

Observers Member Guidance

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Document History

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1.0	01/08/2019	Published Version
2.0	12/03/2024	Revised published version to take into account changes to the Parole Board Rules and victim observers
2.1	31/01/2025	Revised to take account of: <ul style="list-style-type: none"> • Changes following the Parole Board (Amendment) Rules 2024 • commencement of the Victims and Prisoners Act 2024 • Moving victim observer information into the victim guidance • The key revisions are set out in the Table of Changes

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Executive Summary Observers Member Guidance

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

Introduction

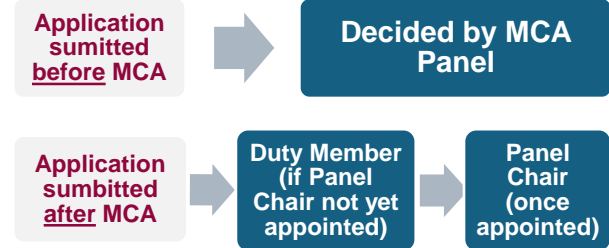
Rule 14 of the Parole Board Rules 2019 (as amended) (“the Rules”) provides that applications can be made for observers to attend a Parole Board (“the Board”) private oral hearing. The Rules **set out the process for parties to apply to attend, or any other person** to apply.

In all cases where an observer is in attendance, the panel chair is strongly encouraged to make an announcement about the privacy of the proceedings at the start of the hearing.

Principles for Private Oral Hearings (section 2)

- Observers may be permitted to attend for professional purposes or for a purpose linked to the parole process.
- A written **application** must be made to the Board **no later than eight weeks** before the hearing.
- The party who makes the application must at the same time serve a copy of the application on the other party. The other party may submit **representations within 14 days** of receipt of the application.
- **Late applications** must include a request for it to be considered out of time with **sufficient reasons** provided for its late submission.
- Where an observer will be attending a prison or secure mental health setting in person, the request will also be subject to agreement by the Governor, Director, or another authorised official.
- There is **no appeal process** following a decision.
- A panel chair, MCA panel, or duty member may make a decision on an application.

Application Process:



Confidentiality (section 3)

- The Rules require that hearings are held in private, and matters discussed are confidential.
- The observer will need to sign a **confidentiality agreement**.
- Interference with the Board’s proceedings can be contempt of court.
- Under the Data Protection Act (2018), if observers share information relating to the hearing, they may be committing a criminal offence and could be subject to prosecution.
- Observers must not pass on any information they hear in the hearing to any person not involved in those proceedings, such as (but not limited to) members of the public, friends, relatives, or the press and media.

Reasons for Observers (section 4)

Potential observers may include:

- **Internal Parole Board staff** for training and professional development or quality assurance
- **Prospective Parole Board members** to gain an understanding of the role
- **Participants** of the **parole process** for training and professional development
- **Other professionals**, e.g. a minister or senior civil servant, to enhance understanding
- **Family** or **friends** to support the prisoner
- **A victim** or their **representative**
- **Academics** or **students** for research purposes
- **Media** and **press** for learning
- **Members** of the **public** in the interests of justice (if a public hearing)

Factors for Panel Chair Consideration (section 5)

- Panels will need to consider the most appropriate mode for the observer to attend, e.g., telephone, Microsoft Teams or Cloud Video Platform.

The panel chair will have due regard to fairness and hearing effectiveness. This includes the need for the prisoner and witnesses to participate freely have the opportunity to give their best evidence.

The Panel chair will need to consider:

- Would the prisoner **benefit from the support** of another person?
- Is the individual **personally known** to any of the panel?
- Does the attendance pose any **risks**, or a **conflict of interest**?

Case Management Conferences (CMC) (section 6)

If there appear to be **complexities** related to the attendance of an observer, it may be helpful for the panel chair to hold a CMC to discuss observer requests.

General Application Process (section 7)

- Observer applications should be received via a **Stakeholder Response Form (SHRF)**.
- This could be completed by the prisoner/their representative, HMPPS Victim Team (via PPCS), or on behalf of a participant in the parole process.
- Some requests will require **additional permission**, either from the Board's CEO, the Research Governance Group or Head of Communications.

Internal Observers (Section 8)

- The panel chair will consider any issues raised in **representations** about having an internal observer.
- At the discretion of the Panel Chair, these observers may observe pre-and post-hearing discussions.

Family & Friends of the Prisoner as Observers (section 9)

- A key point in considering the application will be **any impact this may have on the hearing**, as the observer may hear distressing information or lines of questioning that they may not agree with.
- Panel chairs can **highlight any sensitivities** in their response to the application.

Victim Observers (section 10)

Whilst every application must be dealt with on individual merits, there is a presumption that applications from victims should be accepted unless there are exceptional reasons not to.

- It would only be in **exceptional circumstances** that an application may be refused.
- Reasons must be given for any refusal.
- For more guidance on victim observers please see the [Victims Guidance](#).

Points for Observers (section 11)

- In most cases individuals will observe remotely.
- Observers do not take part in the hearing proceedings.
- Observers must abide by any conditions imposed on their attendance by the panel chair.
- As a general principle, anyone aged under 18 is not permitted to observe a parole hearing.

Public Hearings (section 12)

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

1 Overview

- 1.1 Rule 14 of the *Parole Board Rules 2019 (as amended)*¹ ("the Rules") provides that applications can be made for observers to attend a Parole Board ("the Board") private oral hearing.
- 1.2 Annex A contains an extract of the relevant Rules.
- 1.3 There are two parties to the parole process: the prisoner and the Secretary of State for Justice. The Rules set out the process for either one of the parties to apply for an observer to attend a parole hearing. The Rules also set out the process for any other person to apply to observe.
- 1.4 This guidance is intended to cover the range of circumstances where an application to observe an oral hearing is made. Applications are ordinarily considered by the oral hearing panel chair but may be considered by the Member Case Assessment (MCA) panel, or put before a duty member, where appropriate. The guidance sets out the principles and factors that the panel chair, MCA panel, or duty member may wish to consider in deciding whether to grant an observer application and provides advice on the process to be followed.
- 1.5 Separate guidance has been produced for circumstances where an application to observe a hearing has been received along with an application that the hearing be held in public, as provided for by rule 15. Applications for a hearing to be held in public are considered by the Chair of the Parole Board, (or by a senior member with delegated authority). If the Chair of the Parole Board, (or a senior member with delegated authority) determines that the hearing is to be held in public, the relevant panel chair will then consider the attendance of anyone who has registered to observe the public hearing (see [section 12](#)).

2 Principles for Private Oral Hearings

- 2.1 The following general principles apply for hearings that are held in private, in relation to observers.
- 2.2 Whilst the Board is committed to transparency about its work, the Rules require that hearings are held in private, and matters discussed are confidential. Hearings are not routinely open to the public and only hearing participants and observers permitted by the panel chair may attend.² This is set out in rule 15(3):

"15(3) An oral hearing (including a case management conference) must be held in private unless the Board chair considers, on their own initiative

¹ Please note the *Parole Board Rules 2019* have been amended several times, most recently in 2024. References to the Rules in this guidance take account of this. Thereafter, references throughout the rest of the guidance will be to 'the Rules'.

² Subject to any request for the oral hearing to be held in public under rule 15 – more information can be found in section 12.

or on an application to the Board, that it is in the interests of justice for the oral hearing to be held in public.”

- 2.3 Observers may be permitted to attend where it will assist for a professional purpose, or a purpose connected to the parole process. More information about this can be read in section four.
- 2.4 Rule 14(1) sets out that either party, who wishes to be accompanied at a hearing by an observer, must make a written application to the Board no later than eight weeks before the date allocated for that hearing.
- 2.5 Under rule 14(2), the party who makes the application must at the same time serve a copy of the application on the other party. Under rule 14(3), the other party may submit representations within 14 days of receipt of the application.
- 2.6 An application from either party made less than eight weeks before the date of the hearing may only be considered by the panel chair where there is a reasonable explanation for making a late application. Late applications must include a request for it to be considered out of time with ***sufficient reasons*** provided for its late submission. The panel chair will decide whether to accept the late application using the power contained in rule 9 to vary the timeframe.
- 2.7 Rule 14(4B) sets out that any other person may request admittance to a hearing as an observer by making a written application to the Board, but such an application may not be made later than eight weeks before the date allocated for that hearing. Late applications must include a request for it to be considered out of time with ***sufficient reasons*** provided for its late submission. The panel chair will decide whether to accept the late application using the power contained in rule 9 to vary the timeframe.
- 2.8 Once an application to observe a hearing is received under rule 14(4B), the Board will notify the parties and provide an opportunity for them to submit representations, as outlined in rule 14(4C). There is no set timeframe for submitting representations in these instances, but the rule does require that the Board “... *must provide an opportunity for the parties to make representations to the Board on the application*”. Depending on when the hearing is listed, an appropriate timeframe will be set for the application to be considered fully, ahead of the hearing. It is recommended that an appropriate timeframe, in line with rule 14(3) should be adopted i.e., 14 days.
- 2.9 Applications received before a case has been through the MCA paper review will initially be decided by the MCA panel, once appointed.³ Where an MCA direction for an oral hearing has been issued but a panel chair has not yet been appointed, the application will be sent to a duty member to make an initial determination.

³ *It should be noted that an oral hearing may not be required and agreement for an observer to attend by the MCA panel will be notional at this point.*

- 2.10 Whilst an MCA panel or duty member has initial discretion to agree or refuse attendance of any observer at a hearing under rule 14(4A)(a), the oral hearing panel chair will make the final decision.
- 2.11 The oral hearing panel chair can impose conditions on an observer's attendance and revoke any previous decision if they consider it is appropriate to do so.
- 2.12 Where a hearing date has been set, the attendance of observers is at the discretion of the oral hearing panel chair, after taking into consideration any representations from the parties.
- 2.13 In deciding whether to permit an observer, the panel chair will have due regard to fairness to the prisoner and the effectiveness of the hearing. This includes the need for the prisoner and witnesses to feel able to participate freely and effectively and to have the opportunity to give their best evidence. This does not mean that they need to be given every opportunity to ensure that they give the best evidence that they can. It means that they have a reasonable opportunity, once adjustments have been made, to give their best evidence to the panel (for example, to restrict references to the Risk Management Plan or to discuss sensitive information in a closed hearing).
- 2.14 It is important that all applications are submitted in good time for both parties to give due consideration to the request and provide submissions to the panel chair.
- 2.15 There is a need for transparency about observers; it is important to avoid actual or perceived conflicts of interest between the panel and observers. Individuals wishing to observe a hearing may from time to time have a professional or personal connection with a panel member. In general, individuals should not observe hearings where they have such a connection with a member of the panel, to avoid the appearance or perception of a conflict of interest or possible influence.
- 2.16 Where an observer will be attending a prison or secure mental health setting in person, the request will additionally be subject to the agreement of the prison Governor or Director, or other authorised official (such as a hospital or Mental Health Unit official), as set out in rule 14(5). It is the Board's expectation that these will usually be agreed to unless there are compelling reasons to refuse access.
- 2.17 It should be noted that there is no appeal process following a decision made by a panel chair about the attendance of an observer. Such decisions are judicial in nature and can only be challenged by way of judicial review through the administrative court.
- 2.18 However, if the applicant believes further information might assist or provide more context, then this can be submitted with a request that the panel chair further considers the application.

- 2.19 If there are concerns about how the decision was made, or the conduct of anyone involved in the process, then a complaint can be submitted by following the Board's complaints procedure: [Parole Board Complaints Procedure](#).

3 Confidentiality

- 3.1 Information from the proceedings is confidential⁴ and must not be disclosed, as set out in rule 15 "*Public and private hearings and locations*". In particular, rule 15(3) states:

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

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

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

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

- 3.3 Breaching the Rules could render a person liable to be sued for breach of statutory duty.
- 3.4 It should be noted that the Board sits as a court, and interference with its proceedings can be contempt of court, which includes disruptive behaviour in the hearing, unauthorised recording of the proceedings, and failure to comply with the directions it makes. If you are held to be in contempt of court you may be imprisoned or fined, or your assets may be seized.⁵
- 3.5 In addition to the Parole Board rules 15 and 27, section 170 of the Data Protection Act 2018 ("DPA") is relevant. Should observers share information relating to the hearing, they may be committing a criminal offence⁶ and could be subject to prosecution. If convicted of knowingly or recklessly disclosing personal data without the consent of the data controller,⁷ observers are at risk of incurring a fine, and/or other sanctions.

⁴ See section six for additional information about confidentiality of hearings.

⁵ Any breach may be referred to the Attorney-General for action.

⁶ Under [s170 of the DPA](#), it is a criminal offence to: Knowingly or recklessly obtain, disclose or procure personal data without the consent of the data controller.

⁷ A data controller is a key decision maker. Data controllers have overall say and control about how data may be shared.

- 3.6 Observers do not have the consent of the various data controllers to disclose any personal data they receive in the parole proceedings. Under section 170 of the DPA "*Personal data*" has a very wide definition and means **any** personal information relating to an identified or identifiable living individual.
- 3.7 Parole Board rules 15 and 27, and section 170 of the DPA apply to the passing on of information that includes (but is not limited to):
- The circumstances of any crime
 - Information about previous convictions
 - Information about rehabilitation
 - The management of the prisoner
 - The name of any person concerned in the proceedings such as (but not limited to) the name of any victim, the prisoner, any social worker, prison staff, the author of any report, any witness appearing at the hearing, the prisoner's representative and the members of the parole panel and Parole Board staff
- 3.8 This means that observers must not pass on any information they hear in the hearing to any person not involved in those proceedings, such as, but not limited to, members of the public, friends, relatives, or the press and media (but see the exceptions set out in [paragraphs 3.12 to 3.14](#)).
- 3.9 The observer will need to sign a Confidentiality Agreement (although there are some exemptions which are set out in section seven) which will be provided by the Parole Board case manager. This form sets out the restrictions on sharing information that must be followed. It should be noted that the observer will be held liable for any information shared with a third party that is then disclosed publicly and may face the consequences, as outlined above.
- 3.10 It is strongly recommended that in any hearing where an observer is in attendance (either in person or via remote means) the panel chair should make an announcement about the privacy of the proceedings at the start. Suggested wording is set out below:
- "Under the Parole Board Rules, these proceedings are to remain private and the names of the people taking part must not be disclosed and information that you hear must not be shared. What this means is that you must not talk about anything you hear today with other people, and you must not pass on any names that you learn during this hearing. You should be aware that this is forbidden by law and action may be taken against anyone who does not comply with this, so please make sure that you do not pass on any information or names outside of these proceedings."*
- 3.11 For all remote hearings taking place via the Cloud Video Platform (CVP) the message below appears when entering the virtual room:

<i>The Parole Board will make an official audio recording of this hearing.</i>

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

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

- 3.12 Individuals observing as part of professional training may discuss the hearing with their supervisor, within the context of professional learning and development, and subject to professional confidentiality protocols.
- 3.13 Victims observing are permitted to discuss the information they hear during the proceedings in the context of any treatment/therapy they may be receiving from appropriate professionals, or in conversation with an HM Prison and Probation Service (HMPPS) Victim Representative or Victim Liaison Officer (VLO).
- 3.14 The exception to this confidentiality principle is where prior agreement has been sought from both parties and permission has been given to use the information for research purposes. However, even in these circumstances individuals must not be identified and the use of information will be governed by a Data Sharing Agreement.⁸
- 3.15 Pre-hearing and post-hearing discussions will take place outside of the formal proceedings and only the panel will be present. However, the panel chair may admit an observer to these private deliberations where it may assist with the understanding of the proceedings, for example where the observer is a researcher, senior civil servant or other official. Parole Board members and staff who are observing may be permitted to attend as part of their learning and development.

4 Reasons for Observers

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

Internal Parole Board observers attending for training/ professional development or quality assurance – newly appointed Parole Board members observe a certain number of hearings as part of their induction training. Parole Board staff are encouraged to observe hearings to learn more about the parole process and gain insight into the roles of those present at a parole hearing. Parole Board members or staff may also observe hearings as part of quality assurance purposes.⁹ As these are internal requests, and required as professional training and development, there is a presumption that they will be agreed and a less formal approach is taken.

⁸ Please refer to the [Parole Board Research Framework](#) for more information.

⁹ More information can be read here: [Quality Assurance Guidance and Framework](#).

Prospective Parole Board members – due to the timescales involved and numbers of individuals potentially applying it is not possible to offer opportunities to observe a hearing during a recruitment campaign. Individuals considering applying to become a Parole Board member should check the online recruitment campaign information resources, which could include video, audio and/or written materials about parole hearings and decision making.

Training/professional development of participants in the parole process – individuals such as trainee psychologists, prison offender managers, community offender managers, prison law representatives, victim liaison officers, or other HMPPS/Ministry of Justice (MoJ) staff, may request to observe a hearing where they are expected to participate in future parole hearings as witnesses or need to understand the parole process to carry out their duties. Observing parole hearings may form part of a planned training programme for individuals in this category. Rather than approaching the Board or a member directly, individuals should follow the usual professional development route in their area i.e., arrange for their supervisor or colleague involved in a hearing to make the observer application on their behalf.

Other professional purposes – occasionally individuals will be permitted to observe for other professional purposes that align with the Board's business priorities, such as official visitors, ministers and parliamentarians, senior civil servants, public and third sector representatives, or other professionals seeking an understanding of the parole oral hearing proceedings. *Note:* additional permission is required for observers in this category; see [table](#) in the General Application Process section.

Family or friends supporting the prisoner – the prisoner/their representative (if they have one) may request that one or more individuals attend as an observer to support the prisoner. This may include family members, friends, or pastoral advisors or guides.

Victim or representative of a victim – a victim who has been harmed in some way by a prisoner may ask to observe the oral hearing and may wish to be accompanied by someone who will support them. More information about victim observers can be found in the *Guidance on Victims*.

Academic/research purposes – academics/researchers may request to observe hearings as part of a Parole Board approved or proposed research study. Students wishing to attend for general interest are not usually permitted to observe private parole hearings. *Note:* additional permission is required for observers in this category; see [table](#) in the General Application Process section.

Media and Press – members of the media or press can request to observe an oral hearing, for example to learn about parole proceedings, but reporting restrictions will be in place. *Note:* additional permission is

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

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

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

5 Factors for the Panel Chair to Consider (non-victim observers)

5.1 Factors the panel chair, MCA panel, or duty member may wish to take into account when deciding whether to approve an application for an observer:

- The purpose for which the individual is applying to observe
- Representations from the parties about the individual observing. All HMPPS representations must come via the Public Protection Casework Section (PPCS)
- Fairness/efficacy of the hearing and the need for the prisoner and witnesses to have a reasonable opportunity to give their best evidence
- Any particular circumstances or characteristics of the prisoner or the hearing that indicate observers should be limited or refused. For example, observers other than those requested by the prisoner may not necessarily be appropriate for hearings involving a vulnerable prisoner
- Whether the observer is there to provide support for a prisoner who is unrepresented, for example a key worker or other appropriate person.¹⁰ In such circumstances the prison will make an observer application via PPCS which will set out full reasons
- Whether the individual is known to any of the panel members in a personal or social capacity, in which case it is preferable for the individual to arrange to observe a different hearing
- Any risk issues that may arise from the individual's attendance either in person or remotely

¹⁰ The HMPPS [Parole Board Oral Hearing Administration & Attendance Policy Framework](#) at section 5.11 sets out that where additional support is needed, prisons should request that PPCS make an observer application, providing full reasons for the application.

- Any actual or perceived conflicts of interest between the individual and any other person present at the hearing, whether professional or personal. Panel chairs should be alert to any conflicts arising on the day of the hearing, for example if there is a late substitute witness, or a connection is identified as the hearing proceeds
- That the prisoner does not have a right of veto over the attendance of an observer. If the panel chair thinks that, with adjustments, the prisoner has a reasonable opportunity to give their best evidence, but they choose not to do so, the hearing can take place in their absence
- Observers should not generally be permitted for hearings where the prisoner is under the age of 18, unless they are there as personal support for the prisoner, acting as an Appropriate Adult, or in an official capacity for the Parole Board
- Whether it is appropriate to impose any additional conditions on the observer to enable them to attend, as set out in rule 14(4A)(b)
- Any other factors¹¹ the panel chair considers relevant

In person attendance considerations

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

- Panel chairs should consider the rationale behind the request for the observer as a starting point
- Where a request is felt to be appropriate (it does not necessarily need to be considered essential) it is then a matter of deciding whether the purpose of the individual's attendance can best be fulfilled if they are physically in the hearing room, for example to provide moral or pastoral support to the prisoner
- Capacity of the hearing room – the number of witnesses and hearing participants that will also be in the room and whether any other observers have already been agreed, which may impact on capacity or safety, or risk overwhelming the prisoner
- Physical layout/suitability of the hearing room if the individual will be attending in person to observe - the panel chair should consider the layout and space available in the hearing room and whether seating can be arranged to limit the impact of the observer's presence where appropriate, such as seating them behind or away from the prisoner and witnesses to be as unobtrusive to proceedings as possible. It is important to avoid overwhelming the prisoner.¹² It may be that if this is a likely risk, the request should be refused
- Consider a hybrid arrangement for attendees - some individuals attending in person and others joining remotely which may alleviate pressure on the technology and room space. However, the format of the hearing should be tailored to the needs of the case and not be influenced unnecessarily by the attendance of an observer
- Whether there is any victim involvement/victim attendance at the hearing to read out their Victim Personal Statement (VPS) – would an

¹¹ See *Guidance on Victims in relation to victim observers*.

¹² Panels should be mindful of taking a trauma informed approach to arrangements on the day. More information can be found in the *Trauma Informed Practice guidance*.

additional individual in the room add to anxiety, for example if the victim is attending the prison, hospital/mental health setting, or other establishment in person

- Ensuring that the Prison Governor, Director, or other authorised official (hospital or mental health unit official) has agreed to the admittance of the observer, as set out in rule 14(5)

Remote attendance considerations

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

- Panel chairs should consider the rationale behind the request for the observer as a starting point
- Where a request is felt to be appropriate (it does not necessarily need to be considered essential) it is then a matter of deciding whether the purpose of the individual's attendance can still be fulfilled if they are not physically in the hearing room
- This may be fairly straightforward where the individual is attending as part of professional training or development, as part of approved research, or other professional purposes. In these instances, the individual is likely to be able to gain a similar experience whether attending remotely or in person
- There are likely to be additional considerations when the individual is there to provide support to the prisoner. In these situations, panel chairs will need to consider whether the desired support can still effectively be provided remotely
- Remote observers should ordinarily have their cameras and microphones switched off so that they cannot be seen or participate in the hearing, to minimise impact on the prisoner and witnesses
- It may be helpful to seek views from both parties on how practical such remote attendance will be. The prison offender manager may be well placed to give a view if they have regular interaction with the prisoner.¹³ For example, the following scenarios may still be appropriate:
 - The prisoner is vulnerable and knowing that someone familiar and whom they trust is present reduces their anxiety or distress
 - Where the individual may be considered protective in the prisoner's risk management (although care should be taken here as the observer would not be present to answer questions or provide any other information)
 - The prisoner is under 18 and knowing that a family member, Appropriate Adult, or friend is present may provide some assurances or comfort to them and encourage their effective engagement in the proceedings. This may also be a legal requirement in some circumstances to safeguard rights and welfare of the prisoner and will need to be considered on a case-by-case basis

¹³ All views from HMPPS staff must be submitted via PPCS.

- Where support for the prisoner is the key reason for the individual observing it may be more supportive to attend via CVP than via telephone. Whether an individual observing via CVP should have their video camera on or off is to be decided by the panel chair depending on the purpose of the presence of the individual, the nature of the case, and the need to maintain the fairness of the proceedings
- Whilst the panel and witnesses may be attending remotely, consideration could be given to the individual attending the prison in person to observe. This may be where the individual's attendance is seen as pivotal to supporting the prisoner. The Prison Governor, Director or other official (hospital or mental health unit official) would make any final decision about this in terms of access to the prison
- Where the hearing is taking place via CVP, panel chairs will need to satisfy themselves at the start of the hearing that:
 - the individual is who they say they are (presenting original photographic evidence to the camera may address this)
 - they are alone (unless another authorised observer has been agreed)
 - they are in a private location that cannot be overheard
 - they are not digitally recording or making any other record or image of the proceedings
- If the hearing is taking place by telephone, panel chairs will need to consider whether the above points can be confirmed. It may be that a telephone hearing is unsuitable for an observer to attend
- Consideration could be given to the observer joining from the same location as the prisoner's representative (for observers supporting the prisoner) or from a local MoJ official building or the Board's office (for other observers) which may offer a more secure option
- The proceedings of the hearing should be as fair as possible and panel chairs should not unduly refuse requests for an individual to observe unless security and privacy concerns appear to be significant and unmanageable
- If arrangements prove difficult to put in place, and the individual's presence is regarded as essential, this might suggest the case is not suitable to proceed as a remote hearing
- An observer can join an oral hearing from abroad if granted permission by a panel chair, MCA panel or duty member; however, the panel need to be confident the location is secure, that the observer is not recording the proceedings, and that there is no one else present. If the panel cannot be reassured about this, they can refuse the request. Panels are free to admit observers from any country, but as a matter of good practice should try and avoid doing so where the host country has indicated a witness (and by the same token an observer) cannot give evidence or needs permission to do so. In such a situation, panels should seek advice from the Practice Advisor¹⁴

¹⁴ *Legal & Practice Queries mailbox*

- 5.4 **In all cases where an observer is in attendance it is strongly recommended that the panel chair makes an announcement about the privacy of the proceedings at the start. Suggested wording is provided in [paragraph 3.10](#) above.**

NOTE: Panel chairs should seek advice from the Head of Communications where a request to observe is received from a member of the public, or the media/press. The Board needs to ensure it is not seen, or perceived to be seen, to adopt measures that may be unlawfully restrictive, in terms of advice on the general public attending as observers, and circumstances for when the media/press might be permitted to observe. See section 12 for more information.

6 Case Management Conferences

- 6.1 In most cases, sufficient information should already be available to the panel chair to determine the logistics and arrangements for the hearing on the day, where an observer is attending. However, in some cases it may be helpful for the panel chair to hold a Case Management Conference to discuss observer requests if there appear to be complexities related to the attendance of an observer.
- 6.2 This will be important where some parts of the proceedings will involve discussions around very personal information, including medical details, or proposed release plans that may compromise the safety and security of the prisoner if the information was to fall into the public domain. Whilst it is important to adopt the usual approach to proceedings, where an observer is attending, consideration may need to be given to holding some discussions in closed session without the observer present.
- 6.3 A Case Management Conference¹⁵ can identify parts of the proceedings that may need to be held in closed session. However, the main principle is to hold as much as possible in the presence of observers and a Case Management Conference is unlikely to be required in the majority of cases.

7 General Application Process

- 7.1 The table below provides a summary of how different observers apply to observe a private oral hearing.

Category	Process
Internal Parole Board members and staff	Parole Board operational staff will request permission from the panel chair via email and notify the parties. (Access to the parole dossier may be given).

¹⁵ More information about case management conferences can be found in the Oral Hearing Guidance.

Family or friends supporting the prisoner	The Prisoner/their representative should request permission from the panel chair via the Parole Board case manager using a Stakeholder Response Form (SHRF).
Victim or representative of a victim	Where a victim (or their representative) is signed up to the Victim Contact Scheme (VCS), the application to observe will be prepared by the HMPPS Victims Team and submitted by PPCS using an SHRF. Victims not signed up to the VCS should apply direct to the Parole Board by contacting the Victims Enquiries mailbox. The Parole Board case manager will send the request to the panel chair.
Training/development of participants in the parole process	The supervisor/witness/representative should seek permission for a trainee/colleague to observe from the panel chair via the Parole Board case manager using an SHRF. For HMPPS staff the SHRF must be submitted by PPCS. (Access to the parole dossier may be given).
Other professional purposes	Additional permission is required from the Chief Operating Officer. If agreed in principle, the Parole Board case manager will send the request to the panel chair for approval. (Access to the parole dossier may be given).
Academic/researchers	Additional permission is required from the Research Governance Group. If agreed in principle, the Parole Board case manager will send the request to the panel chair for approval. (Access to the parole dossier may be given).
Media and Press ¹⁶	Requests should be made through the Head of Communications. If agreed in principle, the Parole Board case manager will send the request via email to the panel chair for approval.

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

Step One (where additional agreement is required)

7.3 **Other professional purposes:** a written application should be submitted to the Chief Operating Officer, detailing the reason for the request to observe a hearing. Please email the Parole Board addressing the email to the “Chief Operating Officer”.

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

¹⁶ This is for requests to observe a private parole hearing and **not** a public parole hearing.

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

Step Two

- 7.6 Once any additional permission required for the individual to observe as set out in Step One has been given, the application will be sent to the appointed panel chair for the specific case.
- 7.7 In some circumstances, such as official visitors wishing to attend a hearing, or academics undertaking research, Parole Board staff will identify a suitable case and make this request to the panel chair on behalf of the prospective observer. The panel chair will make the final decision.
- 7.8 Applications should provide the full name of the individual, clearly state the reason why they wish to observe and their relationship, if any, to the oral hearing participants, including the prisoner, witnesses, and members of the panel.
- 7.9 Applications should be made as far in advance of the hearing as possible, but, as set out in rule 14, no later than eight weeks before the date allocated for the oral hearing. Late applications may not provide sufficient time for the panel chair to consider them, and they may be refused on this basis (see [paragraphs 2.6 and 2.7](#) on late applications).
- 7.10 Applications for observers from the prisoner or their representative should be made on an SHRF and copied to the case manager in PPCS.
- 7.11 Applications for observers from HMPPS professionals such as prison, probation, or psychology staff are applications from the Secretary of State for an observer. These requests should be made via PPCS on an SHRF and copied to the prisoner/their representative.
- 7.12 Applications to observe from victims (or members of their family) who are signed up to the VCS, either on a statutory or discretionary basis, are submitted by PPCS using a SHRF.
- 7.13 Applications from victims (or members of their family) to observe who are not signed up to the VCS, should apply direct to the Parole Board by emailing the Victim Enquiries Team.
- 7.14 Applications from any other individual not mentioned above should apply direct to the Parole Board.
- 7.15 For all observer applications from either party, the Parole Board case manager will seek the views of the other party, either the Secretary of State (via PPCS) or the prisoner/their representative.
- 7.16 The panel chair will take any views submitted into account when deciding whether to grant the request. The Secretary of State and the

prisoner/their representative should be made aware of the reason the individual wishes to observe.

- 7.17 Where the application is from an individual not aligned with either the Secretary of State or the prisoner, e.g., an official visitor, non-statutory victim etc. then the Parole Board case manager will seek the views of both parties for the panel chair to take into account when deciding whether to grant the application.
- 7.18 The panel chair will consider the application and make a decision, taking into account the views of both parties. If refusing the application, the panel chair will give reasons why it has not been granted.
- 7.19 Where the application is agreed, the panel chair may impose conditions as set out in rule 14(4A)(b), for example that the individual only observe part of the hearing. If this is the case the panel chair will provide an explanation.
- 7.20 In some cases, the panel chair may convene a Case Management Conference¹⁷ in order to consider the application and any arrangements that may need to be put in place, or to identify any parts of the hearing that may need to be held confidentially in closed session in the absence of observers. A Case Management Conference may identify circumstances that mean a previously agreed observer is no longer appropriate. If this is the case the panel chair will provide an explanation.
- 7.21 The individual will need to sign a Confidentiality Agreement which will be provided by the Parole Board case manager. A copy can be found at Annex B. This is not required for Parole Board staff, Parole Board members, or HMPPS and MoJ staff who are already bound by confidentiality in their Terms of Employment.
- 7.22 Observers requested by the prisoner are also not required to sign the Confidentiality Agreement. Prisoners requesting individuals to observe for support are taken to have agreed responsibility for any information shared with the individual. Any breach of the DPA or GDPR will be the responsibility of the prisoner who should ensure the observer is fully aware of the restrictions in place.
- 7.23 The individual will need the agreement of the prison (or other institution where the hearing is taking place) to observe the hearing where they will be attending in person. This will usually be co-ordinated through the Offender Management Unit of the prison, or other official, and the Parole Board case manager will make the request. A Governor, Director, or other official can refuse permission of any individual who will need to have access to the prison/other institution to observe.
- 7.24 Once approval is given by the panel chair and the prison/institution (where the individual will be attending in person), the Parole Board case

¹⁷ More information about case management conferences can be found in the *Oral Hearing Guidance*.

manager will add the observer to the hearing timetable and circulate this to all parties.

8 Process for Internal Parole Board Observers

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

9 Process for Family or Friends of the Prisoner as Observers

- 9.1 The prisoner may apply for a family member, friend, or other individual to attend as an observer to support them during their parole hearing. This can provide the prisoner with comfort, reduce anxiety, or help encourage them to participate fully in the hearing.
- 9.2 The application must come from the prisoner, or from their representative with the prisoner's agreement, on an SHRF. The application will need to be made within the timeframes set out in the Rules. Rule 14(1) sets out that an application from one of the parties must be made no later than eight weeks before the oral hearing.
- 9.3 When determining a request for a family member, friend, or other individual to observe a hearing, the panel chair will take into consideration a number of factors (as set out in [section 5](#)) and in some cases, safety or security may mean that the request is refused.
- 9.4 A request for the attendance of a partner, ex-partner or family member may be refused if it is judged this may inhibit the frankness of evidence or change adversely the dynamics of the hearing. For example, the panel may need to probe without unnecessary restraint convictions or allegations about, for example, domestic abuse or sexual behaviour, in order to conduct a thorough risk assessment.

- 9.5 Observers will hear detailed and personal information about the prisoner. They may hear extremely graphic information about the prisoner and the index offence, as well as any other offending, which may be distressing for them and the prisoner.
- 9.6 The panel chair will take account that family and friend observers particularly may become frustrated hearing evidence or a line of questioning that they may not agree with, and about which they can say nothing. Whilst it is the responsibility of the prisoner and their requested observer to understand the implications of attending the hearing, the panel chair will wish to consider the effectiveness of the hearing in such circumstances. Panel chairs may also wish to highlight these sensitivities in their response to the application.
- 9.7 Prisoners will need to ensure any observer they have requested to attend understands the private nature of proceedings and is aware of the consequences of breaching confidentiality as set out in section three.
- 9.8 A short information awareness note about families of prisoners serving the Imprisonment for Public Protection (IPP) sentence has been provided for Parole Board members at Annex C. Whilst the focus is on the impact on families of IPP sentenced prisoners, the information will be applicable to family and friends of other prisoners which may be useful for panel chairs when considering applications to observe.

10 Process for Victims as Observers

- 10.1 Since autumn 2022, the Board has been supporting a testing phase for victims to observe hearings in two probation regions. Following this robust and extensive testing, the Secretary of State has confirmed that **victim observers will be rolled out nationally from 1 April 2025**. Following this date, all victims signed up to the VCS, either on a statutory or discretionary basis, are able to apply to observe a parole hearing.
- 10.2 Whilst every application must be dealt with on its individual merits, **there is a presumption that applications from victims should be accepted unless there are exceptional reasons not to**. Applications from victims should be treated sympathetically and sensitively since they are likely to have been significantly impacted by the prisoner's offending and have a legitimate interest in understanding how the Board makes its decisions. **It would only be in exceptional circumstances that an application may be refused and reasons must be given for the refusal.**
- 10.3 Victims may wish to carefully think about whether they would wish to observe the parole hearing, and may prefer to consider other options which might meet their needs and/or could reduce any potential trauma for them:
- a) Request a summary of the Parole Board Decision

- b) Request to attend to read out their VPS to the panel but not stay for the rest of the parole hearing
 - c) Request that the hearing be held in public
- 10.4 More detailed information for panel chairs on considering applications from victims to observe a hearing can be found in the *Guidance on Victims*.

11 Points for Observers to Note

- 11.1 Anyone permitted to observe a private parole hearing must take note of the following points.
- 11.2 The majority of hearings are held remotely via CVP or telephone and so in most cases individuals will observe remotely.
- 11.3 Observers do not take part in the hearing proceedings and do not give evidence to the panel. They are not entitled to intervene, ask questions of the witnesses, speak to the prisoner, or address the panel and can be removed if they become disruptive. Observers cannot act as a representative for a prisoner.
- 11.4 Observers should request permission from the panel chair in advance, with reasons, before taking notes. Where permission is granted, notes containing details of the proceedings must be stored and disposed of securely. The digital audio recording, video, or any other recording, including (but not limited to) screenshots or downloads of hearings by an observer is strictly forbidden.
- 11.5 Details of the hearing, including location of the prisoner, the names, personal circumstances and any information in the dossier or hearing must not be discussed with anyone other than Parole Board staff or members, as appropriate. See [section three](#) for more information about the confidential nature of hearings.
- 11.6 The observer must abide by any conditions imposed on their attendance by the panel chair, as set out in rules 14(4) and 14(4A)(b).
- 11.7 Any person wishing to observe a hearing where they will be attending in person at the prison, hospital, or other establishment must adhere to relevant policies and security requirements issued by the establishment, for example be aged 18 or over. Each establishment will have its own requirements which must be followed.¹⁸
- 11.8 Observers attending a prison, hospital or other establishment in person will need photographic identification which must be presented to the Prison Security, or other authority, in order to gain access.

¹⁸ Information about prisons can be found here: [Prisons in England and Wales](#).

- 11.9 Any person wishing to observe a hearing where they will be doing so remotely, must have access to secure and stable network technology in terms of the CVP or telephone connection. If an unstable network is used and the connection is lost the proceedings will continue and there is no guarantee that the observer will be readmitted. This will depend on the stage of the proceedings and the level of disruption that may be caused.
- 11.10 HMPPS/MoJ observers may need to consider travelling to a local MoJ official building (such as a probation office, court, or other premises) for the hearing.
- 11.11 Observers requested by the prisoner may need to consider travelling to the representative's office (if there is one), or other secure venue. This will ensure that they have a stable connection, be in a safe location, and may be able to ask the representative to explain the different stages of the proceedings.
- 11.12 Victims will need to travel to a local MoJ official building or other suitable venue so that appropriate support can be provided. In circumstances where there are multiple victims in locations across the country, it may be necessary for them to attend a central venue, such as the Board's office in London to observe by remote means. The most convenient venue will be identified by HMPPS officials.
- 11.13 Where attending via CVP or telephone, observers will be required to confirm their identity by presenting some form of photographic identification to the camera if attending via CVP, or submitting a copy of the photographic identification in advance, where attending via telephone. The observer will also need to confirm that there is no other person in the vicinity who could watch or overhear the proceedings, who has not been authorised to observe by the panel chair. Observing from a public space or open plan office is not appropriate.
- 11.14 Observers must declare if they know, or are known to, any person involved in the hearing, and the nature of the relationship. They must consider if there are any actual or perceived conflicts of interest with any person present, whether professional or personal. This includes notifying the panel chair immediately if this becomes apparent on the day.
- 11.15 Information discussed at hearings can be graphic in nature and distressing. It is the responsibility of the observer to ensure they have adequate support following the hearing, should they require it. Observers are reminded that they should not discuss the proceedings with anyone outside of the hearing unless they fall into one of the exceptions set out in section three of this guidance.
- 11.16 Observers should be aware that if they attempt to participate in the proceedings, or become disruptive, the panel chair can direct that they be removed as set out in rule 24(4).
- 11.17 As a general principle, anyone aged under 18 is not permitted to observe a parole hearing. Only in rare and specific circumstances may this be

agreed to. An Appropriate Adult, for example a parent, guardian, Social Worker, or Court of Protection appointee would need to give their permission (in most cases) and robust support arrangements would need to be put in place by the relevant agencies.

- 11.18 Panels are strongly recommended to seek advice from the Practice Advisor if anyone under 18 has applied to observe.

12 Public Hearings

- 12.1 Rule 15 provides the ability for applications to be made for a parole hearing to be held in public where it is in the interests of justice to do so.
- 12.2 This is different to applying to observe a private parole oral hearing.
- 12.3 The Secretary of State, prisoner, victim, the media, or the wider public may make an application requesting that a hearing be heard in public. They will need to submit an application to the Public Hearings Team.
- 12.4 The Chair of the Parole Board (or a senior member with delegated authority) will decide whether it is in the interest of justice for the hearing to be held in public.
- 12.5 If a hearing is to be held in public anyone can register to observe the proceedings. Admittance of anyone registering to observe a public hearing is at the discretion of the appointed panel chair for the case. Registrations will be logged on a first come first serve basis as there may be limits on capacity.
- 12.6 All observers will need to travel to an identified secure and suitable location where the hearing will be live-streamed (for example the Royal Courts of Justice). All observers will be given information in advance. A member of staff from the Secretariat will be present and introduce and explain what will happen.
- 12.7 The Chair of the Parole Board (or a senior member with delegated authority) may revoke the decision about a public hearing if they consider it appropriate to do so should circumstances change.
- 12.8 More information about public hearings can be found here:

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