provide evidence relating to risk (should the VPS provide evidence that may relate to risk, please refer to the Victims Guidance to see how this should be dealt with)
- **Evidence of change (the present):** behaviour in custody, adjudications, security reports and drug tests, engagement with interventions¹⁰, educational and vocational achievements, application of new skills, responses to challenges and opportunities, recommendations for further treatment and training, behaviour on licence, circumstances of recalls, current risk factors and protective factors, motivation, attitudes to offending, insight and maturity, risk assessments, and the opinions of key report writers, time spent in open conditions and conduct during periods of temporary release. Evidence can be found, for example, in the documentation already outlined, post-programme review reports, OASys assessments, security summaries, and the Prison Offender Manager (POM) and COM reports
- **Manageability of risk (the future):** changes in risk factors and risk assessment scores, risk management or release plans, licence conditions and other controls, individual plans and characteristics, openness and honesty, likelihood of compliance, supportive relationships, outlook, and self-identity. The MCA panel may consider on this basis what further offences might be committed, with what impact (i.e. the likely level of harm) and against whom. It may also form a view about probability and imminence of reoffending before setting the evidence against the codified public protection test.¹¹ Indications of evidence of manageability can be found, for example, in

⁸ *The Victims and Prisoners Act 2024 (VAP Act) codifies the public protection test. The changes are introduced under Section 58 (life prisoners) and 59 (fixed-term) of the VAP Act. The codified public protection will come into force on 3rd February 2025. This does not change member practice as it codifies the existing practice of Parole Board members when making a decision about release. Please see from [paragraph 9.33](#) for more information.*

⁹ *Separate guidance has been produced on Protected Characteristics.*

¹⁰ *Separate guidance has been produced on Interventions.*

¹¹ *Please refer to the Types of Cases Guidance.*

the COM report, specialist assessments, representations and other submissions

- **Secretary of State's view:** In some cases, the Secretary of State will present a view on the prisoner's suitability for release. The MCA panel should consider the basis of the view, the evidence upon which it is based, and the weight it attributes to that evidence

- 4.3 An MCA panel considering all this information, or deciding what additional evidence is needed and how to progress a case, should bear in mind that **directions must always be relevant, proportionate, reasonable, necessary, lawful, and deliverable. There is no need to know absolutely everything about a prisoner to make a decision about progressing the case.** A panel just needs enough information to make an evidence-based decision that is defensible and fair.

5 Types of sentence

- 5.1 In the first instance, the MCA panel should check the terms of the referral, which will set out the type of case and what the Secretary of State is asking the Parole Board to do. The referral note should be at the front of the dossier for indeterminate sentence and determinate sentence (non-recall) cases although the panel may have to look elsewhere in the dossier to find out the exact sentence (indeterminate for public protection, life sentence, discretionary conditional release, extended determinate sentence (EDS), etc). In determinate sentence recall cases, the Secretary of State's referral is not always included in the dossier in the same format as Generic Parole Process (GPP) cases, but it will be clear from the Dossier Cover Sheet that it is a recall case.
- 5.2 Panels should always double-check the sentence information (such as relevant dates) provided on the Dossier Cover Sheet against reports in the dossier. Sometimes the Cover Sheet is inaccurate or incomplete, particularly in determinate sentence recall cases, or where there are concurrent or consecutive sentences, or there have been multiple recalls. Discrepancies must be resolved before the review is concluded or highlighted in directions if the case is being directed to an oral hearing. Should there be any discrepancies or should the member have any questions about the sentence information, clarification should be sought from PPCS via the Parole Board case manager.
- 5.3 **Panels should note that the period over which panels are considering risk is indefinite for both indeterminate and determinate sentence cases.**

Please refer to the Types of Cases Guidance for more information on sentence types.

6 The Osborn, Booth & Reilly (OBR) judgment 2013¹²

An overview

- 6.1 In the Supreme Court judgment in this case, the court found that the Parole Board had breached its common law duty of procedural fairness to the three appellants and had contravened Article 5(4) of the European Convention on Human Rights, by failing to offer them oral hearings in circumstances where fairness required one. This ruling required the Parole Board to adopt a different way of determining the need for oral evidence and to revise its practice guidance concerning the purpose of and necessity for an oral hearing in every case referred to it. **The judgment did not oblige an oral hearing to be directed in every case, only when fairness requires one.**
- 6.2 The main change following the judgment was that fairness to the prisoner became the overriding requirement in the decision whether, or not, to grant an oral hearing. The perceived utility of an oral hearing (whether it is likely to make any difference to the outcome of the review) is not a deciding factor. The Board must hold an oral hearing whenever fairness to the prisoner requires one, in light of the facts of the case and the importance of what is at stake. By applying this principle, the Board is compliant with the common law and Article 5(4) of the European Convention of Human Rights (ECHR).
- 6.3 The judgment does not specify the form an oral hearing should take. When the Supreme Court considered this case in 2013, oral hearings were thought to be synonymous with face-to-face hearings. That is no longer so, as oral hearings can be conducted remotely by telephone or video. If fairness requires an oral hearing, members must consider what form of oral hearing might deliver a fair outcome (please refer to paragraphs [20.36-20.43](#)).

The Supreme Court's summary of the OBR principles

- 6.4 In order to comply with common law standards of procedural fairness, the Parole Board should hold an oral hearing before determining an application for release, or for a transfer to open conditions, **whenever fairness to the prisoner requires such a hearing** in the light of the facts of the case and the importance of what is at stake. By doing so, the Parole Board fulfils its duty under section 6(1) of the Human Rights Act 1998 and is compatible with article 5(4) of the European Convention for the Protection of Human Rights, in circumstances where that article is engaged.
- 6.5 Fairness will not require an oral hearing in every case. It may be possible to fairly determine the matter on the papers without an oral hearing taking place. The Court in the OBR case said that it would be impossible to define exhaustively the circumstances in which an oral hearing will be

¹² *Osborn & others v Parole Board* [2013] UKSC 61.

necessary. When considering the question of fairness, members may be assisted by the following circumstances identified by the Court which indicate that an oral hearing may be required:

- a) Where facts which appear to the Parole Board to be important are in dispute, or where a significant explanation or mitigation is advanced which needs to be heard orally in order to fairly determine its credibility. The Parole Board should guard against any tendency to underestimate the importance of issues of fact which may be disputed or open to explanation or mitigation.
- b) Where the Parole Board cannot otherwise properly or fairly make an independent assessment of risk, or of the means by which it should be managed and addressed. That is likely to be the position in cases where such an assessment may depend upon the view formed by the Parole Board (including members with expertise in psychology or psychiatry) of characteristics of the prisoner which can best be judged by seeing or questioning them, or where a psychological assessment produced by the Ministry of Justice is disputed on tenable grounds, or where the Parole Board may be materially assisted by hearing evidence - for example, from a psychologist or psychiatrist. Cases concerning prisoners who have spent many years in custody are likely to fall into the first of these categories.
- c) Where it is maintained on tenable grounds that live interaction between the prisoner and the Parole Board, or with those who have dealt with the prisoner, is necessary in order to enable them or their representatives to put their case effectively or to test the assessments of those who have dealt with them.
- d) Where, in the light of the representations made by or on behalf of the prisoner, it would be unfair for a "paper" decision made by a MCA panel of the Parole Board to become final without allowing an oral hearing: for example, if the representations raise issues which place in serious question anything in the papers which may in practice have a significant impact on the prisoner's future management in prison or at future reviews.

6.6 Other principles laid down in the OBR case may be useful to consider when approaching the question of fairness:

- a) Members will need to consider whether their independent assessment of risk, and the means by which it should be managed and addressed, might benefit from the closer examination which an oral hearing can provide.
- b) Members should also bear in mind that the purpose of holding an oral hearing is not only to assist in the panel's decision-making, but also to reflect the prisoner's legitimate interest in being able to participate in a decision with important implications for them, where they have something useful to contribute.
- c) The question of whether fairness requires prisoners to be given an oral hearing is different from the question of whether they have a particular likelihood of being released or transferred to open conditions and cannot be answered by assessing that likelihood.

- d) When reviewing recalled prisoners, members should bear in mind that the prisoner has been deprived of their freedom, albeit conditionally.
- e) When reviewing post-tariff indeterminate sentence prisoners, members should scrutinise ever more anxiously whether the level of risk is unmanageable, the longer the period the prisoner has spent in prison following the expiry of their tariff. The need for a hearing will be stronger when the prisoner has spent more time post tariff or between hearings.
- f) The Parole Board must be, and must also appear to be, independent and impartial. That means the panel should not be predisposed to favour the official account of events, or official assessments of risk, over the case advanced by the prisoner.
- g) Members should guard against any temptation to refuse oral hearings as a means of saving time, trouble, or expense.
- h) Members will need to bear in mind that the decision, for the purposes of this guidance, is not confined to its determination of whether or not to direct the prisoner's release or recommend their transfer to open conditions, but includes any other aspects of its decision (such as comments or advice in relation to the prisoner's treatment needs or the offending behaviour work which is required) which will in practice have a significant impact on management in prison or on future reviews. This may also be the case when a prisoner appears stuck in the system, and a hearing can enable their progression to be critically examined.
- i) In applying this guidance, it will be prudent to allow an oral hearing if members remain in doubt whether to do so or not.

6.7 Where a panel makes a no release decision on the papers under rule 19(1)(b), the prisoner has 28 days from the date the decision is sent to the parties to request for their case to be considered at an oral hearing. The entitlement of the prisoner to request an oral hearing is not correctly characterised as a right of appeal. In order to justify the holding of an oral hearing, the prisoner does not have to demonstrate that the paper decision was wrong or even that it may have been wrong: they have to persuade the Parole Board that fairness requires an oral hearing.

Practice Guidance for applying the OBR principles

6.8 In line with the OBR principles, there are practical points which members may wish to note:

- At MCA stage, members **must** apply the OBR principles, as summarised above, to every case
- Fairness to the prisoner **must** be the overriding factor
- However, when assessing fairness, the panel is entitled to consider that the prisoner is entitled to a speedy review of their detention (either under Article 5(4) or the common law), and also that they may

be placed on 'parole hold' and unable to access some progression work during the course of their review¹³

- If a decision can be made fairly at the MCA stage, the panel must record that in the decision together with its reasons for doing so
- MCA panels must not decline to direct an oral hearing because it is unlikely to make a significant difference to the outcome or because the prospects for release or transfer to open conditions look remote
- MCA panels must not decline an oral hearing to save time or money
- The fact that a prisoner has not asked for an oral hearing is no reason not to direct one
- The Parole Board does not engage in and is not responsible for sentence planning. But taking evidence during an oral hearing might helpfully identify further steps needed to progress the prisoner to eventual release or transfer to open, even where these outcomes are currently unlikely. If that is the case, then it may be helpful to record them. Whether or not any of these steps are taken is not the Parole Board's responsibility
- If following detailed assessment there is still doubt as to whether to conclude a case on the papers, then an oral hearing should be directed
- If an oral hearing is directed, MCA panels will also need to consider and record in the directions what type of oral hearing is required, i.e., by video, hybrid arrangement, telephone, or whether a face-to-face hearing is required
- All decisions should cite the *Osborn* judgment, using the standard wording shown below

Standard wording for referring to the OBR judgment

- 6.9 It is strongly recommended that the standard form of words is used to refer to the judgment in each case. This is because the text is comprehensive and based on legal advice; therefore, it is less open to challenge. It is easy to insert this prepared standard wording in the paper decision template, saving the member time and avoiding paraphrasing.

*"The panel has considered the principles set out in the case of Osborn, Booth and Reilly (2013) UKSC 61 concerning oral hearings. It has not found that there are any reasons to hold an oral hearing. **[but note whether any representations have been submitted]**. Therefore, this case is not being directed to an oral hearing."*

- 6.10 The member can then insert their detailed reasons below the standard paragraph. Those reasons should deal with the particular circumstances of the case.

¹³ Some prisons may decide to place a prisoner on 'parole hold' once they enter their parole window to restrict their transfer to another prison and avoid disruption to the parole review. However, transfers during this time can occur in line with the [Progressive Transfers for Indeterminate Sentence Prisoners Policy Framework](#) and the [Generic Parole Process Policy Framework](#).

- 6.11 The wording of the standard paragraph can also be expanded to suit the circumstances of the case. For example, when there is insufficient time to hold an oral hearing before the Sentence Expiry Date (SED)¹⁴:

*"The panel has considered the principles set out in the case of Osborn, Booth and Reilly (2013) UKSC 61 concerning oral hearings. It has not found that there are any reasons to hold an oral hearing and, in any case, there is now insufficient time to arrange an oral hearing before the Sentence Expiry Date. **[but note whether any representations have been submitted]**. Therefore, this case is not being directed to an oral hearing."*

- 6.12 Or, if otherwise, an oral hearing might have been appropriate:

*"The panel has considered the principles set out in the case of Osborn, Booth and Reilly (2013) UKSC 61 concerning oral hearings. It considers that an oral hearing is appropriate in this case. Unfortunately, however, as the Sentence Expiry Date is on **[insert date]**, the Parole Board is unable to convene an oral hearing before automatic release on that date. As in practice it is impossible to arrange an oral hearing in this case, and there is no significant further information outstanding which requires a further delay to obtain, the panel has gone on to consider [the codified public protection test/criteria for open conditions] on the papers before it."*

- 6.13 The text may be extended as follows to provide more explanation:

"The Parole Board has an operational policy that at least 26 weeks must remain until Sentence Expiry Date to allow the practical steps to be taken for a hearing to be arranged. There is insufficient time remaining until the SED and, unless there are very exceptional circumstances, any application for an oral hearing is unlikely to be granted."¹⁵

7 Consultation with a specialist member or a duty member¹⁶

- 7.1 In certain circumstances a brief consultation with a duty member or a specialist member might be required. This consultation is likely to be appropriate in the following scenarios:

- A brief consultation of up to 30 minutes is required to assist the MCA member in their deliberations
- The MCA member can summarise the case and issues to the duty/specialist member; full consideration of the dossier by the duty/specialist member is not required
- To discuss a specific point that needs to be fully understood

¹⁴ Panels may wish to adopt a similar position where the conditional release date (CRD) for an EDS prisoner is less than 26 weeks away, though this is not a specific policy.

¹⁵ Panels may wish to adopt a similar position where the conditional release date (CRD) for an EDS prisoner is less than 26 weeks away, though this is not a specific policy.

¹⁶ A list of specialist members can be found just above the duty member rota on SharePoint and duty members can be contacted via the MCA team.

- To consider options to progress the case
- To consider whether either a psychologist or psychiatrist is needed when deciding the panel composition for a case, or if a specific specialism is required
- For advice from a specialist member on matters such as medical conditions, directions (fairness/wording/reports), case progression, or licence conditions

8 Multi-member MCA panels

- 8.1 Multi-member MCA panels are intended for cases where a brief consultation with a duty member or specialist member is insufficient, for example it would require the specialist or duty member to read and consider the full dossier.
- 8.2 Members should initially consider whether any additional information is required to conclude the case on the papers. Following directing and obtaining this, members can then determine whether the case requires a multi-member panel. Members should use the initial review to direct further information before considering whether a multi-member panel is required, as the additional information may have an impact on that decision.
- 8.3 A multi-member MCA panel involves joint decision-making where a further member(s), such as a specialist member, joins the panel. Therefore, it is for cases where the MCA member requires more than a brief consultation (set out at [paragraphs 7.1](#) above). Instances where a multi-member panel might be used include, but are not restricted to¹⁷:
- Cases requiring case-specific specialist advice, where a short discussion with the specialist member would not be sufficient
 - Finely balanced cases, for example where a decision on the papers is being considered and a second opinion would be beneficial to resolve issues of fact or resolve a point of view, or to ensure fairness
 - Complex cases, including ones involving rare or unusual facts, cases which raise technical or specific knowledge issues, complex non-disclosure¹⁸ issues, and cases where the MCA member may benefit from a specialist, expert, or second opinion, to either conclude the case or issue complex directions
- 8.4 If a member has a case in their MCA bundle that, after consideration, requires a multi-member panel, they should notify the case manager within four days from point of allocation. Arrangements can then be made for the additional member/members to be allocated to the panel. Necessary information to include is:
- Prisoner name and prison number

¹⁷ Please refer to [Annex 4](#) for a table which helps members in deciding whether a multi-member panel or consultation with a duty or specialist member might be required.

¹⁸ Further information can be found in the *Non-Disclosure Applications Guidance*.

- Bundle number
 - Number of additional members required and the reason(s) why
 - Whether a specialist member is required (only specify psychiatrist member or psychologist member if the nature of the case means their specific knowledge and skills are required to make a fair and rigorous risk-based decision)
- 8.5 Under delegated authority (rule 4), the additional member(s) will be allocated to the case by the secretariat according to member type (specialism) and availability. Additional members cannot be personally selected by the MCA member.
- 8.6 The MCA member will then become the MCA panel chair and retain overall responsibility for the case and the decision-writing. It is the responsibility of the MCA panel chair to contact the additional member(s) to agree a time to discuss the case.
- 8.7 Following a multi-member panel, the due date for the decision is ten days from the date the bundle was issued to the new panel member, to enable sufficient time for the panel discussion. The remaining cases in the bundle will continue to be due on the original date.
- 8.8 If a two-member MCA panel is finding it hard to reach an agreement, they should carefully consider whether further written evidence may assist them, or whether the case would be better determined at an oral hearing. If an agreement cannot be reached after a thorough review of the evidence and codified public protection test, under rule 26(2), the MCA panel chair will need to formally defer the case so that a new panel can be convened to hear the case. The MCA panel chair will need to issue a deferral notice explaining that the panel has not been able to reach a conclusion and that the case will be re-listed with a new panel.¹⁹ The MCA panel chair may issue directions for further information which they believe will assist the next panel. In doing so, they should be careful not to give an indication of their own assessment such that it might impede the decision of a future panel.
- 8.9 If a three-member panel is having difficulties in coming to a unanimous decision, the panel should thoroughly and fairly debate the evidence, codified public protection test, and alternatives again. One of the panel members could facilitate a discussion about a specific point on which agreement cannot be reached or on which opinion differs. If full agreement is still not possible, the case may be concluded with a majority decision under rule 26(1). No explicit reference to a majority decision must be made in the decision but the decision can be described as finely balanced. The decision should reflect even-handedly the panel's assessment of the evidence for and against the decision.

¹⁹ When an MCA case is deferred and all further directions complied with, the MCA case manager requests representations and then sends the case back to the bundling team to be allocated to the next available panel member.

- 8.10 Adjournments following a multi-member panel should be rare. In circumstances where a multi-member panel has convened and further information has been directed and received, the MCA panel chair will need to decide whether they can make the decision alone, through consultation with a duty/specialist member or if a multi member panel continues to be required. If the MCA panel chair is making a decision alone, they will need to stand down their co-panellists and record the reasons in the decision letter. If the MCA panel chair requires the multi-member panel to reconvene, the MCA panel chair should arrange a suitable time to discuss the case.
- 8.11 Once the additional information is received following an adjournment, the decision is due within eight days²⁰ of receipt of the new information.
- 8.12 There may be exceptional circumstances where a case is not suitable for adjournment and a deferral is appropriate. Reasons for deferring the case (as opposed to adjourning) must be clearly outlined in the deferral notice.
- 8.13 Directions to an oral hearing following a multi-member paper panel being convened should be rare. Multi-member MCA panels are intended to resolve cases at MCA stage that a single member would not be able to resolve by themselves. Nevertheless, there may be instances where the case is so finely balanced that a multi-member MCA panel decide that an oral hearing is required.
- 8.14 The decision is that of the panel. The draft decision should be shared with the co-panellist(s) for comments before the final decision is sent to the case manager.
- 8.15 Please refer to [Annex 4](#) for a chart referencing the required steps of a multi-member panel.

9 Options available to an MCA panel

- 9.1 The Types of Cases Guidance sets out in a table the options available to an MCA panel for each type of case. MCA panels should familiarise themselves with this table.
- 9.2 In summary, options which can apply to particular types of case include:
- Adjourn or defer for further information
 - Issue a paper decision: a release decision, a recommendation for progression to open conditions, or a decision which refuses release or re-release and/or does not recommend progression to open conditions
 - Direct an oral hearing or send the review to an oral hearing after a case management conference
 - Direct an oral hearing after a defined period of deferral for specified developments or assessments to take place

²⁰ As the panel have already had the opportunity to meet and review the bundle a smaller time allocation is provided.

- 9.3 These options are explained in greater detail in the following paragraphs. An adjournment should always be considered before a deferral. This ensures the case is retained by the MCA panel who will see the case through to conclusion or direction for an oral hearing. There may be exceptional circumstances where a case is not suitable for adjournment, and a deferral is appropriate. For example, end of membership tenure, unavailability of a member for a substantial period of time, conflicts of interest²¹, or another perceived procedural unfairness.
- 9.4 Under rule 19 of the Rules, the decision and advice of the MCA panel must be recorded in writing with reasons for that decision. The written record must be provided to the parties within 14 days of the date of the decision, in accordance with Parole Board Policy.²²

Adjourn for further information

- 9.5 To adjourn is to postpone completion of the review to a specified future date with the same panel retaining responsibility. Members have this option in **any type of case** if they consider that further initial evidence is needed to enable a decision on how to determine or progress the case. When deciding whether an adjournment is necessary, panels should consider:
- Whether additional information is required to make a balanced risk assessment and/or provide a fair hearing and whether this information will be available within a specified timescale
 - Whether the information is likely to materially affect a decision about the necessity of an oral hearing or is otherwise liable at any stage to influence the eventual parole outcome

If not, then a decision to adjourn should generally be avoided, as this can cause unnecessary delay to a review.

- 9.6 Where a case is adjourned, the MCA directions template should be used to set out the reasons for the adjournment, the information that is required, who should provide it and the deadlines for compliance with the directions. Panels will also need to identify a new panel date within the body of the directions. When choosing a new panel date, the MCA panel should allow time for:
- The case manager to request representations (7 working days)
 - The panel to return the decision (14 days)
- 9.7 The total time between the last direction date and the new panel date should be at least **three weeks and two days** to ensure procedure has

²¹ For more information on what may constitute a conflict of interest please refer to the *Oral Hearing Guidance*.

²² This policy has been agreed by the Parole Board's Management Committee and is in response to the time limit having been removed from the Rules.

been followed and the case is ready for review.

- 9.8 The case manager will let the MCA panel know once the case has been re-panelled on the new panel date.
- 9.9 The MCA panel will have access to the dossier for the duration of the adjournment, which means they will be able to see when reports are added to the dossier. The MCA panel should track adjourned cases and check with the case manager if deadlines pass and the directed information has not been received. Although case managers monitor developments, panels should also make checks to ensure cases are kept on track. This supports fairness to the prisoner as well as procedural efficiency.
- 9.10 If, following the addition of reports to the dossier, the MCA panel assess there is enough information to conclude the review, the review should **not** be concluded at that stage. Instead, the MCA panel should let the case manager know that they feel they are able to conclude the review. The case manager will then invite further representations from the prisoner or their legal representative, and will let the MCA panel know that either:
- Representations have been provided; or
 - The deadline for the submission of representations has passed and the MCA panel can conclude the case.
- 9.11 If a direction is expected to be late, PPCS should send the case manager a SHRF requesting to extend the deadline in advance of the last direction date.
- 9.12 In some circumstances, for example where the extension will not impact upon the panel date, the case manager will be able to agree to the request under delegated authority. Where an extension request has been agreed under delegated authority, the case manager will inform the MCA panel of the change and push back the panel date by the length of the extension.
- 9.13 In circumstances where the extension cannot be agreed under delegated authority, for example where agreeing the extension may impact upon the panel date, the case manager will pass the SHRF to the MCA panel for consideration. If the MCA panel chair agrees to the request, they will need to inform the case manager of the new panel date, taking the timeframe at [paragraph 9.7](#) into consideration.
- 9.14 On the day after the last direction deadline, if the direction has not been complied with and no SHRF has been received, the case manager will inform all parties that the direction(s) have not been complied with and that the case will return to the MCA panel for assessment. The case manager will then invite representations from the prisoner or their legal representative and advise the MCA panel whether representations have been submitted or the deadline for representations has passed.

- 9.15 When the additional information directed has been received, the MCA panel should conclude the assessment on a new template as a decision or as further directions.
- 9.16 When considering an adjournment, the member should take into account whether the case has been adjourned or deferred previously. The ongoing need for adjournment/deferral must be kept under review by the member to avoid unnecessary delay. **The Parole Board is under a legal obligation²³ to complete a timely review of cases referred to it. Cases should not be adjourned indefinitely or be subject to long delays which are unjustified and disproportionate.** If a case appears to be 'stuck' with no progress, then the MCA panel may wish to make a decision on risk and conclude the case on the basis of available evidence, or to progress it to a CMC or an oral hearing, rather than adjourn it again.²⁴
- 9.17 **Adjournments and deferrals should not exceed four months from the date of the panel unless there are exceptional circumstances.** Where a case is adjourned or deferred for more than four months, a reason must be given setting out the exceptional circumstances. When considering an adjournment, under rule 6(14) members must take into account the date of the decision of the prisoner's last parole review.
- 9.18 Please refer to the Guidance on Adjournments and Deferrals for more information, including examples of when an adjournment at MCA stage may/may not be appropriate.

Defer for further information

- 9.19 A deferral is different from an adjournment in outcome – to defer is to postpone completion of the case to a fresh MCA panel at a future date. A deferral can be imposed on any type of case.²⁵
- 9.20 Members should avoid a deferral where possible, but there are some circumstances where it is more appropriate than an adjournment, as noted above. Examples include the imminent end to the member's tenure, the member expecting to be unavailable for a long time, conflicts of interest, or another perceived procedural unfairness. **Adjournments and deferrals should not exceed four months from the date of the panel unless there are exceptional circumstances.** Where they do, a reason should be given clearly setting out these circumstances.
- 9.21 The MCA directions template should be used to set out the reasons for the deferral, the information that is required, who should provide it, and the deadlines for compliance with the directions.

²³ Article 5(4) of the European Convention on Human Rights, and also under common law.

²⁴ The MCA panel can seek advice from the Parole Board's Practice Advisor if required.

²⁵ The policy on no deferrals in IPP cases where there is a Secretary of State view was cancelled by Management Committee following review in April 2023.

- 9.22 If considering a deferral, members should take into account whether the case has been adjourned or deferred before, the length of a proposed deferral, and the overall time impact on the case. Cases must not be deferred indefinitely or be subject to long delays which are unjustified and disproportionate. Members should also take into account the date of the decision of the prisoner's last parole review when making a decision to adjourn or defer (in line with rule 6(14)).
- 9.23 Please refer to the Guidance on Adjournments and Deferrals for more information, including examples of when a deferral at MCA may/may not be appropriate.

Issue a paper decision

- 9.24 **A paper decision can be made if the MCA panel is satisfied that there is enough information to conclude the case on the dossier documentation alone, and that it is fair to the prisoner to do so.** Panels will need to include the full set of reasons on the paper decision template.
- 9.25 Depending on the type of case and the Secretary of State referral, the decision can direct release or recommend transfer to open conditions, or not direct release and/or not recommend transfer to open conditions.²⁶ In coming to its decision, the MCA panel should follow the principles of the Decision-Making Framework.
- 9.26 Where the referral from the Secretary of State includes consideration of release and of suitability for open conditions, the MCA panel must first consider whether the codified public protection test is met and, if release is not directed, to then consider suitability for open conditions.
- 9.27 Prior to concluding a case, any ongoing non-disclosure applications must be completed. The review should not be progressed without the full non-disclosure process having been completed. The MCA panel may need to adjourn.²⁷
- 9.28 The Rules give the Parole Board power to release any prisoner on the papers, where release is included in the terms of the referral. This includes initial release of those serving an indeterminate sentence as well as indeterminate recall cases if the case merits such a decision. Previously, Parole Board policy required that initial release of a life sentence prisoner should only take place following an oral hearing. This is no longer the case. However, while there is no longer a requirement for an oral hearing to take place, **Parole Board policy is that there is a**

²⁶ Members should note the policies relating to specific types of cases if release cannot be directed on the papers – set out in the table of options in the Types of Cases Guidance.

²⁷ The stage of the non-disclosure application will determine whether an adjournment notice should not make reference to the Parole Board receiving an application for non-disclosure. If the Parole Board has not yet made a decision on the non-disclosure application, then the adjournment notice should not make reference. If a decision has been made under rule 17 (5) then the adjournment notice can make reference.

presumption that a first-time release of a life sentence prisoner should only take place following an oral hearing.

- 9.29 Previously, a recommendation on the papers for a life sentence prisoner to progress to open conditions could only be made in exceptional circumstances. This is no longer the case. A recommendation for open conditions for such a prisoner can be made by an MCA panel on the papers; however, **Parole Board policy is that there is presumption that recommendations for a life sentence prisoner to progress to open conditions should only take place following an oral hearing.**
- 9.30 Where the panel go against a presumption, they must provide clear reasons for doing so within the written decision.
- 9.31 Paper decisions declining release can be issued in all types of cases except:
- **Prisoners who are under the age of 18 at the point of referral (child cases):** if not released on the papers, Parole Board policy is to automatically grant an oral hearing with the case prioritised in the next listing schedule
 - **Prisoners in a secure hospital or mental health setting:** if not released on the papers, Parole Board policy is to automatically grant an oral hearing with the case prioritised in the next listing schedule²⁸
 - **Prisoners facing their first review after having been in a mental health unit or secure mental health setting:** if not released on the papers, Parole Board policy is to automatically grant an oral hearing with the case prioritised in the next listing schedule
- 9.32 **Parole Board policy is also that there is a presumption (but not an automatic right) of an oral hearing for prisoners aged 18–21 (inclusive) at the point of referral if they cannot be released on the papers.** Please refer to the Young Adults Guidance for further information.

Issuing a decision for release

- 9.33 In order to issue a paper decision for release, there must be sufficient evidence to demonstrate that the prisoner meets the **codified public protection test.**²⁹
- 9.34 The Board must not give a direction for release unless the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined [in prison].³⁰

²⁸ The Mental Health Case Member Cohort deal with all cases where the prisoner is in a secure hospital or mental health setting, and cases where the prisoner has been returned to prison from hospital and it is their first parole review since leaving hospital.

²⁹ Please see the Types of Cases Guidance for full guidance on the codified public protection test.

³⁰Section 28ZA (2) Crime (Sentences) Act 1997 (CSA 1997)/ section 237A (2) Criminal Justice Act 2003 (CJA 2003).

- 9.35 A direction for release must not be made, unless the panel considers that there is no more than minimal risk of the prisoner committing a further offence which would cause serious harm, should they be released.³¹
- 9.36 When undertaking the assessment in paragraph 9.35 above, the panel must consider whether the prisoner would engage in conduct which would constitute an offence under Schedule 18B Criminal Justice Act 2003.³²
- 9.37 The panel **must** take the following matters into account³³:
- (a) the nature and seriousness of the offence in respect of which the relevant sentence³⁴ was imposed
 - (b) the nature and seriousness of any other offence for which the prisoner has at any time been convicted
 - (c) the conduct of the prisoner while serving the relevant sentence (whether in prison or on licence)
 - (d) the risk that the prisoner would commit a further offence (whether or not specified in Schedule 18B to the Criminal Justice Act 2003) if no longer confined
 - (e) the risk that, if released on licence, the prisoner would fail to comply with one or more licence conditions
 - (f) any evidence of the effectiveness in reducing the risk the prisoner poses to the public of any treatment, education or training the prisoner has received or participated in while serving the relevant sentence
 - (g) any submissions made by or on behalf of the prisoner or the Secretary of State (whether or not on a matter mentioned in paragraphs (a) to (f))
- 9.38 Additionally, the panel **must**, in particular, have regard to the protection of any victim of the prisoner.³⁵
- 9.39 **Panels should note that these sections do not limit the matters which they must or may take into account when making a public**

³¹ Section 28ZA (3) CSA 1997/ section 237A (3) CJA 2003.

³² Please see Annex 2 of the Types of Cases Guidance for further information.

³³ Section 28ZA (5) CSA 1997/ section 237A (5) CJA 2003.

³⁴ The 'relevant sentence' is the sentence, in respect of which, the decision about suitability for release is made (section 28ZA (8) CSA 1997/ Section 237A (8) CJA 2003). It may also be referred to as the index offence.

³⁵ Section 28ZA (6), (7) CSA 1997/ Section 237A (6) and (7) CJA 2003. Please note that this does not preclude the Board from doing so, for other victims of crimes of the prisoner (for any crimes, other than the index offence), but the Board is not compelled do so.

protection decision.

9.40 The codified public protection test applies to all cases. Parliament has not indicated that the test should be interpreted any differently for Extended Determinate Sentence (EDS) prisoners during the extended period of their sentence. Therefore, the Sim³⁶ test must no longer be applied, and panels must not apply a presumption in favour of release.

9.41 For an MCA panel to complete an adequate analysis which follows the principles of the Decision-Making Framework, the evidence needed for a release decision should include:

- Accurate information about the referral from the Secretary of State, the sentence and all relevant dates
- All the mandatory reports as per the Schedule to the Rules³⁷
- A clear and independent account of the index offence and other patterns of offending
- Any material that has been subject to a non-disclosure application (NDA). Panels should ensure that they have sight of all the relevant NDA documents and make sure that the information has been considered. If an NDA has been evidenced by, for example, a gist in the dossier, panels must have sight of the full material. If they have not had sight of the full material and are unable to access it, they should raise the matter with the Parole Board Case Manager, who will liaise with PPCS to ensure that the full information is provided. If there is no non-disclosure information, PPCS should confirm
- Any clearly identified risk factors as well as the prisoner's triggers and motivations for offending
- The full details and circumstances of any recalls
- Evidence of change and risk reduction (for example, successful completion of interventions, assessed motivation and compliance, security information, protective factors)
- Full risk assessments and information which enables assessment of the levels and imminence of risk
- A complete risk management plan (RMP) (or release plan for prisoners presenting a low risk of harm)
- A full set of proposed licence conditions
- A VPS if it is indicated one will be available

9.42 If this evidence/information is not available to the panel, an adjournment or deferral for further information may be appropriate or consideration given to whether an oral hearing is more appropriate.

9.43 A VPS should be taken into account and referenced in a decision if one is present. If a VPS is indicated, but not available in the dossier, panels are advised to seek clarification as to the availability of a VPS. This will help to ensure that, if a VPS has been submitted for consideration, the Parole

³⁶ *R (Sim) v Parole Board* [2004] QB 1288.

³⁷ Please refer to [paragraph 3.5](#) for cases where mandatory reports are missing/unavailable.

Board is fully aware of it and can fulfil its duties towards victims. Please refer to the Guidance on Victims.

10 The Prisoners (Disclosure of Information About Victims) Act 2020 (“Helen’s Law”)

- 10.1 The Prisoners (Disclosure of Information About Victims) Act 2020 (“the Act”) received Royal Assent on 4 November 2020 and came into force on 4 January 2021. The Act applies to all prisoners who are releasable under the Crime (Sentences) Act 1997 serving a sentence for murder or manslaughter; or the Criminal Justice Act 2003 for manslaughter or the taking or making of indecent images.
- 10.2 The Act places a statutory duty on the Parole Board to consider the non-disclosure of information about victims in its decision-making. The duty applies to cases involving the non-disclosure of information about the whereabouts of a victim’s remains (often referred to as “Helen’s Law”) and non-disclosure of information about the identity of child victims in indecent images.
- 10.3 There are practical implications for the MCA panel; where the criteria are met, the panel will need to consider:
- the prisoner’s non-disclosure; and
 - the reasons (in their view) for the prisoner’s failure to disclose the information.

The Act only applies to initial release and does not cover recall cases. When considering re-release of a recall case this legislation does not compel the MCA panel to take these matters into account; however, the panel may form a view that these matters remain relevant in such cases and will still wish to give due regard to the circumstances.

- 10.4 Please refer to the Guidance on The Prisoners (Disclosure of Information About Victims) Act for more information.

11 Releasing Imprisonment for Public Protection (IPP) or life sentence prisoners on the papers

- 11.1 While initial release and re-release of IPP³⁸ and life sentence prisoners may take place on the papers, it **may not** be appropriate in the following circumstances:
- If risk assessments are finely balanced, oral evidence is likely to be helpful

³⁸ Reference to the IPP sentence and licence will also include the Detention for Public Protection (DPP) sentence and licence. DPP sentences were given to individuals who were under 18 at the time they were convicted of the offence committed.

- If there is any dispute of fact or a finding of fact needs to be made
 - If key report writers have made conflicting risk assessments
 - If there are any key issues which are not addressed in reports – sometimes these may be identified by representations
 - If a case is complex or unusually serious and the member has concerns about directing release that require further exploration
 - In any case, when applying the OBR principles (see paragraphs [6.4-6.8](#)), a prisoner reasonably wishes to put a case or to question the views of others at an oral hearing
 - Initial release of a life sentence prisoner needs to take account of the policy of the presumption of an oral hearing
- 11.2 If the case presents high-profile matters which may attract public scrutiny, or material that may attract particular local or national interest, the MCA panel need not be inhibited from releasing on the papers but should check with the case manager that the Parole Board has a communications plan in place before the decision is issued.

12 Recommending open conditions for indeterminate sentence prisoners

- 12.1 Parole Board panels make a 'recommendation' in respect of a prisoner who is eligible to go to open conditions. This is *advice* to the Secretary of State, which is not binding, rather than a direction which is binding. There is not a formal or legal 'test' for recommending transfer to open conditions, but rather a set of criteria laid down by the Secretary of State. Please refer to the Types of Cases Guidance for more information.
- 12.2 **A recommendation for transfer to open conditions for life sentence prisoners may be made on the papers; however, Parole Board policy is that there is a presumption that this should only happen following an oral hearing** (please refer to paragraph [9.29](#) for more information). This policy does not apply to prisoners with IPP sentences.
- 12.3 In all cases where it is part of the referral, the criteria for recommending transfer to open conditions will be automatically inserted into the decision template. The criteria must be addressed separately and explicitly in the written decision.
- 12.4 Please refer to the Types of Cases Guidance for more detailed guidance about open conditions and the criteria for recommending transfer to open conditions.

13 Issuing a no release paper decision

- 13.1 If the MCA panel is satisfied that a prisoner is not suitable for release or re-release following recall (on the basis of applying the codified public protection test) and that the case does not require an oral hearing, they

can issue a no release paper decision.³⁹ This must follow consideration of the OBR principles, which must be referenced in the decision. Standard wording (see paragraphs [6.9 – 6.13](#)), set out above, must always be used for this.

13.2 No release paper decisions may be appropriate in the following circumstances:

- There are well supported/reasonable representations from a prisoner/their representative asking for a paper decision rather than an oral hearing
- The previous review took place at an oral hearing and very little of significance has changed since (though the potential benefits of an oral hearing as a means of re-engaging a prisoner 'stuck' in the parole process should not be disregarded and the OBR principles always apply). It is worth considering the potential impact on risk of the further passage of time; much can change for a prisoner in a year, even if no further interventions have been completed
- The prisoner is confirmed to be about to start an important intervention, and a period of consolidation afterwards is needed
- A prisoner has only recently arrived in open conditions and needs time to work through the regime and resettlement scheme in order to demonstrate change or to reduce risks sufficiently for a safe release
- The prisoner faces outstanding charges and (a) it is confirmed it will be more than twelve weeks or so before the matter is concluded; and (b) the allegations are similar to the index offence and/or are serious or are otherwise relevant to a proper assessment of risk. When considering allegations, members should consult the Guidance on Allegations, and follow the principles set out in the judgment in *Pearce*⁴⁰. In the event that the decision is not to release, PPCS may refer the case back to the Parole Board (where there are 13 months or more until SED) if the outcome of the court proceedings or police investigations would result in there being a significant change in circumstances, and PPCS determine the prisoner is not eligible for release following a Risk-Assessed Recall Review (RARR). In addition to this, the MCA panel could indicate in the decision that the case could usefully be referred to the Parole Board when outstanding criminal matters have been concluded and there is 13 months or more until SED
- The automatic point of release (such as the SED⁴¹) is imminent and could fall within the Parole Board's policy for a minimum period of time to remain in order to arrange an oral hearing (see paragraphs [21.2 – 21.5](#)). As with all cases, the codified public protection test **must** be the primary consideration and the MCA panel will need to consider whether

³⁹ Panels should note the policies where there is a presumption or automatic granting of an oral hearing if release cannot take place on the papers – please see the table of options in the Types of Cases Guidance.

⁴⁰ [2023] UKSC 13 on appeal from [2022] EWCA Civ 4.

⁴¹ Panels may wish to adopt a similar position where the conditional release date (CRD) for an EDS prisoner is less than 26 weeks away, though this is not a specific policy.

it has been met. If it is not possible for any reason to conclude that the test has been met, then the member must say so and explain why in the written decision

- The case has been adjourned and deferred a number of times and there is no realistic prospect that the issue holding the case up will be resolved swiftly. In such a case, and only after having considered OBR principles, it may be better to conclude the review on the information that is available and thus allow the prisoner an opportunity to concentrate on progression work pending a further review. Members should bear in mind that PPCS can shorten the review period, if necessary, once the issue that is holding the case up has been resolved

13.3 Under rule 20, prisoners who have received an MCA decision refusing release on the papers have 28 days from the decision being sent to decide whether to accept the outcome or request an oral hearing. These requests go to the duty member to determine (please refer to the Duty Member Activities Guidance for more information). Panels should **not** use the fact that this channel is available to the prisoner as justification for issuing a no release decision if there are any doubts. If, following detailed assessment, there is still doubt as to how to conclude a case on the papers, or about whether an oral hearing is required, then an oral hearing should be directed.

13.4 There are other circumstances where a no release paper decision may not be the most appropriate route, over and above the criteria already mentioned in paragraph [9.31](#) above⁴²:

- When the prisoner has not had an oral hearing for some time or if it is their first review during a long sentence, even if it appears likely that the outcome of an oral hearing may be a no release decision
- Oral hearings can be an invaluable way of reviewing a prisoner's progress and/or keeping them engaged with the parole process and motivated in relation to their sentence plan, an approach which is consistent with the OBR principles (see paragraphs [6.4 - 6.8](#))
- Even if there are no representations asking for an oral hearing, or even if the prisoner/representative has asked for a review on the papers, there may be merit in exploring the reasons for this request and considering whether an oral hearing would still have value and be fairer

13.5 For a reasoned and fair no release decision, an MCA panel is required to produce a full set of reasons on the paper decision template which provide detailed evidence, similar to the content (set out above) for a release decision. The Parole Board must be able to show that it has considered all the necessary evidence and demonstrate within a structured written decision that the prisoner does not meet the codified public protection

⁴² Panels should note the policies where there is a presumption or automatic granting of an oral hearing if release cannot take place on the papers. Please see the table of options in the Types of Cases Guidance.

test.

14 Options following a paper decision

- 14.1 Where the panel makes a no release decision on the papers, the decision is provisional, and the prisoner has 28 days after the decision is sent to the parties to request (under rule 20) for their case to be considered at an oral hearing. Determination of an application under rule 20 will be taken by a duty member.
- 14.2 If no rule 20 application for an oral hearing has been made within the 28-day window, the decision remains provisional for a further 21 days if the decision is eligible for reconsideration, and a reconsideration application can be made at this point. If the decision is not eligible for reconsideration, the decision becomes final at the end of the 28-day window. If no application for reconsideration is made within the 21-day time frame, the decision becomes final.
- 14.3 Please refer to the Guidance on the Reconsideration Mechanism for more details on eligibility and the grounds on which a decision can be challenged.
- 14.4 Once the decision becomes final, the Parole Board has the power to set aside a decision where the criteria and tests have been met.
- 14.5 For eligible cases, the set aside mechanism allows either party to the proceedings to make an application for a parole decision to be set aside if:
- It is considered that there has been an error of law or fact⁴³; or
 - For release decisions only, where new information has come to light that was available at the time but not shared with the panel, or there has been a change in circumstances after the decision was made.⁴⁴
- 14.6 The decision under challenge must be a final decision and relate to whether the prisoner should be released or not released. A decision regarding a recommendation for open conditions or any other advice **is not eligible for the set aside process.**
- 14.7 The Parole Board can also set aside a decision on its own initiative if one of the circumstances (set out above) is met.
- 14.8 Please refer to the Setting Aside a Decision Guidance for more details on eligibility, the timeframes, and the grounds on which a decision can be set aside.

⁴³ In cases where the application to set aside a release/no release decision relates to there having been an error of law or fact, the time limit for filing an application is 21 days after the decision under challenge becomes final.

⁴⁴ The time limit for challenging a release decision on the basis of there being new information, or where there has been a change in circumstances, is any time up until the point of release. An application for a decision to be set aside cannot be made where the prisoner has already been released.

14.9 Either party (prisoner or Secretary of State) who wishes to challenge a final decision of the Parole Board can do so by making an application for judicial review to the High Court. Separate guidance has been produced on Judicial Reviews and Private Law Claims.

14.10 The VAP Act has introduced a new power for the Secretary of State to direct the Parole Board to refer the Prisoner's case to the High Court following a Parole Board release decision for certain prisoners if they consider that:

- (a) the release of the prisoner would be likely to undermine public confidence in the parole system, and
- (b) if the case were referred, the High Court might not be satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.

14.11 Decisions are being made as to how this will work in practice, both for the Parole Board and in the High Court. Details will be shared in due course.

15 Direct the case to an oral hearing

15.1 Among reasons for directing a case to an oral hearing, fairness to the prisoner is the overriding requirement. As above, the likely outcome of an oral hearing should not be the deciding factor.

15.2 Some types of cases should be referred automatically to an oral hearing. Please refer to paragraph [9.31](#) for more information.

15.3 To ensure that reviews are completed as speedily as possible, members should direct cases to oral hearings only when oral evidence is necessary to reach a decision and conclude the review. For example, the OBR principles (see [paragraphs 6.4 – 6.8](#)) do not guarantee an oral hearing:

- Just because the parties have asked for one
- Where evidence can be considered effectively without the need to be tested orally or in person
- Where the prisoner's legitimate interest in taking part can be discharged by issuing written submissions

15.4 In summary, the OBR principles do not require an oral hearing to take place in all cases, but the key test is whether fairness to the prisoner requires oral evidence to be heard, bearing in mind:

- (a) The facts of the case
- (b) The importance of the issue at stake

15.5 Members should also bear in mind that the principle set out in the OBR judgment is not the likelihood of release, or the need to save time, expense, or trouble. This differs from the Parole Board's duty to provide a

speedy review under Article 5(4) ECHR and common law. Accordingly, **unless oral evidence is needed to meet the principle of fairness, a swift conclusion on the papers (potentially following the receipt of further directed reports) may fulfil the obligation for a speedy review.**

15.6 When members are considering whether an oral hearing is needed (and what form that hearing should take) they should ask themselves the following questions, always bearing in mind the OBR principles:

- Is the prisoner's suitability for progression clear and obvious from the evidence? For example, a prisoner may have recently arrived in open conditions (or have just started risk-related interventions) and requires time to complete the work or to adjust – then it may be appropriate to decide the case on the papers
- Does the prisoner want an oral hearing? If they do not, then it may be appropriate to decide the case on the papers – but care should be taken to consider the wider questions of fairness, particularly if the prisoner is unrepresented
- Has a further sentence been imposed which makes it unlikely that a decision to release the prisoner from the index sentence will be made?⁴⁵ It may be appropriate to decide this case on the papers but there may be wider circumstances – such as inappropriate recall in the light of all the evidence, the need for a proper and complete review, and a different form of offending which bears on risk assessment
- Is the prisoner approaching the SED?⁴⁶ If a prisoner is 26 weeks or less from their SED⁴⁷, then it may be appropriate to decide the case on the papers, as it is unlikely that an oral hearing can be organised in that time. In such a case, a paper review meets the legal requirement for a proper and speedy review of continued detention. There may be exceptional circumstances where this approach is not appropriate, and these should be outlined by the MCA panel
- Are there ongoing criminal investigations or proceedings unlikely to be resolved in the next twelve weeks? If so, then it may be appropriate to decide the case on the papers, as the criminal investigations or proceedings may not be concluded in that time. Awaiting repeated or extensive adjournments or deferrals will not give the prisoner a speedy review of detention, so the review might be concluded more speedily on the basis of available information. In the event that the decision is not to release, PPCS will likely refer the case back to the Parole Board if the outcome of those court proceedings or police investigations would result in there being a significant change in circumstances, and PPCS determine the prisoner is not suitable for release following

⁴⁵Section 136 of the PCSC Act provides that in determinate recall cases, no referral will be made if the prisoner is serving a new sentence with a later release date than the next Parole Board review

⁴⁶Section 136 of the PCSC Act provides that in determinate recall cases, no further review referrals will be made to the Board where there are less than 13 months until SED.

⁴⁷ Panels may wish to adopt a similar position where the CRD for an EDS prisoner is less than 26 weeks away.

RARR.⁴⁸ There may be exceptional cases where this approach is not appropriate, and these should be outlined in the written decision

- Is there sufficient information to make a fair, evidence-based decision? If not, directions should be made for further evidence or for a CMC or oral hearing, before a substantive decision is made about the case
- Are the central facts of the case in dispute? It may be more appropriate to direct an oral hearing for the airing and resolution of these matters, consistent with the OBR principles. A face-to-face or video hearing may allow a panel to better observe the reactions of the prisoner or witnesses when testing facts, but a telephone hearing can be equally viable for the panel to hear relevant evidence and may be swifter. Alternatively, when facts of the case are in dispute and need to be tested, this can be done by way of inviting written submissions. When received, these may allow determination of the case on the papers
- Is there a psychological risk assessment (PRA) or other specialist report in the dossier which needs to be considered? If so, are there disputes in the evidence? If there are, can this be explored through written submissions? Once received, these may allow the case to be decided on the papers⁴⁹
- Has the prisoner offered a significant explanation or mitigation of key facts or other matters? Is this explanation or mitigation in dispute? Rather than immediately decide the case on the papers, the MCA panel might invite written submissions from both parties unless an oral hearing is needed for a panel to see or hear the reaction of the prisoner or witnesses. Whilst the primary purpose of any such exploration is to enable a proper assessment of risk for the current review, the explanations could significantly impact the prisoner's management in prison or prospects in future reviews

15.7 These questions should be considered together rather than in isolation. It may be that one factor or several in combination tip the balance of fairness in favour of directing an oral hearing. The questions set out above do not need to be comprehensive; the MCA panel must decide each case on its merits and record the reasons for that decision.

15.8 Panels should also bear in mind that:

- In all cases (particularly recall cases), liberty has been deprived
- Cases which are significantly post-tariff, may need a higher level of 'anxious scrutiny' of relevant facts and issues
- Panels must ensure they have adequate information to properly address the issues

15.9 None of these points of themselves demand an oral hearing be directed, but they bear on the MCA panel's wider considerations.

⁴⁸ Please note that consideration for release following a RARR only applies to determinate sentence prisoners who have been recalled, and IPP/DPP prisoners.

⁴⁹ Please see [Annex 2](#) on directions for joint reports.

- 15.10 The Parole Board's review is not confined exclusively to questions of release and suitability for open conditions but may extend to matters having a significant impact on management in prison or on future reviews. Whilst panels do not have the power to give advice on any matters outside the remit of the Secretary of States referral, they may wish to identify and consider outstanding areas of risk that need further treatment. The Parole Board has no responsibility for sentence planning.
- 15.11 Panels can indicate in a decision that the case might, in fairness, be further referred to the Parole Board when outstanding matters (such as a current intervention or an ongoing criminal investigation) have concluded.⁵⁰
- 15.12 If, having considered all these questions, a panel is still in doubt whether an oral hearing is required, then the OBR principles indicate that it would be prudent to direct an oral hearing.

16 Directing a case management conference

- 16.1 A case management conference (CMC) is convened under rule 7.
- 16.2 The Rules reframed rule 7 to **remove** directions hearings from the Rules. Panel practice has evolved, and it is clear that directions hearings were substantively the same as CMCs. This is a change in terminology to bring the two together into one option. There is little change in practice. Members should no longer make a direction for a directions hearing, and should direct a CMC instead.
- 16.3 A CMC can prove useful at the MCA stage⁵¹, where the case is considered for the first time. At this stage, a CMC might be used to discuss what further information might allow a review to be completed on the papers, or to set directions for an effective oral hearing. The purpose of the CMC is to enable the MCA panel to make a decision on the progression of the case, and, therefore, this should be chaired by the MCA panel.
- 16.4 Either party to the proceedings (PPCS or the prisoner/prisoner's representative) may request a CMC by submitting a Stakeholder Response Form (SHRF) to the Parole Board case manager. If the panel chair is the one to initiate, they should state in their directions to parties the reasoning behind their decision. It is good practice to involve the parties at the earliest opportunity. Each party will be given the opportunity to submit representations to be considered by the MCA panel. All representations must be submitted within 7 days of being informed of the request to avoid delay. The final decision whether a CMC is required rests with the MCA panel.

⁵⁰ Cases that have less than 13 months until their sentence expiry will not be further referred to the Parole Board.

⁵¹ When directing a CMC, the MCA directions template should be used.

- 16.5 **Where the MCA panel accepts the request for a CMC, or directs that one is held, they will be the panel responsible for chairing it.** If the MCA panel direct the case to an oral hearing and assess that the case may benefit from a CMC, they can suggest this when making the direction to an oral hearing but should not direct it. It will be for the panel chair allocated to the oral hearing to decide whether one is needed.
- 16.6 Please see the Oral Hearing Guidance for further information on CMCs.

17 Send the case to oral hearing to be listed after a specified date

- 17.1 A case can be sent to oral hearing with a direction that it is listed after a certain date, for a specific purpose which is relevant for the completion of an effective risk assessment. Valid reasons for this might include:
- Enabling the prisoner to complete temporary releases (especially overnight release on temporary licence (ROTLs)) before a hearing and there is a clear indication these might be achieved within 4 months
 - Enabling the prisoner to complete a course/intervention they have already started within 4 months, for which indication of good progress is needed, and the outcomes will bear on risk assessment
 - Allowing time for the completion of post-programme review reports
 - Allowing time for the preparation of a PRA or other substantive or expert report where this will be necessary and fair in determining the case
- 17.2 The panel will need to balance the requirement for a 'speedy' review of detention with fairness to the prisoner. If a short delay will enable a much better-informed decision to be made, then it can be justified. However, panels must be careful to ensure that cases are not delayed indefinitely or for lengthy periods against a constantly fluctuating backdrop, or that repeat adjournments take place.⁵²
- 17.3 If this course of action is being considered, it is good practice to seek representations from the parties first.

18 Guidance on writing decisions

- 18.1 Once the MCA panel has determined that the case can be appropriately concluded on the papers, they should refer to the Decision-Making Framework. This sets out the principles to be followed in determining cases and provides insight into the processes to be followed before a written decision is drafted.
- 18.2 The paper decision template should be used, and panels should follow the Decision Writing Guidance. Additional guidance on writing decisions is set

⁵² Panels should be mindful not to schedule a hearing date too far in advance and should refer to the Adjournments and Deferrals guidance to determine if an adjournment or deferral would be more appropriate.

out in [Annex 3](#) in the form of a checklist. This is not intended to replace the Decision Writing Guidance but instead to provide prompts to help ensure reasons are of a consistently high standard, effectively conveying the key information, analysis, and reasons for a decision in a clear, understandable manner.

- 18.3 Under rule 19(8), the decision and advice of the MCA panel must be recorded in writing with reasons for that decision. The written record must be provided to the parties within 14 days of the date of the decision, in accordance with Parole Board Policy.⁵³
- 18.4 Decisions should be marked with the date they are emailed to the case manager, usually the specified MCA panel date, and not the date the decision template was opened or completed, where this differs.

19 Guidance on building an oral hearing and drafting directions

- 19.1 If an MCA panel sends a case to an oral hearing, all the logistics must be put in place so that the next panel can proceed with its task of carrying out an effective, evidence-based assessment of risk without becoming caught up with unnecessary uncertainties or procedural issues. This includes consideration of which evidence and witnesses the oral hearing panel will require by directing the production of documents which were not provided at the time of referral but will be necessary for a full hearing.
- 19.2 It is also the MCA panel's role to provide the oral hearing panel chair with an overview of the case, to identify key issues which the panel might wish to explore at the hearing, and to provide a set of directions to obtain the information the panel will need. **It is, however, critically important that in doing this, the MCA panel does not impede any future panel that hears the case at the oral hearing, or provide, or appear to provide, an opinion on risk.** At MCA stage therefore, the MCA panel must not offer views about the evidence in the dossier or undertake an assessment of risk. Even objective reference to risk assessments and scores found in the dossier should be avoided. Nor must the MCA panel place boundaries on the areas that the oral hearing panel may wish to explore or rule out witnesses which the panel chair may wish to call.
- 19.3 Throughout this process, it is vitally important that MCA panels take full account of any views which have been expressed by the prisoner, their representative and/or the Secretary of State, and/or requests for directions/evidence. At this early stage, they should also deal with any non-disclosure issues and ascertain any victim involvement.

Completing the directions template

- 19.4 There is one MCA directions template, no matter the type of case being considered.

⁵³ This policy has been agreed by the Parole Board's Management Committee and is in response to the Rules having removed the time limit.

The 'key issues and reasons' box

- 19.5 The main box on the MCA directions template is headed 'key issues and reasons'. Its purpose is to give the reader a clear overview of the case. The content should be written in the third person and not the first because the directions are procedural instructions.
- 19.6 The narrative in the key issues box should not be overlong. The amount of information provided will depend on the reasons for the oral hearing and the complexities of the case, but MCA panels should be as succinct as possible whilst including the necessary information. It should, however, include the following in the general order indicated:
- Confirmation of the terms of the referral from the Secretary of State, the nature of the case, sentence type and length and relevant dates including the tariff expiry (indeterminate). Reference to the number of the review if known (i.e., the prisoner's third, the first since recall, etc.), and whether previous reviews were concluded on the papers or at oral hearing. Any significant features should be highlighted, such as the Secretary of State indicating that the prisoner is excluded from open conditions
 - Confirmation of the number of pages in the dossier, whether any additional evidence was received (in such cases the MCA panel must direct that the additional evidence be included in the dossier), whether or not there are non-disclosure issues, whether prisoner representations were submitted and their dates
 - An outline of what representations are asking for and any suggestions made, with the MCA panel's response to them
 - **A brief summary** of the following (it is not necessary to provide detail because the oral hearing panel will get this from their own preparation of the case):
 - Index offence and overview of previous, relevant patterns of offending (avoid listing previous convictions but offer analysis of patterns and themes). However, the MCA panel should not provide, or appear to provide, an opinion on risk.
 - Prisoner's current situation: not the history of the sentence but reference to outcomes of any previous reviews and a brief summary of the main developments since the last review.
 - An explanation of why the case is being sent to an oral hearing and why it cannot be concluded on the papers: this should go beyond saying there is not enough information in the dossier and instead reference fairness, disputed facts, complexities in the case, and specific information needed for an effective review
 - A broad outline of what the main issues are likely to be (but leaving it open for the oral hearing panel to explore other matters as necessary)
 - If there are particular, unusual logistical issues which need more explanation than is permitted elsewhere on the template, explanations should be inserted at the end of the key issues box. Explanation is needed why a new substantive assessment or other report is directed.
 - Any particular arrangements or reasonable adjustments required for the prisoner must be highlighted so the oral hearing panel can take

account of them and/or PPCS can ensure these are actioned. Some may impact on the amount of time needed for the hearing.

- Confirmation of whether the Secretary of State provided the Parole Board with a view and, if so, what the view was.

Identifying the 'issues' for the oral hearing

19.7 This critical part of the 'key issues' section starts to identify what the panel might want to explore at the oral hearing. The issues should always be risk-related and thus relevant to the decision-making process. **These should be a broad outline of what the main issues are – the MCA panel should leave it open for the oral hearing panel to explore and make their own assessment.** They will be different in every case but could include:

- Issues of concern identified at the previous review (where there was one) – a good starting place, although the next panel may not be limited to these issues
- Any issues specifically raised in representations – not all witnesses will have seen these, so it will be helpful to set them out
- Any less obvious outstanding areas of risk
- Completion of interventions including accredited programmes and treatment regimes – what impact they had, what level of insight the prisoner is reported to have
- How an allegation leading to recall or return to closed conditions may impact upon risk⁵⁴
- What weight to give allegations⁵⁴ of unconvicted offending, security intelligence or unproven adjudications – the next panel may explore these in its risk assessment
- Prison behaviour and whether custodial conduct may be relevant to risk assessment
- Whether there is an understanding of the prisoner's offending behaviour in relation to triggers and motivation
- Facts to establish, disputes to resolve, and discrepancies to explore
- The possible implications of learning difficulties/challenges, mental health problems and other characteristics on learning, risk and ability to benefit from interventions
- In broad terms, the RMP and elements which may need to be tested
- Different opinions and assessments that are evident from key report writers.

19.8 Please note that the above list is intended to help prompt the MCA panel in considering issues which **may** be relevant. The narrative should refer only to those factors which are material to the case, and it should be succinct and focused rather than all-encompassing.

19.9 Issues identified for the hearing should be cast in conditional language ("the panel may wish to explore...") so that the oral hearing panel is not restricted to issues and limits initially identified by the MCA panel.

⁵⁴ Panels must follow the principles set out in the judgment in *Pearce* when considering allegations. Please see the *Guidance on Allegations* for more information.

Representation

- 19.10 It is not always apparent until a case has been listed whether a prisoner has a representative. At MCA stage, if there is no confirmation of representation and the case is being sent to an oral hearing, checks need to be made whether the prisoner wants or needs to have representation. This should be addressed in the "key issues" box.
- 19.11 A prisoner does not have to be represented by a qualified legal representative. Where prisoners are unable or disinclined to be legally represented, they may represent themselves or ask a family member or another individual not legally qualified to represent them, as long as the person does not fall within the exclusions under rule 10(2). In these instances, it may be helpful to direct that the prisoner be provided with a copy of the Parole Board's *"Getting ready for a parole review without a lawyer"* guide and the booklet *"Information for families and friends of prisoners having a parole review"*. These set out in more detail what is involved at all stages of a parole review.
- 19.12 Guidance about the parole process is available to prisoners in "easy read" format and is included in all disclosed GPP dossiers. PPCS add "easy read" guides to recall dossiers. There is also an "easy read" guide to oral hearings which should be made available by the prison to any prisoner whose case is directed to such a hearing. If this appears not to have happened, MCA panels might consider it appropriate to direct prison staff to provide a copy to the prisoner.
- 19.13 Where it is unclear whether the prisoner is unrepresented, by choice or otherwise, the MCA panel or panel chair may make a direction for the position to be clarified. The Parole Board case manager should only approach PPCS once a direction has been made. Wording of such a direction might take the form:
- "This case is progressing to [a decision on the papers/an oral hearing] and the Board strongly advises that [x] seeks representation. Given the prison's responsibility to support the prisoner in the parole process, the Secretary of State is directed to ascertain whether [x] is represented or is currently seeking to instruct a legally qualified representative or other suitable person".*
- 19.14 If a case is directed to oral hearing and there is likely to be no qualified legal representation, it is even more important to ensure that the directions are written clearly and in plain English.
- 19.15 Please refer to the Guidance on Representation for more information about prisoners who are unrepresented or where there are grounds for concerns around the prisoner's ability to conduct their own parole review.

The logistics of an oral hearing

19.16 Once it has been set out why a case is directed to oral hearing and issues have been identified, the next stage is to identify the procedural components:

- What evidence might the oral hearing panel need which is not already in the dossier?
- Do any key reports need to be updated?
- Who should be called as witness and why? However, please note paragraph [19.46](#) on children and paragraphs [19.47 – 19.50](#) on victims.
- What are the prisoner’s likely needs and requirements at the hearing?
- Are any reasonable adjustments required, for the prisoner or any other witness?
- How many members are needed for the panel and is a specialist Parole Board member required for the case?⁵⁵
- How long might the oral hearing take?
- How and where should the oral hearing take place (video, face-to-face, telephone or hybrid)?
- Are there other logistical issues which might stem from the prisoner’s needs, witness’ requirements, or the prison or secure hospital’s restrictions?
- Are there logistical considerations about a victim attending to read their VPS or to observe?

Identifying missing evidence and directing new documentation

19.17 The quality, completeness, and relevance of the evidence available to a panel will be crucial in determining whether an oral hearing will be effective. The panel chair has the opportunity to issue additional directions, ‘Panel Chair Directions’ (PCDs), ahead of the oral hearing but the aim of MCA when directing an oral hearing is to minimise such involvement and to lay out requirements for a viable hearing, reducing the chances of delay. In particular, a panel chair will not have time to direct reports on psychiatric or psychological issues before the hearing and failure to direct such reports at the MCA stage may necessitate the adjournment or deferral of a listed hearing.

19.18 The Secretary of State undertakes to provide a core dossier with mandatory documents as set out in the Schedule to the Rules. Contents will differ depending on the type of case. In relevant cases, the dossier will contain notes indicating that specified documents were not available at point of referral – these may need to be directed at MCA stage if they can be located. It is, however, more important to focus on what is essential in any particular case rather than relying on standard reports and taking a formulaic approach. Every case referred to the Parole Board will be different and should be treated as such. The MCA panel must direct

⁵⁵ The ["Panel composition and specialist members"](#) subsection of this document provides guidance on the role of psychiatrist and psychologist members of the Parole Board.

information that is **relevant, proportionate, reasonable, necessary, lawful and deliverable** – this is a judgement call in the individual case.

19.19 The following list indicates some types of reports likely to be relevant, necessary and proportionate depending on the type of case. This is in addition to the mandatory reports set out in the Schedule to the Rules.

- Start Custody OASys Assessment (post-sentence reports are no longer completed for any prisoner sentenced after first December 2020)
- Court of Appeal transcript summary report
- Previous Parole Board decisions
- Existing psychiatric and/or psychological, or other expert assessments
- Domestic Abuse Risk and Needs Assessment and other risk assessments, including Structured Assessment of Risk and Need
- Accredited post-programme reviews reports
- Recall reports
- Witness statements and police evidence, perhaps Crown Prosecution Service (CPS) summaries in the event of new offences/allegations. MG5 (case summary) and MG11 (witness statement) can be useful from the Crown Court Digital Case System
- Relevant police intelligence including details of domestic abuse police callouts
- LISP4 report outlining removal from open conditions (only relevant in ISP cases)
- Progress or end-of-therapy report from a therapeutic community or another specialised regime
- Mental health reports from the prison psychiatrist or in-reach team. If a prisoner has been detained under the Mental Health Act in a mental health facility, the dossier should include documentation prepared for the Mental Health Tribunal along with the tribunal's decision and updated reports covering progress/developments since then (please refer to the Guidance on Restricted Patients and the Mental Health Act for more information)
- Mental Capacity Assessments where the prisoner's capacity is in doubt (please refer to the Mental Capacity Assessments and Litigation Friends Guidance for more information)
- Social Care Assessments
- Any reports specific to vulnerable prisoners⁵⁶
- Any reports specific to children, care leavers and/or young adults
- Any reports specific to IPP prisoners, such as progression panel reports
- Drug and/or alcohol misuse team reports and treatment summaries
- Prison security information
- OASys assessments which remain valid if less than 12 months' old
- Addendum reports to existing substantive reports

⁵⁶ Please see the Oral Hearing Guidance for more information on vulnerable prisoners.

Setting directions for submission of additional reports

19.20 **All directions must be relevant, proportionate, reasonable, necessary, lawful, and deliverable.** Those responsible for managing compliance with directions, and those meeting the directions, need instructions, so **directions must be clear, precise, and focused on risk.** The MCA panel should set out why an item is needed and its focus if commissioning a new or updated report.

19.21 Here are the main points to consider when setting directions:

- Avoid jargon, unexplained abbreviations, and the blanket use of stock phrases and standardised content which is non-specific – use specific and precise terms relevant to the case and write in plain English
- Avoid overlong directions that could cause confusion and be clear about what is needed – any additional explanation or justification can be included in the narrative box as necessary
- Direct only what is essential for an oral hearing to be effective – consider if the oral hearing panel will need the information to make a full and fair assessment of the case (for example, a ten-year-old post-programme review report may no longer be necessary or relevant)
- Direct reports from a POM and a COM as required (and in line with the Offender Management in Custody (OMiC) model)
- When directing a healthcare or psychiatric report or update, asking for a ‘clinical overview’ is likely to be more effective than asking generally for a report or an assessment
- If asking for a historical report referenced by another report writer in the dossier, mention the relevant page number in the dossier to help PPCS or the prison case manager find it
- If directing a new, substantive report, such as a psychological assessment, refer to the current Guidance on Specialist Reports, including recommended lead times. Be precise about what is required without referring to specific assessment tools (such as HCR-20 or PCL-R⁵⁷) and avoid standardised content – the report author needs to know what issues the panel is concerned with as well as the options available (i.e. progression to open prison and/or release). Make reference to ‘psychologist’ or ‘psychiatrist’ as appropriate. If an assessment is needed from another type of expert (e.g. Autistic Spectrum Disorder (ASD) or Post Traumatic Stress Disorder (PTSD), mental capacity, or communication specialist etc.), explain why
- Be realistic about how long it might take to obtain information directed. Bear in mind that some reports may rely on other assessments or reports being completed first. Please refer to [Annex 2](#) (Table of Reports) for more information about timescales
- When directing addendum reports from COM/POMs, **avoid generalised or formulaic directions and be specific about what needs to be addressed.** There is no set timeframe in which reports need to be updated, but more than six months between the report date and the oral hearing might indicate an update is necessary. If

⁵⁷ The HCR-20 provides a framework for the assessment of risk of violence. The PCL-R is an assessment of psychopathy.

there appear to have been few changes in a case this may be unnecessary, but a POM may still have further developments to report which can alert the next panel to areas for investigation. If substantive new evidence is to be directed (for example, a psychological assessment), it is good practice to direct written updates from COM/POMs to reflect that new information and to leave time for them to consider the findings

- Panels can *invite* the disclosure of reports commissioned by the prisoner⁵⁸ (for example, a psychologist report) but it cannot direct their submission because the prisoner is entitled to commission a report then choose not to use or disclose it. Equally, the Parole Board cannot direct that the prisoner commissions reports
- Where there are conflicting specialist opinions, if a panel assess that a mutual exchange of reports is essential in understanding the two reports, a direction can be issued for the authors to provide a 'joint statement' indicating the areas of agreement and areas of dispute in their findings. This enables key issues to be more readily identified and the timetabling of evidence to be more realistic. Such a direction should not be made in advance of receiving the specialist reports other than in exceptional circumstances because, until the specialist reports are received, it is not known whether there is a conflict of opinion. The MCA panel can confer with a specialist member of the Parole Board if the panel is unsure whether such a direction is required in the case (please refer to [paragraph 7.1](#) for more information)
- **Do not issue a direction for a VPS.** If it is unclear if a VPS is to be submitted, a direction can be issued to ask for confirmation of this
- **Do not issue a direction for representations.** Representations can be 'invited' not 'directed'. If there are issues to be resolved, the MCA panel may wish to invite representation from both parties by a specified date
- Although Parole Board decisions may inform sentence planning, **panels should not explicitly involve themselves in the sentence planning of prisoners.** For example, panels should not make directions for a prisoner to undertake a specified intervention
- Panels should be aware that third parties, such as the Police or Social Services, do not receive the entire directions document. It may be helpful to explain the context (risk assessment) and that Parole Board directions are judicial in nature, within the direction itself

Setting directions where there are allegations of wider offending

19.22 There is separate advice on this subject (see Parole Board Guidance on Allegations). In summary, when referring a case to an oral hearing, an MCA panel may make directions which will enable the oral hearing panel to give due consideration to charges against the prisoner which have been dropped or have been left to lie on the file, allegations which have not been proven, or cases where a court has found the prisoner not guilty of a criminal offence. If these appear relevant to the assessment of current

⁵⁸ Whilst these are sometimes referred to as 'independent reports' panels should always refer to them as 'prisoner commissioned reports'.

risk, the panel will need pertinent information in order to be able to make a finding of fact⁵⁹ (such as who was present, where they were, what happened). The panel must apply the principles set out in the *Pearce* judgment when considering allegations.

19.23 Useful information and evidence to examine to find facts could include:

- Witness statements, including MG11 from the Crown Court Digital Case System (CCDCS)
- CPS documentation and the police MG5 summary of charges from CCDCS
- Defence case statements
- Police statements, interviews or notebook entries
- Social media posts
- Text messages or transcripts of phone calls
- Domestic abuse call-out logs
- Adjudication paperwork

19.24 Directions for additional information relating to allegations might lead to an application for non-disclosure, which should be acknowledged and must be dealt with at the earliest opportunity.

Setting deadlines for reports

19.25 There are two sets of boxes on the MCA directions template for submission of additional information – one for directions with a deadline to be specified and one for directions to be met eight weeks before the date of the oral hearing.⁶⁰

19.26 The first box is most likely to be used to obtain historical reports which already exist and should be readily available, new substantive reports such as psychological assessments which require longer lead-times, or updates about outstanding charges, court cases or other expected developments. In the case of historical documents and criminal matters, the MCA panel should choose a realistic date which still ensures the evidence can be swiftly obtained. In the case of specialist assessment reports, the lead-times are set out by the Parole Board. These judgements affect the listing date.

19.27 The second box stipulates a deadline of eight weeks prior to the oral hearing and has been used for more standard reports and updates from the POM and COM, the security department or other specialist teams in the establishment. **If such reports need to take account of new substantive reports (such as a psychological assessment), the MCA panel should allow additional time for the direction to be met.**

⁵⁹ Please see the *Guidance on Allegations* for more information on making a finding of fact regarding an allegation.

⁶⁰ From 2nd September 2022 MCA directions for reports from POMs and COMs should contain a deadline of 8 weeks before the date of the oral hearing. This is to ensure up to date information is made available to the panel ahead of the oral hearing and avoid further addenda to be directed.

Prisoners who are transferred during the parole window

- 19.28 Sometimes a prisoner will have been transferred to a new establishment after the referral to the Parole Board has been made. It is important, when making directions, to stipulate which establishment should be responsible for providing particular reports. If a prisoner has been transferred during the "parole window", the sending establishment retains the responsibility for ensuring the dossier is compiled and disclosed, unless an alternative agreement has been reached between the sending and receiving establishments. The sending establishment will also have provided the POM report for review cases.
- 19.29 However, depending on the time which has elapsed since the transfer, it is highly likely that updated information will be needed from the receiving establishment and the new POM. The key issue is to ensure that up-to-date information can be supplied, including the reasons for the transfer.
- 19.30 Only information that has a clear bearing on risk should be directed. If security information or adjudication records are needed, the MCA panel must stipulate what is required so that the establishment(s) can identify the best source of information. Transfer during the "parole window" may also have implications for the witnesses needed as staff from both prisons may need to provide oral evidence.⁶¹

Directing witnesses to an oral hearing

- 19.31 When determining which witnesses are required at an oral hearing, the MCA panel should consider these basic issues:
- a) Why is a particular witness needed?
 - b) What will the panel want from them?
 - c) What would be the best way for them to give evidence?

Why is a particular witness needed at the hearing?

- 19.32 If a witness is necessary for an oral hearing, attendance should be directed; however, the directions template narrative should always make clear that the panel chair will have the final say on witness attendance and any other additional directions. An MCA panel must avoid stating that a witness is not necessary because the panel chair may take a different view. It is easier to stand down a witness than to direct the attendance of someone at short notice. Wording can be used like 'subject to the panel chair's approval' or 'when appointed, the panel chair may issue additional directions'.
- 19.33 Where written information is available and has not been contested, it may be unnecessary to call its author as a witness. For example, at a recall hearing, where the reason for recall was the prisoner's conduct at an Approved Premises (AP), the evidence of the COM supplemented by

⁶¹ HMPPS guidance on this is set out in the [Generic Parole Process Policy Framework](#). Should there be any disagreements between prisons, this Framework can be referred to.

statements or copies of relevant pages from the AP log may obviate the need for the AP manager or another staff member to give evidence at the hearing. It is also unlikely a panel would need to hear from a prison officer if their evidence can be collated by a POM or it appears in P-NOMIS logs.

- 19.34 However, if evidence has been disputed, it is good practice to direct the presence of the author of the disputed report because the panel and the prisoner are likely to have questions for that person.
- 19.35 If a new psychological or psychiatric assessment has been directed, it is good practice to direct the author of that report to give evidence. It is open to the oral hearing panel chair to stand down the witness if, upon receipt of the written report, it is felt that oral evidence is no longer required. If there is a report commissioned by the prisoner, the prisoner is entitled to have the author of that report as a witness at the hearing and will often ask that they be directed. Even if a request is not received, it can be good practice to direct their attendance, especially if the report's findings are different to those of an HMPPS psychologist or HMPPS commissioned psychiatrist assessment.
- 19.36 Many of the psychologists working in the prison service are officially 'in training' in terms of their registered forensic psychology status. Despite this, they can give evidence independently of their supervisor who will have signed off their report. Any such report writers can request to have their supervisor present at the hearing and may apply to the panel chair with this request.
- 19.37 There are very few circumstances in which an MCA panel would not direct the POM and COM to attend as witnesses (please note that pre-tariff cases are unlikely to have an allocated COM).
- 19.38 There may be circumstances in which the testimony of a previous POM/COM is relevant – for example, if they have longstanding knowledge of the prisoner, or there has been a transfer during the "parole window". Similarly, if the Probation Service area or COM is likely to change at point of release, the MCA panel should consider directing the attendance of the future nominated COM so that the next panel can be satisfied about transfer arrangements and the robustness of risk management planning as well as the prisoner's relationship with the new COM.
- 19.39 If there have been discontinued criminal charges, the MCA panel may consider directing the relevant police officer to attend the hearing. This may be the Officer in Charge (OIC). It may not be clear at the MCA stage who the relevant officer is, so direct either '*The Chief Constable of xxx Police or their designated alternative*' or the '*lead officer in the case of xxx*'. It is advisable to make it very clear why this person is needed as in many cases, police witness statements, MG5 or CRIS reports will be sufficient.
- 19.40 If a prisoner is a care leaver, or may be subject to future care plan arrangements, it is a good idea to direct the attendance of their Leaving

Care Personal Advisor, a Social Worker and/or other relevant support worker.

- 19.41 For restricted patients in secure mental health settings, there are very specific requirements concerning witnesses. Please refer to the Guidance on Restricted Patients and the Mental Health Act for information relating to these cases.
- 19.42 In some cases, other individuals who are not witnesses may be required to attend the hearing. This may include interpreters or communication specialists etc. Their attendance may be necessary to ensure a fair hearing and that the prisoner is assisted to understand and participate fully in the proceedings and is not disadvantaged. Please see the guidance on Translations and Interpreters for more information.

Types of witness not usually called

- 19.43 Serving prisoners (other than the prisoner whose review it is) should not be called as witness at an oral hearing unless it is absolutely necessary and unavoidable. It is more likely that an MCA panel would direct written evidence from another prisoner if it were deemed necessary.
- 19.44 MCA panels should carefully consider the need to call prison officers or other staff from a prisoner's previous establishment unless there is a specific incident they observed or a risk issue of which they are aware about which no-one else can comment; for example, the circumstances of a prisoner's removal from open prison. Prisoners' security files are transferred with them, so former staff will no longer have access to the records. If an officer from a previous prison is needed, direct that they can attend by telephone or video as this will usually be proportionate to the extent of the evidence they can provide.
- 19.45 Caution may be needed when directions to attend are considered for the author of a report commissioned by the prisoner. The prisoner can choose whether to rely on such an assessment and whether to make the report available to the Parole Board. If the report is not produced, the MCA panel cannot direct the author's attendance.
- 19.46 Children should not be called as witnesses. It would be difficult for them to gain access to a prison (where a face-to-face oral hearing is taking place) and they may be unable to comprehend the significance of the parole process. Arguably, it would be inappropriate in any circumstances, considering their well-being, reliability, and the possible impact of the proceedings.
- 19.47 MCA panels should think carefully before directing or allowing the attendance of a victim or alleged victim as a witness, including victims who are family members or partners of the prisoner. This will almost always be inappropriate as any information the panel needs can be obtained from other sources and the merit of the proposed attendance must be balanced against the need to protect the victim and their well-

being.

- 19.48 This is the case even when the panel receives a request for a victim to attend an oral hearing as a witness and the victim has expressed that they are content to attend. The panel must be assured there is no coercion involved and the victim is engaging of their own free will, which will be difficult to ascertain without putting the victim at risk of further harm. Directing or allowing the victim to attend as a witness could also increase the risk of harm if the prisoner blames the victim for any outcome.
- 19.49 Where such a request is made, the MCA panel may instead make it known in their directions that there is nothing to stop the victim from writing a letter of support to submit to the panel. It should be clear that the letter is **not** being directed, but if one is received the panel can explore the content at the oral hearing and attach relevant weight.
- 19.50 **A panel that is considering directing or allowing a victim to attend an oral hearing as a witness must first seek advice from the Parole Board's Practice Advisor as this should only be considered in very exceptional circumstances.**
- 19.51 If a prisoner or their representative has requested for any other person (such as a family member or another person) to attend as a witness rather than an observer, the MCA panel must direct that checks be conducted on who they are, the reason for attendance, and the nature of the evidence they wish to give. Such applications may then be decided by the panel chair. If declining the request, give a clear explanation in the directions template as to why. Such checks are normally conducted by the prison but with increasing use of telephone and video hearings, it is also necessary to direct that details be provided of:
- How the identity of a person who will be giving evidence remotely from an uncontrolled location will be confirmed by the panel on the day of the hearing
 - How it will be confirmed that they are not accompanied by someone who should not be present
 - How it will be confirmed that they are not recording the hearing

Practicalities for witnesses

- 19.52 When setting directions for witnesses to attend, the MCA panel should stipulate a named person (if known) with their job title so they can be readily identified. They should make sure the correct person has been nominated and not assume it will be the author of a report in the dossier because sometimes this will have been prepared by a sessional member of staff or a stand-in. If a name has not been given in the dossier, the MCA panel should specify the role or job title clearly and make clear what sort of evidence is needed.
- 19.53 When deciding what type of oral hearing to direct, the MCA panel will need to consider whether witnesses must attend in person or if they can give

evidence by telephone or video. The latter is often as effective as attendance in person and provides leeway for witnesses' individual needs (such as caring responsibilities, disabilities, or travel limitations) which may be unknown at the MCA stage.

19.54 A prisoner or their representative can request the attendance of a particular witness, but the final decision will rest with the panel chair. At MCA stage, it is good practice to grant the application on the grounds of perceived fairness unless there are particularly strong grounds for refusing the request.

20 Oral Hearing logistics

20.1 The final stage in building the oral hearing and completing the MCA directions template is planning operational arrangements, beyond witness and information requirements. **It is critical that the logistics are responsive to the individual circumstances of each case: there is no standard approach but there are starting points.**

The MCA panel will need to consider the following:

Tier Listing

20.2 The oral hearing listings pilot introduced in February 2024⁶² is now business as usual. MCA panels are no longer required to specify the time it is estimated that an oral hearing will take. When directing an oral hearing, the MCA panel will instead allocate the case to one of the following four tiers:

- **Tier 1:** a single-member panel with a duration of not more than two hours
- **Tier 2:** a single or two-member panel⁶³, one of whom can be a specialist if required, with a duration not exceeding three hours
- **Tier 3:** a two or three-member panel, one of whom can be a specialist if required, with a duration not exceeding four hours
- **Tier 4:** a two or three-member panel (with or without a specialist) to be the only case listed on the day

20.3 The MCA panel should allocate the case to a tier based upon the required panel composition (please see paragraphs [20.16 – 20.34](#) for further information), the facts to be considered, and the level of detail in which they will need to be discussed. The MCA panel is not required to predict the time that the oral hearing panel may need for pre and post hearing discussions and will determine the tier on the evidence that needs to be discussed. The oral hearing panel chair will consider the overall logistics of

⁶² Further information can be found in the Oral Hearing Tier Listing Guidance and supporting documents on the Member Case Assessment SharePoint page.

⁶³ A tier two case may also be allocated a three-member panel if required.

the hearing day including the timing for pre and post hearing discussions, any required breaks, and lunch.

- 20.4 The MCA panel will determine the tier based on the information available at the time, but the tier allocated by the MCA panel will be subject to review by the oral hearing panel chair when determining PCDs. If an oral hearing panel chair assesses that a case no longer fits into the assigned tier, they will be able to re-evaluate the circumstances and make a new tier allocation.
- 20.5 The factors set out at paragraphs [20.10 – 20.15](#) below will assist panels in determining which tier a case will most appropriately fit into. The factors listed are not an exhaustive list, they are for guidance purposes only and should be applied flexibly to meet the needs of the case. Not all factors will be relevant or apply to every case.
- 20.6 Panels may find it helpful to consider a weighting of the relevant factors on the time required e.g., low, medium, or high. How many low, medium, and high impact weightings are identified may assist determining which tier the case falls into.
- 20.7 Additionally, the weighting of impact may not always fit with the typical features of a tier. One factor could attract a high impact requiring it to step up to the next tier, even if all other factors are assessed as low impact.
- 20.8 Whilst case type, sentence, and review/recall details will be important to consider, it will not necessarily follow that similar cohorts will always fit into the same tier.
- 20.9 MCA panels should identify the key factors to contextualise the tier chosen for the case and should avoid generic terms such as “explore risks” or “examine the risk management plan”. This will allow the oral hearing panel chair to understand why the case was assigned that tier. This analysis is not required to be set out in the MCA directions; however, it may be useful to briefly explain how the assigned tier was arrived at. For example:

“This case has factors A, B, and C, which are low, but due to the high impact of D and E it falls into tier X.”

20.10 Evidence Factors

- What level of complexity is the case and its evidence?
- Is there a significant volume of evidence to consider?
- Are the issues relatively limited or wide-ranging?
- Is there likely to be extensive questioning by the panel and parties which would take up considerable time?
- Are there many disputed issues?
- Are there historic or new allegations to explore, being mindful of the *Pearce* judgment?
- Might there be a need for a finding of fact?
- Are there different professional opinions presented?

- Is there more than one specialist report with different professional opinions?
- Will there be information presented not previously considered by the Parole Board (for example where this is the first time the prisoner has come before the Board)?

20.11 *Witness Factors*

- How many witnesses are directed to attend?
- Are any specialist witnesses to attend?
- Are witnesses to attend remotely from a single or multiple locations?
- Is a witness to give evidence from abroad?

20.12 *Prisoner Factors*

- Is the prisoner unrepresented, represented by a lawyer, or represented by someone other than a legally qualified person?
- Is the prisoner particularly vulnerable, for example a child/juvenile or elderly, or do they have a disability or mental health consideration and may need breaks or reasonable adjustments or support?
- Are there communication considerations (is an intermediary, interpreter, signer or other communication specialist needed)?
- Are there religious or spiritual requirements to take into consideration? The COM reports include a section in which they can comment on a prisoner's ability to engage in an oral hearing. This may be helpful with effective scheduling

20.13 *Victim Factors*

- Is a victim attending to read a VPS?
- Is someone reading the VPS on the victim's behalf and, if so, will this take place within CVP or before the hearing commences via MS Teams?
- Has a victim requested or been approved to observe?
- Is there multiple victim involvement?

20.14 *Panel Factors*

- Is it suitable for a single member panel?
- Is the level of questioning more suitable for a two-member panel?
- Are there complexities that require a specialist member on the panel?
- Are there factors that suggest a certain category of member is require?
- Does the complexity of the case require three members on the panel?

20.15 *Other Factors*

- Is a Secretary of State Representative attending the hearing in which instance, more time may be needed for witnesses to be questioned and submissions made?

- Do the issues for the hearing remain too fluid to be identified precisely?
- Might additional breaks be required due to the circumstances?
- If the hearing is face to face or some of the witnesses are attending in person, then arrival times and clearing security may affect timings?
- Is the hearing to be a public hearing?
- Will part of the hearing be closed, including in the absence of the prisoner?
- Is the case a noteworthy or TACT case that should be listed as the only case for the panel?
- Is this the re-listing of a case that was previously listed for an oral hearing, but which was not heard or completed, and extra time should be allowed to minimise the risk of the case not being completed?
- Are there any other factors specific to the case that may affect the timing?

The number of panel members

20.16 A panel is usually comprised of between one and three members, though very occasionally a fourth member is added. The *starting point* for all panel logistics is a single non-specialist chair. Co-panellists should be added only when they are considered necessary in terms of role, or the number needed in a particular case to complete a proper risk assessment and determination. **However, the MCA panel has discretion to judge whether the case can be heard by a single member or necessitates two or three panel members.** A standard determinate sentence recall case would normally be expected to be assigned a single member panel (to facilitate a timely review of the case) but **there may be some such cases where in exceptional circumstances the MCA panel's view is that the complexity and the needs of the case require additional members.**

20.17 There is no restriction on the type of case which can be heard by a single member panel, but the following are examples of cases which might potentially be unsuitable for a single member hearing:

- Is the case so finely balanced that one member might find it hard to make a decision alone or a two-member panel might be split in its decision-making?
- Are there several witnesses to question? In general, the more witnesses, the more likely additional panel members may be required.
- Are the risk-related issues particularly complex?
- Is the expertise of a specialist member required to accompany the panel chair in order to help consider the issues?

20.18 This list is not exhaustive but highlights the type of factors to be taken into account when deciding if a case is unsuitable for a single member.

Panel composition and specialist members

- 20.19 MCA panels should consider how the expertise of a specialist member (a psychologist, a psychiatrist, either, or both) could enhance the panel's approach and what it could contribute to risk assessment and determination. Careful consideration should be given as to whether deployment of specialist members is warranted and whether a specialist member is needed to provide relevant help to interpret the information put before the panel in order to make a safe and fair assessment of risk.
- 20.20 The earlier the need for a specialist panel member is identified, the more likely one can be available and the chances of delay in listing the case can be reduced. Specialist members are in short supply and should, therefore, be deployed only to where properly needed.
- 20.21 **Psychology** is the scientific study of people, the mind and behaviour. Psychologists attempt to understand the role of mental functions in individual and social behaviour. **Forensic psychology** is the application of psychological knowledge within the context of the Criminal Justice System, in this case to prisoners and offending behaviour, and their risk to the public. Forensic psychologists use their knowledge to make evidence-based assessments about when reoffending may occur. They are skilled in the use of risk assessment tools and other assessment techniques (please see the Guidance on Risk Assessment for more information). They also have skills in the design and implementation of interventions to change offending behaviour.
- 20.22 **Psychiatry** is concerned with the diagnosis, treatment and prevention of mental disorder including mental illness, mental impairment and psychopathic or other personality disorder. **Psychiatrists** are medically qualified doctors who, following their general medical training, have specialised in psychiatry. This means that they can prescribe medication as well as recommend other forms of treatment. **Forensic psychiatry** is a branch of psychiatry which deals with individuals with mental health disorders involved in the Criminal Justice System, including prisoners in prison and prisoners transferred to hospital under s47/49 or 45A of the Mental Health Act. Because the overall clinical responsibility for patients detained in hospital under the Mental Health Act (including their discharge arrangements) is almost always carried by their Consultant Psychiatrist, psychiatric members of the Parole Board have particular knowledge of NHS services, how they function in practice and the various NHS treatment options available e.g., for those with mental disorders or significant substance misuse.
- 20.23 While psychiatrist and psychologist members have specific knowledge and skills, there is more overlap than distinction in the areas which they can contribute to. In many cases, a psychiatrist or psychologist may be equally appropriate for the specific needs of a case, and simply specifying a 'specialist member' would be sufficient. If a Panel determines that a specialist member is required, they should first consider whether a direction can be made that either a psychologist or psychiatrist member can sit on the panel. This is an option in the template's drop-down menu.

This then gives the Listings Team the flexibility to allocate an available member.

20.24 It may be appropriate to request a '**specialist member**' without specifying the discipline further, for cases when:

- There are mental health concerns or evidence of psychological distress with an identified or suggested link to the prisoner's risk of reoffending or harm, e.g., substance misuse, anxiety, depression or self-esteem issues, but these have not been such as to require transfer to hospital for treatment during the sentence nor does follow up mental health care need to be arranged ahead of release
- Personality disorder or psychopathy has been identified or suggested and the Offender Personality Disorder Pathway (OPDP) will contribute to future management
- There is a learning disability, developmental disorder/neurodiversity e.g. ASD, attention deficit hyperactivity disorder (ADHD) or brain injury
- The case has complex or serious risks issues, e.g., the prisoner has exhibited a range of offending behaviour, offending involves multiple victim types or sadistic behaviour, motivation for the offence(s) is unclear and the prisoner denies some or all aspects of their offence

20.25 If the panel determines that the case requires a specific specialism, they should make a direction for a psychologist or for a psychiatrist member, as appropriate, to be allocated to the panel. This goes beyond simply requesting a specialist member as the direction will state the required specialism (psychologist or psychiatrist).

20.26 It may be appropriate to request a '**psychologist member**' for cases when:

- There is current psychological evidence e.g., a psychological assessment, psychometric tests or psychology report which needs specialist interpretation (note that standard psychometric tests completed prior to or following an offending behaviour programme are unlikely to require interpretation). There are two or more differing psychological opinions e.g., a HMPPS-commissioned Forensic Psychologist or HMPPS-commissioned Forensic Psychologist in training (FPiT) report and a prisoner commissioned psychologist report
- In cases where there are questions with regards to a prisoner's response to interventions due to issues such as motivation to change, levels of psychopathy, personality disorder or learning difficulties
- **MCA panels should not routinely direct a psychologist member on the panel just because there is a psychological assessment in the dossier**

20.27 It may be appropriate to request a '**psychiatrist member**' for cases when:

- There are issues relating to the prisoner's major mental disorder such as schizophrenia, dementia and physical illness associated with ageing, which may have a bearing on risk
- During this sentence, the prisoner has been, or is currently, detained in hospital under the Mental Health Act⁶⁴
- Licence conditions are proposed which require involvement of specialist mental health services, for example in relation to continued specialist prescribing of depot medication or clozapine monitoring, or provision of section 117 aftercare
- Where there is current psychiatric evidence about the prisoner e.g., a psychiatric report or substantial evidence from a prison Mental Health In-reach Team (MHIT) which requires interpretation, or the Judge's Sentencing Remarks emphasise the importance of the pre-sentence psychiatric reports in determining sentence

20.28 A direction can be made for both a psychiatrist member and a psychologist member to be on the panel, but this is a rare exception.

20.29 In some cases where there are mental health problems, neither a psychiatrist nor a psychologist member is required. Although research studies have highlighted the prevalence of mental health difficulties in the prison population, in most cases where there is no history of specialist mental health treatment (as opposed to offending behaviour programmes) and the specialist assessments are limited to a PRA then a panel may not need to include a specialist member.

20.30 Panel members are expected to be competent in asking the author of a PRA to explain their assessment, to describe the inference regarding risk from the factors set out in the assessment schedule, to comment on the level of confidence on the assessment and to make a professional recommendation.

20.31 Panel members are expected to be competent in asking representatives of a Mental Health In-reach Team to comment on their contact with a prisoner, compliance with medication, and any links made with primary care (GP) services to continue the aftercare of a prisoner on common drugs for anxiety and depression which are usually managed in general practice.

20.32 Similarly, panel members are expected to be competent in asking authors of reports on substance misuse about the engagement of a prisoner with substance misuse services in prison, to comment on their commitment to addressing substance misuse difficulties and to advise on handover to community substance misuse services if appropriate.

20.33 When directing a case to an oral hearing that includes significant psychological, mental health, or substance misuse evidence, it is good practice to make explicit that the need for a specialist member has been

⁶⁴ Prisoners within hospital are managed within the Mental Health member cohort and should not be included in MCA bundles. Please contact the MCA team if one of these cases is within an MCA bundle and seek clarification.

considered by the MCA member. Use the template to record that EITHER a specialist member has been requested, OR that a specialist member is not considered to be necessary and provide reasons in either case. This may assist the panel chair in subsequent review of the dossier. More detailed information can be found in the Specialist Reports Guidance.

20.34 If after considering the above information and checking the Specialist Reports guidance, the MCA panel is not sure whether or not specialist expertise is needed or the type of specialism required, advice can be sought from a specialist member. A list of contacts can be provided by the case manager and can also be found on SharePoint. Issues to consult on include whether or not a specific type of report is needed, how to word a direction for additional information, whether to direct a specialist member, whether a psychologist, psychiatrist, or either specialism is required, or (in a case where release on the papers is being contemplated and there are active mental health or welfare issues) the requirements of an RMP.

Judicial Chair

20.35 In very limited circumstances, a judicial chair may be required, for example where there are unusually complex legal arguments or untested case law. Noteworthy, high-profile and terror-related cases might at times be allocated to a judicial chair, but not on all occasions. These cases are managed by the specialist case management team within operations (please refer to paragraphs [21.32 – 21.33](#) for more information).

Deciding the format of the oral hearing

20.36 Initially, panels should consider whether a hearing can be held remotely via video (or telephone in few cases). Hearings can also be held face-to-face at the prison, or a combination of remote and face-to-face (a hybrid hearing). Many cases will be suitable for a video hearing, or a form of hybrid arrangement. When considering suitability, the MCA panel should identify relevant issues from the dossier and take account of any representations which have been made by the prisoner or their representative. If a case is not suitable for a video hearing, clear reasons should be given in the MCA directions template.

20.37 Panels considering what form the oral hearing should take should ask themselves the following questions:

- If facts of the case are in dispute and need to be tested, does the panel need to see the visual reaction of the prisoner or witness to test those facts? If so, it may be appropriate to consider a video hearing
- If the opinions in the psychological risk assessment are in dispute and need to be tested, does the panel need to see the visual reaction of the prisoner or witness to test those opinions? If so, it may be appropriate to consider a video hearing
- If the significant explanation or mitigation is in dispute and needs to be tested, does the panel need to see the visual reaction of the prisoner or witness to test those facts? If so, it may be appropriate to consider a video hearing

- If the panel considers that it does need to hear oral evidence, does the panel need to see the visual reaction of the prisoner or witness to properly hear that evidence? If so, it may be appropriate to consider a video hearing

20.38 When directing a face-to-face hearing, panels need to give their reasons why a face-to-face oral hearing is necessary when making that direction. If the panel accepts that the oral hearing could be by video, even though it would prefer a face-to-face hearing, it should be directed to a video hearing in the first instance.

20.39 In some cases, it might be appropriate to conduct a hybrid hearing. This can take place with some attendees being in person at the prison and others joining remotely.

20.40 The following is a list of factors that may mean that a remote or hybrid hearing is not suitable. This list is not comprehensive or prescriptive and each case must be considered on its merit:

- The prisoner (or a key witness) has a physical impairment or disability which might prevent full engagement with video or telephone connections (for example, sight or hearing limitations, inability to sit or concentrate for long periods of time, or other factors which the panel may not be able to accurately interpret other than face-to-face)
- Serious mental health conditions which might prevent full engagement with video or telephone connections
- Cognitive problems, such as learning disabilities
- The panel wishes to see the interplay between the prisoner and the witnesses or between all witnesses in the room, or particularly between the prisoner and the COM who will be supervising the prisoner in the community
- Particular types of neurodivergent conditions such as ADHD or ASD.⁶⁵ Alternatively, for some conditions, a remote hearing may be more effective than face-to-face if it will be less intimidating for the prisoner⁶⁶
- Complex risk assessments and/or contested, disputed evidence
- Language or communication issues, including use of communication specialists, such as an intermediary⁶⁷, interpreter, or signer
- The prisoner is under the age of 18
- Individual needs of attendees at the hearing

20.41 When directing a face-to-face hearing, panels need to give their reasons why a face-to-face oral hearing is necessary when making that direction. Panels should avoid directions that state if a face-to-face oral hearing is not available, a video hearing can be arranged instead.

⁶⁵ Separate guidance has been produced on Neurodiversity.

⁶⁶ Panels should look for evidence of vulnerability in the dossier and how this is best managed. Where there is evidence of vulnerability but no specific reference to the prisoner's communication needs, panels may direct information from the POM and invite representations if there aren't any.

⁶⁷ Separate guidance has been produced on Intermediaries.

20.42 In some cases, it might be appropriate to conduct a hybrid hearing, with some attendees being in person at the prison and others joining remotely.

20.43 It is important to consider whether the prisoner can properly participate in a remote hearing and, if not, whether a face-to-face hearing is required (bearing in mind the delay this may cause). The panel will also wish to consider issuing directions for an assessment to be carried out, which may be needed for the panel to understand how to facilitate participation in the hearing. This could include directing a needs assessment on, for example, speech and language. In a few rare cases there might be the need for a mental capacity assessment; for more information on this please see Guidance on Mental Capacity Assessments and Litigation Friends.

Witness and prisoner representative attendance – remote or in person?

20.44 In the majority of cases, witnesses will give their evidence remotely via video or telephone, unless they are based at the prison. This arrangement facilitates the availability of some witnesses for whom travel, or attendance, can be difficult, and allows them to undertake other responsibilities instead of spending hours travelling. There are budgetary implications too. **The presumption is that COMs and external psychologists will be permitted to participate remotely unless there is a good reason for their attendance in person.** Where a remote hearing is considered unsuitable and a face-to-face hearing is directed, witness requests to give evidence remotely for any reason will need to be considered on their individual merit. The panel chair has the final say in witness attendance and the means of participating.

20.45 It is often beneficial for the prisoner's representative to attend in person, even if all other witnesses and the panel are attending remotely, as during the hearing the prisoner may wish to speak with their representative in private. These conversations can take place more easily if they are together at the prison. However, the prisoner's representative can attend remotely if they choose to do so.

The prisoner's needs and support

20.46 Consideration must be given at the MCA stage to the specific needs of the prisoner (or other witnesses) as notified or implied in the dossier. MCA panels must aim to ensure that any future panel has relevant information, that the review can proceed fairly, and that the prisoner is appropriately supported throughout the review where this is within the Parole Board's powers. For example, panels may identify the need for further information about a reported disability. Prisoners who use a wheelchair (or other mobility aids) or who are bed-ridden should be clearly identified. The need for an interpreter or signer, or other intermediary must be confirmed and highlighted: it is the responsibility of the Secretary of State through the prison or secure hospital to make arrangements but, if they are flagged well in advance of the hearing, this can reduce the risk of adjournments or deferrals the case on the day.

20.47 Please refer to the Guidance on Protected Characteristics, the [Guidance on Translators and Interpreters](#) and the Guidance on Welsh Speaking Prisoners and Duties Regarding the Welsh Language for more information.

20.48 Other issues to consider include:

- Reasonable adjustments to enable a prisoner to participate properly
- The prisoner's physical health and well-being (for example, a person with diabetes may need food at regular intervals or someone on medication may need breaks to take medicine and to help maintain concentration)
- The prisoner's mental health and capacity to take part in the hearing
- Religious requirements (for example, a practising Muslim would not expect an oral hearing during Ramadan or Eid or if it interferes with Friday prayers)
- Learning disabilities or challenges and time implications if, for example, questions need to be broken down into smaller sections to aid the prisoner's understanding
- Requests for personal support from an observer or member of prison staff
- Any reason the prisoner or other participants may need to take breaks

20.49 This list is not exhaustive, so it is essential that the dossier evidence is carefully reviewed for any relevant factors which could affect the prisoner's ability to participate in the oral hearing fully and consistently.

The Secretary of State and Secretary of State Representatives

20.50 The Secretary of State is a party to the proceedings. Secretary of State officials (for example the COM and POM) will attend an oral hearing as witnesses to give evidence. They do not attend as a representative of the Secretary of State but are there to present evidence to the panel. In some cases, the Secretary of State may choose to send along a Secretary of State Representative (an "advocate" and in some cases counsel) to provide formal representation as opposed to witness evidence. The Secretary of State Representative's role is to assist the panel and support the Secretary of State's witnesses. They may ask questions of the witnesses and the prisoner and express a view to the panel. In most hearings, no Secretary of State Representative participates unless the case is high-profile, terrorist/terrorist-connected or noteworthy for some other reason.

20.51 In some cases, the Secretary of State will present a view on the prisoner's suitability for release. The cases will be selected by the Secretary of State, taking account of advice from officials, applying the following criteria:

- a) The nature and characteristics of the offending are particularly severe and risks damaging public confidence if the prisoner were to be released (e.g. where the victim(s) was a child or vulnerable, or cases with a sadistic or predatory motivation)
- b) Cases involving multiple victims or where there was a history of serious offending, indicating a pattern or escalation of such offences

- c) Where the gravity of the offending behaviour indicates that, if further such offences were to be committed again, the level of harm to the public would be particularly grave
- d) Where a case raises issues in relation to victims' confidence more broadly in the parole system

20.52 Once the Secretary of State has decided to submit a view on the prisoner's suitability for release, which either a Secretary of State Representative or counsel will articulate in a formal submission, it will then be added to the prisoner's parole dossier. The formal submission will set out in detail the basis of the recommendation, clarifying the evidence upon which it is based, and the weight attributed to that evidence.

20.53 In such cases, a Secretary of State Representative or counsel will attend the oral hearing. If a case appears to fit the above criteria and it is unclear from the dossier whether the Secretary of State will be submitting a view or sending a representative to the hearing, confirmation can be sought.

20.54 At the MCA stage, it may not be clear whether a Secretary of State view will be submitted. **Under no circumstances should the MCA panel issue an explicit direction that such a view be provided.** However, a direction can be made to confirm whether the Secretary of State wishes to present a view. The Secretary of State can then decide how to proceed.

Victims

20.55 If a victim wishes to submit a VPS, although there is not a specific timeframe mentioned in the Rules for the submission of the VPS, the VPS will need to be provided in time for the MCA assessment and failing that within eight weeks of the scheduled oral hearing (if the case is sent to an oral hearing). Please see paragraph 20.28 below for cases where a VPS has been indicated but is not available in the dossier.

20.56 The MCA panel should check the COM report to ascertain if the COM has made contact with the Victim Liaison Officer (VLO) to explore a victim's intentions of submitting a VPS. If the victim does not intend to submit a VPS, the MCA panel should **never** direct that one be submitted.

20.57 If a VPS is submitted and available, the MCA panel should consider:

- Requests for non-disclosure
- Whether the VPS contains information that relates to risk⁶⁸
- Whether the VPS contains information that is inappropriate and needs to be removed from the statement.

20.58 **If a VPS is indicated but not available in the dossier, the MCA panel should set directions seeking clarification. A case should not be concluded on the papers without sight of the VPS, or confirmation that a VPS is not going to be submitted.** A victim **must** have the opportunity to have the statement considered by the panel. The

⁶⁸ Please refer to the *Guidance on Victims* for more information.

VPS may also indicate licence conditions requested by the victim: these need to be considered if release is directed on the papers. If requested licence conditions are not adopted, the decision should provide clear reasons why. A short adjournment in the MCA process may be needed to obtain a VPS or to check the arrangements in the event of directing an oral hearing.⁶⁹

20.59 There are standard directions in the MCA directions template to assist arrangements for victim engagement.

20.60 The MCA panel should check whether a victim has requested to read a VPS themselves or have it read out on their behalf at an oral hearing. The Parole Board adopts a policy whereby there is a presumption that any requests from a victim to read their statement to the oral hearing panel will be agreed. If so, this request needs to be noted in the narrative section of the directions template, even though standard text is part of the document. Specific dates to avoid for the victim should also be included if provided (such as birthdays or the anniversary of the index offence). In the majority of cases, the victim will attend remotely and read out their VPS via MS Teams. In some instances, the victim may wish to attend the prison in person, and this can be considered, but should not dictate how the parole proceedings should be managed.

20.61 When a victim chooses to read a VPS to the panel in person or by telephone or video, a Secretary of State's Victim Representative will assist them. Alternatively, the victim may ask someone to read their statement out on their behalf. This will normally be the Victim Representative, or another nominated person (usually from the prison). Neither the Victim Representative, or nominated person, nor the victim will be present during the substantive parole proceedings unless a request for them to observe has been approved.⁷⁰ The MCA panel and panel chair should **never** direct that a victim attends the hearing or that a VPS is read out to the panel members.

20.62 Please refer to the Guidance on Victims and the Observers Member Guidance for further information.

Expediting or prioritising an oral hearing

20.63 The starting point for most cases is that they are listed routinely following the Parole Board's Listings Prioritisation Framework. The exceptions to routine listing are cases where:

- The prisoner is in a secure hospital setting or mental health unit

⁶⁹ If the case is to be concluded at the MCA stage, then a formal adjournment with directions will be required. If the case is going to an oral hearing, relevant directions when sending the case to an oral hearing.

⁷⁰ At the time of publication, the Parole Board is operating a testing phase for victims to observe – please refer to the Observers Member Guidance and relevant Annexes for further information. MCA panels should highlight to the case manager any case where a victim has requested to observe.

- It is the prisoner's first review after discharge from a Mental Health Tribunal and they have been returned to prison
- The prisoner is under 18 years old

20.64 These cases should already have been prioritised for listing by the MCA member. There are formal Parole Board policies setting out these requirements. The relevant policies can be found on the Table of Options document within the Types of Cases guidance.

20.65 **Prioritising** a case is asking the Listings Team to make every effort to schedule the case in the *next* listings exercise.

20.66 **Expediting** a case is asking the Listings Team to make every effort to list the case *as soon as possible* and perhaps with a freshly commissioned panel at short notice. Expediting a case may not always be possible due to witness, member, or prison availability and a priority direction may be more advantageous to a timely listing. Furthermore, a decision to expedite an oral hearing for one case may require an existing listed case to be removed to make way for the expedited case.

20.67 Both routes have significant consequences for other prisoners when their reviews might be unfairly delayed, to allow for the prioritised or expedited case, despite their cases having similar merits. Another prisoner's hearing may have to be stood down from a month's listing to allow the review of an expedited or prioritised case. The processes of prioritisation, and especially expedition, also have considerable resource implications for the Parole Board and the parties.

20.68 The MCA panel must decide whether circumstances are sufficiently exceptional to warrant a case being given a higher priority in the listings process. The MCA panel should, therefore, first consider whether it would be more appropriate to prioritise a case before considering if an expedited listing is warranted. They must be specific on whether they are asking for a case to be prioritised or expedited with clear reasons being given.

20.69 Examples of when prioritising would be appropriate include:

- A case has been adjourned/deferred once or several times before and the prisoner's review unfairly delayed (through no fault of their own)
- Prisoner is under 18 years old, or was at the time of sentencing
- Prisoner is held in a secure hospital setting or mental health unit
- First review by the Parole Board after discharge by a Mental Health Tribunal
- Serious concerns over the prisoner's mental health

20.70 Examples of when prioritising would **not** be appropriate include:

- A determinate recall prisoner has less than 26 weeks until their sentence is due to expire
- Requests for prioritisation solely on the grounds of positive report assessments
- A member or witness could not attend the oral hearing due to illness

20.71 Examples of when expedition could be appropriate:

- Terminal illness / compassionate release
- The original decision is the subject of an order for reconsideration or has been quashed by the High Court
- Compassionate reasons relating to close family members
- An automatically prioritised case has exceptional circumstances for which an urgent decision is critical
- A case that has been significantly delayed due to Parole Board administrative errors⁷¹

20.72 Please refer to the Duty Member Activities Guidance for further guidance on expedition/prioritisation and for guidance on recommending early release on compassionate grounds (ERCG).

The 'Ready to List' box

20.73 At the end of the directions template, the MCA panel must confirm whether the case is 'ready to list'. This requires a yes/no response. The rule is that any case that will be ready to hear within the next three months is ready to be listed (because the Listings Team usually operates three months ahead). Any case which is likely to take longer than three months to be ready to hear for any reason is "not ready" to be listed.⁷² In such a case, the MCA panel should answer the question of whether the case is ready to list by selecting the "no" box and adding the date that the case is not ready to list until after.

21 What do I do when faced with...?

21.1 This section deals with specific issues that the MCA panel may face, whether they are common or less so. Even experienced members encounter features of cases not met before and will seek advice from colleagues, the Parole Board's Practice Advisor, and the MCA Guidance. This section cannot cover all eventualities but is a guide as to what to consider and how to get more assistance.

Less than 26 weeks⁷³ to SED in a determinate sentence recall case⁷⁴

21.2 Determinate sentence prisoners with less than 26 weeks until SED or other automatic release date are not normally sent to an oral hearing because the case cannot usually be listed and delivered in the remaining

⁷¹ High Court judgment in *Adams v Parole Board for England and Wales* (2022).

⁷² The MCA panel will deem whether the case is ready to list.

⁷³ The change from 20 weeks to 26 weeks was introduced in September 2023 as part of the Board's response to the listings queue.

⁷⁴ Section 136 of the PCSC Act 2022 provides that in recall cases, no further referrals will be made if the prisoner has less than 13 months until their sentence expiry date.

time.⁷⁵ There may be exceptional circumstances that merit an expedited or prioritised hearing. These might include the prisoner's mental health deteriorating to such an extent that an oral hearing is required, or other compelling compassionate reasons. If there are exceptional circumstances, the MCA panel can consider expediting or prioritising the listing of the case. Panels should flag this up with the case manager so that steps can be taken quickly to convene a panel (see section on [expediting or prioritising an oral hearing](#)). Panels should, however, be aware that it will be very difficult to find a slot within the next 26 weeks and there is a real risk that the prisoner's sentence will expire before a date can be set.

21.3 It is more likely that with less than 26 weeks to go, it will not be practically possible to obtain further information or list an oral hearing and the case must be concluded on the available papers. However, the MCA panel can still adjourn for further information if that can be supplied within the timeframe. Regardless of the SED, the OBR principles apply to any MCA assessment (see paragraphs [6.4 - 6.8](#)) but note paragraph 21.4 and 21.5 below about concluding on the papers.

21.4 Where the MCA panel concludes that an assessment of risk would require further information to be provided if time allowed, wording such as the following might be helpful to add in the conclusion of the decision:

*"Had time allowed, the panel would have sought additional information about **[insert issues]** or directed the case to an oral hearing. However, there is not time before **[x]**'s sentence end date to do this, and so the panel has made their decision on **[x]**'s case based on the information currently available."*

21.5 Where the MCA panel concludes that an assessment of risk would require an oral hearing if time allowed, wording such as the following might be considered:

"The panel concluded that this case cannot finally be dealt with on the papers alone and, had time allowed, would have directed that the case be sent to an oral hearing. For now, with these issues of risk unresolved, and for the purposes of public protection, the panel makes no direction for release."

No accommodation for a prisoner who could otherwise be released

21.6 Under section 139 of the Police, Crime, Sentencing and Courts Act (PCSC) 2022, panels can only direct 'release' without specifying a date or timescale and cannot direct a release 'subject to' conditions. Following a release decision:

⁷⁵ Panels may wish to adopt a similar position where the CRD for an EDS prisoner is less than 26 weeks away.

"The Secretary of State must give effect to the direction of the Parole Board as soon as is reasonably practicable in all the circumstances including, in particular, the need to make arrangements in connection with any conditions that are to be included in the person's licence."

- 21.7 The starting point is that release should not take place until all elements of a risk management or release plan are in place. This may include a confirmed release address. If the MCA panel assess that the codified public protection test cannot be met without confirmation of a suitable address, one option is to adjourn the case for the COM to confirm a suitable address. Panels may wish to ask the COM to confirm whether the homeless prevention team is engaged. If a suitable address cannot be confirmed, the panel will need to consider the possibility that if they direct release, the Secretary of State could release the prisoner with no address.
- 21.8 A lack of confirmed release address may impact on the panel's assessment of whether the codified public protection test is met. The MCA panel must not direct release 'subject to' the availability of accommodation (or any other element of the plan). Release decisions cannot be conditional: if, after an adjournment, no accommodation has been confirmed, an assessment must be made of whether the codified public protection test is met.
- 21.9 In some cases, the structured environment, support, and supervision of an AP may be 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. In such cases, the MCA panel may consider directing release to a suitable AP as this provides the Probation Service with flexibility to find a suitable bed at the earliest opportunity.
- 21.10 Under the new model for AP referral and placement, cases will not be matched to an AP until a direction for release is made. **Therefore, panels do not need a guarantee about which AP will be available before directing release to an AP.** If the individual has been assessed as suitable for an AP and the panel assess that the test for release is met, the panel can direct release. The Central Referrals Unit will aim to find a placement within 6 weeks of the release decision, and it is up to the Secretary of State to release the prisoner once a place at a suitable AP has been found. This would be prioritised as with all other Parole releases.
- 21.11 More information can be found on the Approved Premises SharePoint page.

Post-sentence supervision

- 21.12 The Offender Rehabilitation Act 2014 introduced a mandatory period of post-sentence supervision (PSS) for determinate sentence prisoners serving custodial sentences of up to two years. The licence period is topped up so that they have a period of supervision of at least 12 months. Relevant licence provisions and supervision dates are shown in the

prisoner's licence. The Parole Board has no jurisdiction over any PSS period; however, in light of the judgments in *Johnson, Dich and Murphy*⁷⁶, the period over which a panel is considering risk in all determinate sentence cases may go beyond CRD and SED.⁷⁷ Therefore, the panel's assessment of risk may include the period the individual has on PSS, but they cannot set licence conditions for this period.

The prisoner asks for an oral hearing but there are insufficient grounds for one

21.13 Prisoners or their representatives may apply for an oral hearing when the MCA panel is not minded to direct one. In these circumstances, a hearing does not have to be granted but, if refused, it must be demonstrated that the application was considered, and reasons must be given for refusing it. For example, a prisoner may have had an oral hearing at their last review where the panel concluded that there were core areas of risk outstanding but there is no current evidence of any significant change since; or there is an area of dispute which has already been addressed in a previous review.

21.14 The MCA panel should always bear in mind that at least a year will have passed since the prisoner's last review, and this in itself may impact upon risk. If in any doubt about whether or not to grant an oral hearing, OBR principles (see paragraphs [6.4-6.8](#)) indicate that the Parole Board should grant a hearing. In such a case, the type of oral hearing will have to be determined (see paragraphs [20.36 – 20.43](#)).

Using security intelligence

21.15 This may need to be treated in a similar way to discontinued criminal charges and allegations in that the panel needs to make a finding of fact. Due to the sensitivities of such information, there may be an NDA to be decided; if so, a short adjournment must take place to allow for the NDA to be concluded. If the case is directed to an oral hearing and there is significant security intelligence, the MCA panel may wish to direct attendance of the prison's Security Governor or similarly, in the case of police intelligence, the Chief Constable or their designated alternative. Such a direction will enable the prison or the police to identify the most appropriate witness if an individual has not been named in the dossier.

21.16 Reliability ratings should be supplied. The HMPPS policy framework on Handling of Sensitive Information, Including Information Provided by Victims, for the Purpose of Parole Board Reviews⁷⁸ states:

"5x5x5 codes must not be shared with the Board in order to prevent the inadvertent disclosure of sources and/or exposing information from Police or Law Enforcement Agencies. However, if the Board directs them, they must be provided. Where there are concerns about disclosure, all HMPPS staff should follow the non-disclosure process".

⁷⁶ [Secretary of State for Justice v Mr Alan Johnson 2022 EAT 1](#)

⁷⁷ Please see the Types of Cases Guidance for more information.

⁷⁸ [Handling Sensitive Information Policy Framework - GOV.UK](#)

21.17 If a panel considers that a 5x5x5 grading is necessary to properly understand the information, then they can direct that they be provided. However, panels should be aware that such a direction will most likely result in a rule 17 application.

21.18 We anticipate that in the vast majority of cases the prisoner will have enough information to properly engage with their Parole process if they are told whether the reliability is 'High', 'Medium', or 'Low'. If those ratings can be disclosed then it will often be unnecessary to disclose the 5x5x5 gradings themselves to the prisoner, and the rule 17 application can be resolved on this basis.

21.19 However, for Terrorism/Noteworthy cases managed by the PPCS National Security Casework Team, the OPEN gist for any security intelligence subject to non-disclosure will usually not disclose the high, medium and low rating to the prisoner. This information will be subject to non-disclosure and only the panel and the legal representative (upon providing an undertaking) will see the rating.

21.20 If panels think that they have an exceptional case where the prisoner needs to see the 5x5x5 gradings then they should contact the Board's Practice Advisor.

Prisoner sentenced under earlier legislation

21.21 Very rarely will an MCA panel come across one of these cases. The terms of the referral say under which legislation the prisoner was sentenced and will make clear what the panel is being asked to do by the Secretary of State. The MCA panel can contact the Board's Practice Advisor for guidance but the same codified public protection test, as set by Parliament, applies and the approach at MCA stage is essentially the same as in other cases.

"Stuck" cases

21.22 If a case appears to have stalled in the system, such that it has reached an impasse, the MCA panel can consider whether a CMC may be a useful way to explore resolution of the issues. Thereafter an oral hearing may or may not be necessary to progress the case. Representations should be considered. The MCA panel should take account of the OBR principles in relation to fairness (see paragraphs [6.4 - 6.8](#)) and recognise that the Parole Board procedures do have some legitimate part to play in identifying live risk issues that a prisoner might need to address. The likelihood of release or transfer to open conditions are not the sole determinants of sending a case to an oral hearing, but fairness is the significant factor.

Late Representations

21.23 An MCA panel may be faced with a case where the prisoner could not or did not make representations at the MCA stage. Alternatively, even if

representations were prepared, they might not have been available to the MCA panel because of administrative difficulties or because they did not arrive in time before the decision was made at the MCA stage.

Representations that were not put before the MCA panel prior to the case being panelled are not usually considered by that MCA panel, unless there are exceptional circumstances. The only way for these to be considered is via a rule 20 application⁷⁹ (which would be dealt with by a duty member) or via other routes once the decision becomes final (reconsideration, setting aside, judicial review).

Combining reviews

21.24 In some circumstances MCA panels may need to consider combining reviews where there are two active referrals for a case. The decision about combining reviews is wholly a matter for the Board but either party can make a request.

21.25 Combining reviews can be a way to deal efficiently with circumstances where the Secretary of State has made two referrals at different times, but the reviews overlap.

21.26 It may not be immediately apparent that two referrals have been made until a detailed review of the dossier is undertaken. MCA panels may need to adjourn to seek clarification about this. Where it is confirmed that there are two referrals, the MCA panel will need to determine which review is the furthest advanced and if combining them is appropriate. For example, it may be that the matter needs to be deferred to an existing oral hearing panel chair. More information about combining reviews can be found in the Duty Member Activities Guidance.

21.27 For IPP prisoners who qualify for licence termination, the Board will no longer consider the referral to terminate the IPP licence separately where there is already a referral for re-release. The Rules now require these cases to be considered together so there is no need to take action to combine them. When the Board consider the case for re-release, and the panel decides that the codified public protection test has been met, they will also go on to consider whether that release would be conditional (on licence) or unconditional (no licence). Further information can be found in the IPP Guidance.

Stakeholder Response Forms (SHRF)

21.28 During the MCA review, either party may submit new or additional information or requests via a SHRF. All requests should come on an SHRF which has a section for the Parole Board's response. Before the Parole Board receives the SHRF, the parties (Secretary of State (via PPCS) and the prisoner / their representative) will have been provided with the opportunity to provide their views. Any views/representations will be

⁷⁹ Following a decision at MCA that a prisoner is unsuitable for release, the prisoner can apply in writing for a panel at an oral hearing to determine the case.

included in the SHRF. If it is unclear whether either party has been given the opportunity to submit representations, the panel may wish to seek clarification from the case manager.

21.29 The MCA panel will occasionally receive an SHRF with requests or enquiries after the MCA directions have been issued. These may be requests for variation or a revocation of specific directions. Other queries might include questions from witnesses, report writers or the prisoner's representative. The MCA panel is required to retain downloaded dossiers for four weeks after the MCA panel date and will be responsible for responding to the SHRF. SHRF arriving after this time will be dealt with by a duty member.

Further information submitted after a decision has been issued

21.30 In some circumstances, information may come to light following the MCA decision being issued. Once the decision has been issued to all parties, the decision cannot be re-opened as the Board is *functus officio* in respect of MCA and there is no provision in the Rules to allow that decision to be re-taken. The only routes for this information to be considered by the Board are via the following⁸⁰:

- The prisoner can apply for an oral hearing (under rule 20)⁸¹
- Reconsideration (if eligible)⁸²
- Apply to set aside the decision⁸³
- Judicial review

21.31 Please note that none of these functions are undertaken by the MCA panel. **Should such a request be received, please pass this onto the case manager who can send to an appropriate duty member.**

Terrorism / Terrorism-connected prisoners

21.32 Terrorism and terrorism-connected cases are considered by members of a specialist cohort and are managed by the Specialist Case Management Team within the Operations Hub at the Parole Board. If a panel receives such a case and they are not a member of the specialist cohort, they should contact the Specialist Case Management Team immediately.

High profile Cases

21.33 High profile cases should have already been identified as such by the Secretariat and will be managed by the Specialist Case Management Team within the Operations Hub. If an MCA panel is considering a case which they believe may be of particular interest to the public or press or is otherwise noteworthy (nationally or regionally) and which has not been

⁸⁰ The Victim and Prisoners Act 2024 section 61-64 sets out a new power in which the High Court can overturn a Parole Board decision. Work is underway to determine how this will work in practice, and no implementation date has been set.

⁸¹ Please refer to the Duty Member Activities Guidance for further information.

⁸² Please refer to the Reconsideration guidance for further information.

⁸³ Please refer to the Setting Aside a Decision Guidance for further information.

flagged as such, the MCA panel should contact the Specialist Case Management Team.

Power to Detain (PTD) Standard Determinate Sentence Cases

21.34 The power for the Secretary of State to refer high-risk prisoners to the Board, in place of automatic release at their CRD, is set out in Section 132 of the PCSC Act 2022. Power to Detain Standard Determinate Sentence cases are managed by the Specialist Case Management Team within the Operations Hub at the Parole Board and will be allocated on an individual basis in the same way as terrorism/terrorism-connected, noteworthy, and mental health cases. They should **not** be included in regular MCA Bundles; **if a panel receives such a case in their regular bundle, they should contact the Specialist Case Management Team immediately.** PTD cases fall within the eligibility criteria set out in rule 28(2)(c) and are therefore eligible for reconsideration. This is because once the PTD decision is made, the prisoner's initial release will be at the Board's direction.

ANNEX 1 – Checklist for MCA Panels Directing an Oral Hearing

Use the MCA directions template, complete all sections and check:

- An oral hearing is always required when fairness demands it, but it is obligatory where release cannot be directed on the papers and the prisoner is either under 18 at the point of referral, in a secure hospital or mental health setting, or facing their first review having been in such a setting
- There is a presumption of an oral hearing for young adult prisoners (aged 18-21 inclusive) and life sentence prisoners on initial release review and when considering a pre-tariff progression to open conditions
- There are more than 26 weeks until SED
- Clear details of sentence and relevant dates are correctly recorded (for example, tariff expiry or PED, SED and CRD)
- Exact wording and terminology is used when referring to the index offence(s)
- Terms of the Secretary of State's referral and the options before the panel should be outlined (release, re-release, suitability for open conditions, licence termination)
- Dossier length in number of pages, prisoner representations and proposals, non-disclosure, and any VPS should be noted
- A clear, concise, and brief narrative summarises the index offence, relevant patterns⁸⁴ of offending, overview of progress and current circumstances, and the risk assessments made by key report writers (**but not so detailed or evaluative that it impedes the decisions of the next panel**)
- Why the case cannot be concluded on the papers and why an oral hearing is necessary
- Key topics for the hearing are identified whilst indicating the next panel may also explore other issues
- Specific issues relevant to the case are highlighted (for example, mental health, deportation, learning issues, language issues etc)
- The MCA panel has not made a risk assessment – that is the responsibility of the oral hearing panel
- What type of oral hearing is directed and why
- Clear directions for necessary reports and essential documents with reasons explained, taking account of practicalities and proportionality because directions must be reasonable, lawful and deliverable, with clear timescales
- Realistic deadlines for new reports and time for other participants to have sight of these before the hearing and reflect findings in their evidence
- Witnesses are relevant and their roles and contributions are precisely described for the particular case, avoiding formulaic wording

⁸⁴ The MCA panel should not provide, or appear to provide, an opinion on risk.

- The panel is appropriately composed, specialist members if directed are essential and their deployment follows MCA Guidance, and the number of panel members and tiering of the case is proportionate and justified
- Diversity considerations or special needs are identified and planned for (if evident in the dossier)
- Victim involvement is highlighted
- Why the hearing cannot be conducted remotely by telephone or video with the prisoner and/or witnesses, if a face-to-face hearing has been directed
- The case has been allocated to an appropriate tier
- Whether expedition or prioritisation is essential
- The 'ready to list' box is completed
- The narrative is spellchecked, proofread for typos, well-presented, plain English is used, names are spelt correctly
- The name of the panel member(s) should be recorded on the directions

ANNEX 2 – Table of Reports

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|---------------------|---------------------------|---------------------------------|---|---|-----------------|
|---------------------|---------------------------|---------------------------------|---|---|-----------------|

| | | | | | |
|---|----------------------------------|---------------------------------------|---|-----|--|
| <i>Core/Standard</i> | | | | | |
| Pre-Tariff PAROM1 | Prison Offender Manager (POM) | Prison Offender Management Unit (OMU) | Mandatory document at point of referral | | |
| Pre-Tariff Addendum | POM | OMU | 8 weeks prior to the oral hearing | | |
| On/Post tariff PAROM 1 or Part A or B [recall reports] | Community Offender Manager (COM) | Probation Service | Mandatory document at point of referral | N/A | |
| On/Post Tariff PAROM1 Addendum | COM | Probation Service | 8 weeks prior to the oral hearing | N/A | |
| Part C [recall report] | COM | Probation Service | 6 weeks | | |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|--|---------------------------------------|---|---|---|--|
| On/Post Tariff Parole Custody Report | POM | OMU | Mandatory document at point of referral | N/A | |
| On/Post Tariff Parole Custody Report Addendum | POM | OMU | 8 weeks prior to the oral hearing | N/A | |
| OASys Report | POM or COM depending on sentence type | Currently either Probation Service or OMU | 6 weeks | N/A | <i>OASys reports are valid for 12 months: date of completion is the date 'signed off' at page 2 of report [not the date in top right-hand corner which is date printed]</i> |
| SPR-H Security | Prison Service Security Department | Prison Service | 4 weeks | N/A | <i>Reliability ratings should be supplied. 5x5x5 codes will not be shared with the Board in order to prevent the inadvertent disclosure of sources and/or exposing information from Police or Law Enforcement Agencies. However, if members consider</i> |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|----------------------------|---------------------------|---------------------------------|---|---|---|
| | | | | | <i>that a 5x5x5 grading is necessary to properly understand the information, they can direct them, and they must be provided. Members should be aware that such a direction will most probably result in a rule 17 application.</i> |
| Adjudication Record | Prison Service | HMPPS | 4 weeks | N/A | <i>Can also ask for paperwork relating to a specific "adjudication hearing": usually only relevant when a prisoner disputes circumstances of adjudication.</i> |
| P-NOMIS printout | Prison/POM | Prison Service/OMU | These should be updated daily so printouts can be readily to hand [if needed] | As above | <i>These are wing/custodial notes where staff record positive and negative behaviours. The POM should have covered anything significant within their report BUT it can be useful to direct P-NOMIS notes</i> |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|---|---------------------------|---------------------------------|---|---|--|
| | | | | | <i>for a specific incident or time period if the POM has little knowledge of the case OR the facts are disputed.</i> |
| Previous Convictions – Police National Computer (PNC) | Prison | Prison | Mandatory document at point of referral | N/A | |
| Previous Parole Board Decision(s) | Parole Board | Parole Board | 4 weeks | All should be available | <i>The MCA panel should contact the Parole Board case manager if such documentation is required.</i> |
| Risk Assessed Recall Review (RARR) [Secretary of State] Decision Letter(s) | Secretary of State | PPCS | 4 weeks | All should be available | |
| Previous POM or COM reports | POM or COM | PPCS | 4 weeks | All should be available if required | |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|--|---------------------------|---------------------------------|---|---|--|
| Secretary of State's referral document | Secretary of State | PPCS | Mandatory document at point of referral | N/A | |
| LISP 4 (transfer back to closed conditions from open) | Prison Service | PPCS | 4 weeks | N/A | Only available for ISPs. For non-ISPs, panels can direct the POM / COM to provide details of the circumstances in a note to the Board or cover it in their report. |

| | | | | | |
|---|-------|------|---|--|---|
| <i>Sentence/Court/Police/ CPS</i> | | | | | |
| Judge's Sentencing Remarks (JSR) | Court | PPCS | Mandatory document at point of referral | All should be available if they were recorded. | |
| Trial Judge's Report to the Home Secretary | Court | PPCS | Mandatory document at point of referral | All should be available | <i>Completed for all life sentences pre-2003.</i> |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|---|---------------------------|--|---|---|---|
| Court of Appeal Transcript | Court | PPCS | Mandatory document at point of referral | All should be available | <i>Reports from any appeal against sentence/conviction. Direct the <u>full</u> transcript report rather than just the Cover Sheet.</i> |
| Bad Character/Basis of Plea/Family Court reports | Court | PPCS | 6 weeks | All should be available | <i>Reports relevant to sentencing/conviction.</i> |
| Pre-Sentence Report | COM | PPCS | 4 weeks | N/A | |
| Post-Sentence Report | COM | PPCS | Mandatory document at point of referral | N/A | <i>Post sentence reports are no longer completed for any prisoner sentenced after 1 December 2020.</i> |
| Crown Prosecution Service, witness statements, prosecution summary (if there is one) and exhibits. | Crown Prosecution Service | Parole Board or PPCS for mandatory documents under the | 8 weeks | CPS Retention policy is based on the length of the sentence, e.g. Indeterminate are retained for 25 years and | <i>Useful to direct these if there are dropped charges [most usually with domestic violence allegations] OR where no JSR/Pre-Sentence Report reports are</i> |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|--|---------------------------|--|---|--|---|
| | | Schedule to the Rules | | determinate for 3 years or the length of the sentence whichever is greater. | <i>available and there is no clear account of the offence elsewhere. Non-disclosure applications to be made through PPCS.</i> |
| Police witness statements, MG4 (charge sheet), MG5 (case and interview summary), or other reports | Police | Parole Board or PPCS for mandatory documents under the Schedule to the Rules | 8 weeks | As above | <i>Non-Disclosure applications to be made through PPCS.</i> |
| Representations | Representative | Representative | 4 weeks | Historical representations can be directed, new representations can only be 'invited'. | |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|---------------------|---------------------------|---------------------------------|---|---|-----------------|
|---------------------|---------------------------|---------------------------------|---|---|-----------------|

| | | | | | |
|---|--|--------|----------|-------------------------|--|
| <i>Health/Psychology/ Psychiatry</i> | | | | | |
| End of Treatment /Responsible Clinician/Mental Health Tribunal reports | Responsible Clinician/ Treatment Professional | PPCS | 12 weeks | All should be available | <i>If transferred back to prison from secure Mental Health unit, there must be a Responsible Clinician and/or End of Treatment report.</i> |
| Mental Health In-Reach Report | Prison Mental Health Team | Prison | 6 weeks | N/A | <i>Useful where mental health issues are identified as it provides an overview of any psychiatric input/ treatment/engagement</i> |
| Historical psychological/ psychiatric reports | Prison | Prison | 4 weeks | N/A | <i>Useful to ask for any reports done for sentencing [often referred to in JSR or Pre-sentence Report]</i> |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|--------------------------------------|---|---------------------------------|---|---|--|
| Psychological Risk Assessment | HMPPS Psychology Department | Prison | 12 weeks | N/A | |
| Joint Psychology Report | Psychologist/ psychiatrist and prisoner commissioned representative | Prison and Representative | 6 weeks | N/A | <i>Such directions should not be made prior to the receipt of the psychology reports from both HMPPS Psychology and the prisoner's representative. A direction for a joint report should only be made if it is necessary (for example, clear areas of disagreement) and should not be directed as a matter of routine.</i> |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|------------------------------------|---------------------------|---------------------------------|---|---|---|
| Psychiatric Risk Assessment | Prison | Prison | 12-16 weeks (seek guidance locally as practice varies) | N/A | <i>Not to be confused with a Mental Health In-Reach report. This is a specific risk assessment rather than overview of mental health issues/ treatment.</i> |
| WAIS Summary Report | HMPPS Psychology | Prison | 12 weeks | N/A | <i>IQ assessment to determine cognitive function/learning needs.</i> |
| Medical Report | Prison Healthcare | Prison | 8 weeks | N/A | <i>May wish to get the prisoner's written permission for this. Where the prisoner does not consent, the reports can be obtained without it. The POM will be able to obtain signed consent if the prisoner agrees to provide this.</i> |
| PIPE Report | HMPPS Psychology | Prison | 12 Weeks | N/A | |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|---|---------------------------|---------------------------------|--|---|---|
| Therapeutic Community (TC) progress report | HMPPS TC | Prison | 8-10 weeks for new 4 weeks for historical report | As long as the sentence | <i>When prisoner is still in treatment</i> |
| TC End of Therapy Report | HMPPS TC | Prison | 12-16 weeks (But an extension might be requested as therapists are given up to 6 months to complete this following the end of treatment) | As above | <i>Provided on completion OR if withdraws from treatment. This is not a psychological risk assessment so 'may' be appropriate to also direct an updated PRA on completion</i> |

Programmes/Offending Behaviour work

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|---|---------------------------|---------------------------------|---|---|---|
| New Me Strengths (NMS), Becoming New Me (BNM), Living as New Me (LNM) | HMPPS Programmes Staff | Prison | 4 weeks after course completion | N/A | <i>No post-programme reports produced. Prisoners complete a My Journey Record and New Me Life Plan which can be useful. Panels can also direct for Programme Progress Review meeting minutes.</i> |
| Structured Assessment of Risk and Need (SARN) <i>[following completion of Core, Extended, Rolling & Adapted sex offender treatment programme SOTP – now discontinued]</i> | Prison | Prison | 4 weeks | N/A | <i>Historical risk assessment completed following completion of all SOTP courses.</i> |
| Healthy Sex Programme [HSP] | Prison | Prison | 12 weeks | N/A | <i>Progress review meeting minutes will be available for the Panel. The prisoner will also be encouraged to develop</i> |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|---|------------------------------|---------------------------------|---|---|--|
| | | | | | <i>or continue developing their 'My Journey Record', containing updated 'New Me Life Plans' and a therapist letter(s) endorsing learning on the HSP.</i> |
| Substance support services [known as SMS, DARTs, DARS, CARATs] | Prison Substance misuse team | Prison | 6 weeks | N/A | <i>SMS will often provide an overview of work completed/ongoing.</i> |
| P-ASRO (drugs and alcohol programme – now discontinued) Post-programme | Prison | Prison | 6 weeks | N/A | <i>Historical report.</i> |
| Building Skills for Recovery (BSR) Post-programme | Prison | Prison | 6 weeks | N/A | |
| Domestic Abuse Risk and Needs Assessment (DARNA) report [on | Prison | Prison | 4 weeks | N/A | <i>Historical programme. Both DARNA & post-programme reports could be provided.</i> |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|---|---------------------------|---------------------------------|---|---|---|
| completion of Healthy Relationships Programme HRP] | | | | | |
| BBR [Building Better Relationships] Post-programme | Prison | Prison | 8 weeks after course completion | N/A | |
| ETS [Enhanced Thinking Skills – now discontinued] Post-programme | Prison | Prison | 4 weeks | N/A | <i>Historical course report.</i> |
| TSP [Thinking Skills Programme] Post-programme | Prison | Prison | 6 weeks | N/A | <i>Post-programme report and post-programme review meeting minutes.</i> |
| CSB [Cognitive Skills Booster – now discontinued] Post-programme | Prison | Prison | 4 weeks | N/A | <i>Historical course report.</i> |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|---|---------------------------|---------------------------------|---|---|--|
| SCP [Self-Change Programme – now discontinued] Post-programme | Prison | Prison | 6 weeks | N/A | <i>Historical high-intensity instrumental violence course.</i> |
| R&R [Reasoning & Rehabilitation – now discontinued] Post-programme | Prison | Prison | 4 weeks | N/A | <i>Historical Course report.</i> |
| CALM [Controlling Anger and Learning to Manage it – now discontinued] Post-programme | Prison | Prison | 4 weeks | N/A | <i>Historical anger management course.</i> |
| RESOLVE [now discontinued] Post-programme | Prison | Prison | 8 weeks after course completion | N/A | <i>Historical medium-intensity violence [planned & reactive] reduction course.</i> |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|---|---------------------------|---------------------------------|---|---|--|
| HORIZON programme (sexual offending) | Prison | Prison | 6 weeks | N/A | <i>In replacement of a post programme report, prisoners will complete a My Journey Record and New Me Life Plan. There is likely to also be programme Progress Review meeting minutes.</i> |
| KAIZEN programme – 3 strands: Sexual IPV [interpersonal violence] Violence | Prison | Prison | 6 weeks | N/A | <i>Can get Post-programme Review minutes & typically prisoners complete a My Journey Record which can be useful. You will need to direct a psychological risk assessment if you consider it appropriate on completion</i> |

| | | | | | |
|-------------------------------------|--------|--------|---------|-----|--|
| <i>Scotland</i> | | | | | |
| Lifer Liaison Officer Report | Prison | Prison | 8 weeks | N/A | |

| Report Types | Responsible Author | Organisation Responsible | Timescales for provision/ completion of report (how long the panel may wish to give for the direction to be met) | Timescale cut off for the availability of historical information (years) | Comments |
|---|---------------------------|---------------------------------|---|---|-----------------|
| Community Based Social Worker Report | Social Worker | PPCS | 8 weeks | N/A | |
| Prison Based Social Worker | Prison | PPCS | 8 weeks | N/A | |

ANNEX 3 – Guidance for Writing Decisions

For decisions at MCA, the paper decision template should be used. When writing decisions, panel chairs should follow the Decision Writing Guidance and the principles of the Decision-Making Framework. Panels can also adopt the Top Ten Decision Writing Tips to assist them with writing and reviewing decisions. This should be used in conjunction with relevant guidance and the Decision-Making Framework.

The following checklist is not intended to replace that guidance but instead to provide prompts to help ensure decisions are of a consistently high standard, effectively conveying the key information, analysis and reasons for a decision in a clear, understandable manner. Issues relating to diversity and inclusion, mental health, learning issues (and any other protected characteristics), and deportation must be fairly and appropriately addressed.

As a minimum, a decision should include:

Context – Completing the front sheet (quick fill) of the paper template fully and accurately will ensure the following is recorded:

- the date of paper review
- paper review type (for decisions at MCA select Member Case Assessment (MCA))
- prisoner's full name
- prisoner's date of birth and age at the time of the current review
- prisoner's prison number
- the prison the prisoner is residing in
- the number of parole reviews undertaken during the current sentence
- panel composition including the name of the MCA panel member(s) and their membership type
- decision outcome
- type of case
- the Secretary of State's referral
- the outcome of the parole review sought by the prisoner/their representative
- details of the Secretary of State's view (if submitted)
- the codified public protection test and/or the criteria for recommending suitability for open conditions
- eligibility for reconsideration

- the index offence and sentence. Avoid paraphrasing or unexplained abbreviations. Distinguish between types of indeterminate sentences e.g. automatic life sentence, mandatory life sentence, Imprisonment for Public Protection, etc.
- date of sentencing and the prisoner's age at time of sentencing
- tariff expiry date and any other date relevant to the sentence e.g. parole eligibility date, conditional release date, sentence expiry date (*the risk period under consideration in all cases is indefinite*)
- recall dates
- Victim Personal Statement (VPS) and/or whether enrolled in the Victim Contact Scheme (VCS)
- the dossier length recorded in terms of pages (as paginated). Significant or unusual documents and omissions of key material can be noted
- any non-disclosure issues
- whether there are representations
- the 'any other information' box can be used to record anything that is not covered in other sections but adds context to the review

Analysis of offending behaviour (the past)

- the nature of the index offence(s) - if text is adopted from earlier documents, it must be owned and analysed by the current panel and italicised in the body of the decision
- the verified circumstances and nature of the index offence(s). The panel must be alert to any mistakes in the dossier where the incorrect facts are recorded and must have regard to findings made by the Sentencing Judge and any accepted basis of plea
- relevant previous convictions and offending patterns (if text is adopted from earlier documents, it is owned and analysed by the current panel)
- allegations of previous harmful or risky behaviour
- signs of stopping offending, such as gaps in offending pattern

Analysis of evidence of change (the present)

- current risk factors/issues, considered and properly analysed (if text is adopted from earlier documents, it is owned and analysed by the current panel)
- relevant protective factors, considered and properly analysed (if text is adopted from earlier documents, it is owned and analysed by the current Panel)
- considering circumstances and known details of any release and recall dates, including who was responsible for the release (e.g. automatic, Parole Board, executive release, early release on home detention curfew)

- if recalled, the prisoner's progress and conduct on licence
- if this was the first review after recall, the appropriateness of the recall decision (in line with *Calder* caselaw⁸⁵)
- the prisoner's progress, engagement and conduct in custody, linked to risk and risk reduction
- relevant interventions and outcomes, including progress in open prison or a progressive regime and recommendations of witnesses
- most recent OGRS and OASys assessments using the bands (e.g. high, medium, low, etc), not percentages or numerical scores, with the outcomes of any specialised assessments noted
- professional opinion regarding progress
- the panel's own assessment of current risk, the rationale for preferring one assessment over another, and any outstanding risks
- an analysis of what the offences and harm might be, who the victim(s) might be, the likelihood of a risk scenario and the imminence of risk
- any finding of fact made in relation to allegations relevant to risk

Analysis of manageability of risk (the future)

- release and risk management plans, adequately outlined and evaluated against the risk and protective factors identified
- the manageability of the prisoner in the community, likelihood of compliance, warning signs of increased risk, and contingency plans
- any protective factors
- licence conditions, explained and justified as necessary and proportionate (including a rationale for any divergence from the proposed risk management plan)
- any licence conditions proposed by a victim with reasons provided for not imposing or for varying any conditions recommended in the risk management plan

Conclusion

- it must be made clear in the decision that the panel applied the codified public protection test FIRST and then, if release was not directed, it SEPARATELY applied all the relevant criteria in relation to suitability for open conditions (where this is part of the referral). **All the criteria applicable to the case must be explicitly considered**

⁸⁵ *R(Calder) v Secretary of State for Justice [2015] EWCA Civ 1050.*

- relevant factors for and against release/suitability for open conditions, articulating full reasons for the decision or recommendation
- clear and lawful conclusion logically linking evidence for risk assessment and the codified public protection test and/or criteria for recommendation for open conditions
- advice regarding possible next steps, including information likely to assist a future panel (where another review is likely)
- any conditions additional to the standard licence requirements, these are to be selected from the template

ANNEX 4 – Multi-Member Panel Table and Flowchart

Members undertaking MCA might use a brief consultation with the duty member or a specialist member where it is deemed that this would be beneficial. The below table helps members in deciding whether a multi-member panel or consultation with a duty or specialist member might be required:

| ADVICE | JOINT DECISION-MAKING |
|---|---|
| Consult with duty member/specialist member | Multi-member panel |
| <ul style="list-style-type: none"> - Brief consultation of up to 30 minutes to assist the member in their deliberations - Case is summarised by the MCA member; duty/specialist member does not have access to dossier - To discuss a point/options to progress the case - For advice from specialist member on directions (fairness/wording/reports), case progression, panel composition, decision, or licence conditions - Helpful if sending case to an oral hearing - The duty member/specialist member does not become part of the panel and should not be referenced in the decision | <ul style="list-style-type: none"> - Probable that a lengthier discussion will be required with one or more additional members with a view to coming to a significant decision - The dossier is made available to the additional member(s) on WAM - MCA bundle owner (MCA Panel Chair) convenes a time to fully discuss the case - Case-specific specialist input required, likely to be around the decision itself and licence conditions - Having considered the dossier, an issue of fact or point of view is undecided and could be resolved through expanding the panel - The additional member(s) join the panel and this will be clearly set out in the decision. Decisions are made by a majority |

Multi-member MCA panels are intended for cases where a brief consultation with a duty member or specialist member of the Parole Board is insufficient. The below flowchart references the journey such a panel can take.

