



Ministry
of Justice



HM Prison &
Probation Service

Policy name: Generic Parole Process Policy Framework

Reference: N/A

Re-issue Date: 13 February 2025

Implementation Date: 27 January 2020

Replaces the following documents (e.g. PSIs, PSOs, Custodial Service Specs) which are hereby cancelled:

- PSI 22/2015 - PI 2015-14 – AI 11/2015 - Generic Parole Process for Indeterminate and determinate sentenced prisoners (GPP)
- PSI 18/2012 – PI 11/2012 - AI 05/2012 - Tariff Expired Removal Scheme (TERS)
- PSI 12/2016 – Writing Healthcare Reports for The Parole and Recall Process
- PSI 36/2013 – Transcripts of Sentencing Remarks (Court Transcripts)

Introduces amendments to the following documents: N/A

Action required by:

<input checked="" type="checkbox"/>	HMPPS HQ	<input checked="" type="checkbox"/>	Governors
<input checked="" type="checkbox"/>	Public Sector Prisons	<input checked="" type="checkbox"/>	Heads of Group
<input checked="" type="checkbox"/>	Contracted Prisons	<input checked="" type="checkbox"/>	Contract Managers in Probation Trusts
<input checked="" type="checkbox"/>	Probation Service	<input checked="" type="checkbox"/>	HMPPS-run Immigration Removal Centres (IRCs)
<input checked="" type="checkbox"/>	HMPPS Rehabilitation Contract Services Team	<input checked="" type="checkbox"/>	Under 18 Young Offender Institutions
<input checked="" type="checkbox"/>	Other providers of Probation and Community Services		

Mandatory Actions: All groups cited above must comply with the Requirements Section of this Policy Framework, which contains all mandatory actions. Whilst this Framework sets out the actions for which the Parole Board is responsible, the Framework does not bind the Parole Board in any way as it is an internal policy document of the Ministry of Justice.

For Information: Governors must ensure that any new local policies that they develop because of this Policy Framework are compliant with relevant legislation, including the Public-Sector Equality Duty (Equality Act, 2010). All groups must ensure that when handling personal data, they must have comprehensive and proportionate arrangements for collecting, storing, and sharing information, as set out in PSI 3/2018- The Data Protection Act 2018, General Data Protection Regulation, The Freedom of Information Act 2000, Environmental Information Regulations 2004. For any data protection enquiries please contact dataprotection@justice.gov.uk.

All references to “prisoner” within this Framework also refer to those young individuals/children who are in custody and are subject to any of the sentences detailed in section 5.1.1).

All references to “prison” within this Framework also refer to those establishments that hold young individuals/children (who are in custody and are subject to any of the sentences detailed in section 5.1.1) including Secure Training Centres, Secure Children’s Homes and Secure Schools.

All actions for the Probation Practitioner also refer to the Youth Justice Service (YJS) Case Manager where the child is managed by the Youth Justice Services (YJS).

Audit/monitoring: HMPPS Prison Group Directors, the Director of the Probation Service and Youth Justice Services (YJS) in England and Director of HMPPS in Wales will monitor compliance with the mandatory requirements set out in this framework. HMPPS contract management will hold providers to account for the delivery of mandated requirements as required in the contract.

Resource impact: The majority of requirements laid out in this Framework are designed to have a minimal impact on resources. Within this Framework there are a number of revised processes that largely do not have resource implications for prisons or the Probation Service. The overriding objective of this Framework is to facilitate the delivery of timely parole reviews with the aim of reducing the number of addendum reports required and fewer directions. A timely parole review where the Parole Board directs release will have a positive impact in terms of prison population pressures.

There are resource implications for HMPPS arising from the introduction of the Parole Board Reconsideration Mechanism in July 2019. It has been confirmed that the resource implications for the Probation Service and Prisons are resourced within the Offender Management in Custody (OMiC) model.

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Approved by OPS for publication: Sonia Flynn, Michelle Jarman-Howe, Joint Chairs, Operational Policy Sub-board, November 2019

Revisions

Date	Changes
11/02/2020	Paragraphs 5.7.10 and 5.7.11
31/03/2020	Numbering corrected for paragraphs 5.6.23 – 5.6.31
13/05/2021	<p>The revised version of the Framework includes a number of changes to policy and process since the last publication. The main changes are:</p> <ul style="list-style-type: none"> • A presumption that any prisoner serving a custodial sentence, whether determinate or indeterminate, for terrorist and terrorist-connected offences listed in section 247A(2) of the Criminal Justice Act 2003 is unsuitable for open conditions, unless there are exceptional circumstances. • Changes to the tariff review process for those young offenders subject to a sentence of Detention at His Majesty's Pleasure (HMP). • Confirmation of the new process for referring requests for additional licence conditions to the Parole Board for Extended Determinate Sentence (EDS) and Special Custodial Sentence for Offenders of Particular Concern (SOPC) prisoners, subject to automatic release from prison. • Changes to arrangements for a transfer during the parole process. • A new requirement for prisons to notify the Public Protection Casework Section (PPCS) of prisoners who are transfers to England and Wales from another UK jurisdiction.
17/08/2021	Changes to para 3.6.12 in relation to terrorist offenders and paras 3.8.1 and 3.8.11.
30/09/2021	Changes to para 5.8.5 in relation to the transfer of Category A prisoners to open conditions.
21/07/2022	<p>The revised version of the Framework includes a number of changes to policy and process since the last publication. The main changes are:</p> <ul style="list-style-type: none"> • Removal of all references to CRC following the Probation Service unification. All references to NPS amended to Probation Service. • Chapters 3.2, 3.4, 3.6, 3.8, 3.10 and 5.2, 5.4, 5.6, 5.8 have been updated to reflect the changes brought in by the Police Crime Sentencing and Courts (PCSC) Act 2022. • Additional section on Parole Board Setting Aside Powers has been added as per the changes brought in by the Police Crime Sentencing and Courts (PCSC) Act 2022. • Additional section on Restricted Transfer Indeterminate Sentenced Prisoners (ISPs) and Moves to Open Conditions has been added. • Additional section on Mental Capacity has been added.
01/09/2022	Amendment to para 5.7.4 and 5.7.7
12/10/2022	Contents page updated.
10/07/2023	<p>The revised version of the Framework includes a number of changes to policy and process since the last publication. The main changes are:</p> <ul style="list-style-type: none"> • Requirements and guidance on the change to the Parole Board Rules 2022 which introduced the overarching Secretary of State view. • Amendment to the test for moves to open conditions • Guidance for prison staff clarifying that when informing prisoners of a negative decision, they must ensure that the appropriate support for the prisoner is put in place.

	<ul style="list-style-type: none"> • Guidance for prison staff on reviewing prisoners' categorisation following an adverse development.
16/08/2023	Amendment to the test for moves to open conditions
03/02/2025	<p>The revised version of the Framework includes a number of changes to policy and process since the last publication. The main changes are:</p> <ul style="list-style-type: none"> • Amendments to the parole process for prisoners detained under the Mental Health Act 1983. • A new streamlined process for compiling, reviewing and quality checking the dossier prior to submission to the Parole Board will be live from 1st May 2025. Until then, the current process of compiling, review and quality checking the dossier will remain in place. • Confirmation of the requirement for prisons to provide previous convictions for inclusion in the parole dossier. • Confirmation of the importance of providing quality reports for parole reviews. • Introduction of presumptive maximum review periods for IPP and DPP sentenced prisoners. • Removal of the appeal process following the Secretary of States decision not to refer a case to the Parole Board for consideration of transfer to open conditions at pre-tariff stage. • Confirmation that from 3rd February 2025 the Victims and Prisoners Act 2024 codifies the statutory release test.
13/02/2025	<ul style="list-style-type: none"> • Data protection email address on page 1 updated

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1. Purpose

- 1.1 The purpose of this Framework is to set out the mandatory actions which the Probation Service, Youth Offending Team and prison establishments must complete for all parole eligible prisoners to ensure the timely and efficient completion of the Generic Parole Process (GPP).

2. Outcomes

- 2.1 This Framework aims to achieve the following:

- A HMPPS contribution to the parole process for all parole eligible prisoners that is streamlined and efficient, which eliminates nugatory work, which offers clear lines of responsibility and accountability, and which is easily understood by those it affects;
- To provide all participants with clear timescales for their part of the process;
- A HMPPS dossier for the Parole Board which provides a robust and current assessment of the prisoner's risk, and which is comprised of good quality reports produced by HMPPS Report Writers with a good understanding of the case, thereby assisting the Parole Board to make an informed decision;
- To support a parole process which minimises the potential for delays in order to ensure that prisoners are not detained any longer than is necessary to protect the public;
- A parole process which facilitates the timely and efficient disclosure of information to enable the prisoner to submit representations to the Parole Board;
- To ensure that governors and relevant staff have a clear understanding of the expectation to provide written evidence and also to attend the oral hearing in person when needed;
- To ensure that governors and relevant staff have a clear understanding of the nature of the evidence that healthcare staff are expected to provide for the Parole Board review;
- Early identification of indeterminate sentenced foreign national prisoners (IFNPs) to ensure the prisoner's timely deportation on or after tariff expiry.
- To ensure a transparent process for prisoners and staff in HMPPS and Immigration Enforcement, with effective ongoing communication between PPCS, prisons, the Probation Service and Immigration Enforcement.
- Early identification of those indeterminate sentenced prisoners who are returning to custody on discharge from detention under the Mental Health Act 1983 to ensure the timely review of the prisoner's suitability for progression by the Parole Board.
- To provide victims with clear and relevant information regarding the GPP to ensure they are informed of developments as required; and
- To provide a clear and effective process in order to ensure the effective delivery of the Reconsideration Mechanism.

3. Requirements

PART 1 – POST-SENTENCE AND PRIOR TO FIRST PAROLE BOARD REVIEW

3.1 Newly Sentenced Indeterminate and Parole Eligible Determinate Sentenced Prisoners

This section outlines the requirements and actions that need to be taken by prisons for all parole eligible prisoners following their sentencing and up to the point of their first Parole Board review to ensure the correct calculation of the prisoner's review dates.

Identification of Newly Sentenced Parole Eligible Determinate Prisoners		Action By
3.1.1	Prisons must have in place procedures to identify any parole eligible determinate sentenced prisoners immediately upon reception after sentencing. Upon identification, prisons must notify PPCS within seven calendar days, via email to pre-releaseteamA@justice.gov.uk , along with a scanned copy of the Order for Imprisonment. The prison must provide any other documentation that is requested by PPCS (see guidance paragraph 5.1.5).	Prison
3.1.2	Prisons are responsible for calculating the sentence of all determinate sentenced prisoners.	Prison
3.1.3	Upon notification of a newly sentenced parole eligible determinate sentenced prisoner, PPCS will set the prisoner's pre-tariff review date and update PPUD (Public Protection Unit Database) in line with the key dates on P-NOMIS.	PPCS
3.1.4	PPCS is responsible for ensuring that they have received a transcript of the sentencing remarks from the court transcriber.	PPCS
Identification of Newly Sentenced Indeterminate Sentenced Prisoners (ISP)		Action By
3.1.5	Prisons must have in place procedures to identify any ISPs immediately upon reception after sentencing.	Prison
3.1.6	Upon identification prisons must notify PPCS by submitting a completed LISP1 form and emailing it to pre-releaseteamA@justice.gov.uk within seven calendar days of sentencing. The prison must provide a copy of the Order for Imprisonment, previous convictions and any other documentation that is requested by PPCS (see guidance paragraph 5.1.5).	Prison PPCS
3.1.7	Prisons must identify in the LISP1 form whether the prisoner is a foreign national and, if so, that prisoner's nationality (see requirement paragraph 3.3.3). PPCS will flag this information on PPUD.	Prison PPCS
3.1.8	PPCS will obtain the sentencing remarks, calculate the tariff expiry date (TED) and set the pre-tariff and on-tariff review date. PPCS will notify the prison of the TED and the pre-tariff review date.	PPCS
3.1.9	Prisons must ensure that a copy of the notification is disclosed to the prisoner within one working day of receipt.	Prison
3.1.10	On receipt of an ISP's TED, prisons must update P-NOMIS with the prisoner's TED.	Prison
3.1.11	Prisons must follow the requirements set out in paragraphs 3.3.3 to 3.3.6 of this framework in relation to newly sentenced IFNPs under consideration for TERS.	Prison
3.1.12	Prisons must follow the requirements set out in chapter 3.4 of this framework in relation to pre-tariff reviews for ISPs.	Prison
Changes of Sentence (Indeterminate Sentenced Prisoners and Parole Eligible Determinate Sentenced Prisoners)		Action By
3.1.13	Prisons must notify PPCS via email, pre-releaseteamA@justice.gov.uk , if the sentence of any parole-eligible prisoner changes during their time in custody, for example, if a prisoner receives a new sentence, has their conviction/sentence changed on appeal, has Additional Days Awarded (ADA), if their key dates have changed due to a	Prison

	sentence re-calculation, or if they are made subject to a confiscation order.	
3.1.14	When a prisoner receives a new sentence, prisons must obtain an updated copy of their previous convictions (pre-cons) which includes the new sentence. In cases where the prisoner has an active parole review, this document must be added to their parole dossier.	Prison
3.1.15	<u>Indeterminate Sentenced Prisoners only:</u> Upon receipt of the notification of a new indeterminate sentence, PPCS is responsible for recalculating the tariff expiry date and notifying the prison of the change in dates.	PPCS
3.1.16	<u>Indeterminate Sentenced Prisoners only:</u> Upon receipt of the notification of a new determinate sentence, prisons must recalculate the earliest release date and notify PPCS of the change in dates.	Prison
3.1.17	<u>Parole Eligible Determinate Sentenced Prisoners receiving new determinate sentences only:</u> Prisons must recalculate the key dates (including the PED) and notify PPCS via pre-releaseteamA@justice.gov.uk of these dates.	Prison
3.1.18	Prisons must ensure that the prisoner is notified of this change to the TED/PED within one working day of receipt.	Prison
3.1.19	If the prisoner's Parole review is underway, PPCS will amend the dossier to reflect the new TED/PED or cancel the review if the new sentence dates render the prisoner ineligible for a review at that time. With indeterminate sentenced cases, if a prisoner has received a new determinate sentence and the earliest point of potential release (i.e., the CRD or PED) of the new sentence renders the prisoner ineligible for a review of release, PPCS will set up a review to consider suitability for open conditions in line with the CRD or PED of the new determinate sentence. This will ensure that the prisoner can be considered for suitability for open conditions, provided there is sufficient time	PPCS
3.1.20	PPCS will notify the Parole Board when a review for a referred case is cancelled or withdrawn.	PPCS
3.1.21	Where a parole-eligible prisoner has appealed against conviction or sentence, PPCS will acquire a transcript of the judgement, from the Court of Appeal and the application for appeal. The prison must provide PPCS with a copy of any additional documents relating to the appeal via email, pre-releaseteamA@justice.gov.uk	PPCS Prison

3.2 Minimum Term Reviews for Prisoners sentenced to detention at His Majesty's Pleasure (HMP)

This section of the framework applies to prisoners who have been sentenced to be detained at His Majesty's Pleasure and who were under 18 at the date of sentence. It allows eligible prisoners who are approaching or have passed the halfway point of their tariff to request a reduction to their tariff.

Applications for HMP Minimum Term Review		Action By
3.2.1	PPCS will notify an eligible prisoner that they may apply for a reduction in their tariff when they have served half of their minimum term.	PPCS
3.2.2	The prison must ensure that a copy of the notification is disclosed to the prisoner within one working day of receipt.	Prison
3.2.3	If the prisoner confirms that they would like to make an application for a reduction in their tariff, upon receipt of notification from the prison PPCS will prepare a core dossier, which will be disclosed to the prison.	PPCS Prison
3.2.4	<p>Within 12 weeks of disclosure of the core dossier, prisons must complete a new Tariff Assessment Report (TAR), which must be uploaded along with any supporting documentation to the core dossier. For further information see constraint paragraph 4.1.3 and guidance paragraph 5.2.3.</p> <p>PPCS will also notify the Prison Offender Manager (POM) and VLO that the prisoner has confirmed that they wish to submit an application. The VLO should contact the victim to ascertain whether they wish to submit a VPS.</p>	Prison
3.2.5	Once the full dossier is compiled the prison must disclose the dossier to the prisoner, giving them 30 days to submit any representations directly to PPCS.	Prison
3.2.6	<p>On receipt of the prisoner's representations, PPCS will consider the application and unless they form the view that the application is frivolous or vexatious, they must refer it to the High Court. This will include contact details for the VLO, for the High Court to copy into their decision.</p> <p>Where PPCS decide not to refer the case to the High Court, they will notify the prison of this decision (including the reasons). PPCS will also confirm whether the prisoner is eligible to apply for a further review (Please see constraint paragraph 4.1.2 and guidance paragraph 5.2.1). The prison must ensure that this decision not to refer the case (including the reasons) are disclosed to the prisoner within one working day of receipt.</p>	PPCS Prison
3.2.7	When the case has been submitted to the High Court, upon receipt of the decision, PPCS will provide the decision to the prison.	PPCS Prison
3.2.8	The prison must ensure that a copy of the High Court decision is disclosed to the prisoner within one working day of receipt.	Prison
3.2.9	When disclosing the decision to the prisoner (whether that is PPCS deciding not to refer, or the High Court decision following a referral) , upon receipt of the PPCS notification, the prison must advise the prisoner that they can re-apply, in line with the timescales detailed in the guidance paragraph 5.2.1 . Please also see constraint paragraph 4.1.2 .	Prison
3.2.10	Where PPCS have decided not to refer the case to the High Court, upon receipt of further information or representations from the prisoner, PPCS must consider them and either refer the case to the High Court or give notice that the decision not to refer still	PPCS

	<p>stands. PPCS is responsible for notifying the prison of their decision. The prison must ensure that this decision is disclosed to the prisoner within one working day of receipt.</p> <p>Where the decision is to refer the case to the High Court, the process should then be followed as detailed above at <u>3.2.1-3.2.7</u>.</p> <p>For further guidance please see chapter 5.2.</p>	
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3.3 Indeterminate Sentenced Foreign National Prisoners (IFNPs)

This section of the Policy Framework only applies to indeterminate sentenced foreign national prisoners (IFNPs). All IFNPs must be considered for removal from custody for the purposes of deportation at their tariff expiry, known as the Tariff Expired Removal Scheme (TERS).

Eligibility for TERS		Action By
3.3.1	PPCS will presume that all tariff expired IFNPs will be removed from prison to facilitate deportation unless one of the <u>criteria at 5.3.2</u> applies.	PPCS
3.3.2	Upon expiry of the TED and anytime thereafter, prisoners are eligible for removal by Home Office Immigration Enforcement (HOIE) (see constraint paragraph 4.2.2).	Prison HOIE
Newly Sentenced IFNPs		Action By
3.3.3	Prisons must inform HOIE of all IFNPs within five working days of sentencing, using the CC referral form (see Annex A of PSI 52/2011 Immigration, Repatriation and Removal Services). The holding establishment must send the form to the HOIE CC Workflow team email address: ImmigrationMAPPASPOC@homeoffice.gov.uk , copied to PPCS via the functional mailbox: pre-releaseteamA@justice.gov.uk .	Prison
3.3.4	Prisons must follow the requirements set out in paragraphs <u>3.1.5 to 3.1.12</u> of this framework in relation to newly sentenced ISPs.	Prison
3.3.5	PPCS is responsible for informing the prison and HOIE of the TED. PPCS is responsible for ensuring that any subsequent change to the TED (e.g. following an appeal) is disclosed to the prison and HOIE.	PPCS
3.3.6	Upon receipt of the TED notification, the prison must ensure the prisoner is informed as soon as possible.	Prison
Calculation of Earliest Release Date following further sentence		Action By
3.3.7	If an IFNP is given a further determinate custodial sentence or default term for non-payment of a confiscation order then the prison must calculate the earliest release date, this will then be the earliest date by which the prisoner could be removed under TERS and notify PPCS via the functional mailbox: pre-releaseteamA@justice.gov.uk (see requirement paragraph <u>3.1.8</u> for calculating the TED).	Prison PPCS

The TERS Process		Action By
An IFNP will be considered for removal from prison to facilitate deportation on or after the tariff expiry and where there are no barriers to removal. Upon receipt of new and significant information the IFNP's suitability for removal will be reviewed.		
3.3.8	Upon receipt of notification of an IFNP from the prison, PPCS is responsible for issuing HOIE with an information proforma requesting details of the IFNP's immigration history and the stage at which the deportation process has reached.	PPCS HOIE
3.3.9	PPCS is responsible for re-issuing an information proforma at the start of every GPP review. HOIE must complete the information pro-forma and return it to PPCS. When an IFNP is considered barrier-free by HOIE and is therefore eligible for a removal under TERS, the proforma should also be sent to TERSinbox@justice.gov.uk.	PPCS HOIE
3.3.10	The /Probation Practitioner is responsible for ensuring that the Victim Liaison Officer (VLO) is kept informed of developments so that they can inform the victim(s).	Probation Service YJS
3.3.11	Prisons must follow the requirements set out in paragraphs <u>3.1.5 to 3.1.12</u> of this framework in relation to newly sentenced ISPs.	Prison
3.3.12	If there are no barriers to removal from the UK, PPCS will decide whether an IFNP is presumed suitable for removal (see guidance at paragraph <u>5.3.9</u>).	PPCS
3.3.13	Where requested by PPCS, the POM and Probation Practitioner must provide their views on removal under TERS within seven calendar days.	Prison Probation Service
Authorisation of Removal		Action By
3.3.14	Prisons must ensure that the decision is disclosed to the prisoner within one working day of receipt.	Prison
3.3.15	The Probation Practitioner must ensure that the VLO is notified. The VLO must ensure that the victim(s) is informed as soon as possible.	Probation Service HOIE
Unsuitable for Removal		Action By
3.3.16	Where PPCS decide that an IFNP is not suitable for removal under TERS, PPCS will issue the decision to the prison, Probation Practitioner and HOIE.	PPCS Prison Probation Service YJS
3.3.17	Prisons must ensure that the decision is disclosed to the prisoner within one working day of receipt.	Prison
3.3.18	The Probation Practitioner must ensure that the VLO is notified. The VLO must ensure that the victim(s) is informed as soon as possible.	Probation Service
3.3.19	If not considered suitable for removal under TERS, PPCS must continue to consider the IFNP for removal under TERS in line with the timing of subsequent Parole Board reviews unless there is a change in circumstances (see requirement paragraph <u>3.3.22</u>).	PPCS Prison Probation Service YJS

Complaints		Action By
3.3.20	Where a prisoner wishes to challenge a decision to refuse TERS they must do so through the Requests/Complaints procedure (see the New Prisoner Complaints Policy Framework). The complaint will be considered by the Head of the Public Protection Group. PPCS will inform the prison of the decision and reasons in writing.	Prison PPCS
3.3.21	The prison must ensure that a copy of the decision is disclosed to the prisoner within one working day of receipt.	Prison
The Parole Process		Action By
3.3.22	In all IFNP cases, all parties must follow process set out in <u>chapter 3.6</u> of the Generic Parole Process until they are released or subsequently removed under TERS.	PPCS Prison Probation Service YJS
3.3.23	Upon receipt of new and significant information during the parole process, PPCS is responsible for re-reviewing the eligibility for TERS.	PPCS
3.3.24	PPCS will liaise with HOIE regarding the likely timing of the IFNP's removal from the UK. Where HOIE are unable to confirm this, PPCS must begin the parole process as normal (see constraint paragraph <u>4.2.1</u>).	PPCS HOIE
3.3.25	If a case has been referred to the Parole Board, the review will continue and will only be cancelled or withdrawn once confirmation has been received from HOIE that the prisoner has been deported (see guidance at paragraph 5.3.14). PPCS will contact the Parole Board to cancel the review within one day of notification.	PPCS
Removal under TERS		Action By
3.3.26	The holding prison must notify PPCS immediately if any changes occur that prevent the prisoner being removed from the UK under TERS (i.e. new further charges or a confiscation order etc). PPCS must then review the case in line with requirement paragraph <u>3.3.22</u> and inform HOIE.	Prison PPCS
3.3.27	On receipt of removal directions, the holding establishment must follow guidance contained in PSI 72/2011 – Discharge.	Prison
Licences		Action By
3.3.28	IFNPs who are removed under TERS do not need to be issued with a licence but must be issued with the TERS Authorisation form.	PPCS Prison
3.3.29	Where an IFNP is being held in an Immigration Removal Centre (IRC) pending removal following a release direction by the Parole Board, a release licence must be prepared by PPCS and kept on file in case the prisoner is granted immigration bail (and therefore released into the UK).	PPCS Prison IRC

Handover to Immigration Enforcement		Action By
3.3.30	Where an IFNP is being held in an IRC for the purpose of removal from the UK, the prison must contact HOIE within 48 hours after the prisoner's scheduled removal date to confirm that removal has taken place or that the prisoner has been returned to a prison establishment.	Prison
3.3.31	The prisoner must be returned to prison custody as soon as possible if removal cannot be achieved in a reasonable timescale.	HOIE
3.3.32	Prisons must notify PPCS immediately where a prisoner is returned to prison custody.	Prison
TERS Breach Process		Action By
3.3.33	If an IFNP who has been removed under TERS returns to the UK then the receiving establishment or HOIE must contact PPCS immediately via TERSinbox@justice.gov.uk.	Prison HOIE
3.3.34	PPCS is responsible for issuing notification confirming that the prisoner is liable to be detained. The IFNP must be held in custody until the Parole Board directs their release or they are further removed from the UK (see guidance paragraph 5.3.17).	PPCS Prison
3.3.35	Where a prisoner is being held in custody in a UK jurisdiction other than England and Wales, arrangements must be made for them to transfer to an establishment in England and Wales as soon as possible once they have been identified as having been removed under TERS and are liable to continue serving their sentence in custody.	Prison

PART 2 – PAROLE BOARD REVIEWS

3.4 Pre-Tariff Reviews for Indeterminate Sentenced Prisoners

This section of the Policy Framework only applies to indeterminate sentenced prisoners. All indeterminate sentenced prisoners will have their cases reviewed by the Public Protection Casework Section (PPCS) to assess whether all three of the criteria in the test for open conditions has been met (see guidance 5.8.2) and that there is a reasonable prospect of the Parole Board making a positive recommendation that they progress to open conditions. This takes place before a decision is made about whether a case should be referred to the Parole Board for consideration of the suitability for a move to open conditions.

Pre-Tariff Sift		Action By
3.4.1	PPCS will issue a sentence planning review meeting (SPRM) notification three months prior to the commencement of the pre-tariff review. Arranging the SPRM is the responsibility of the establishment (see constraint paragraph 4.3.1).	Prison PPCS
3.4.2	PPCS will notify those indeterminate sentenced prisoners sentenced for terrorist and terrorist connected offences listed in section 247A(2) of the Criminal Justice Act 2003 that they are presumed unsuitable for open conditions (see constraint paragraph 4.6.2).	PPCS

3.4.3	PPCS will consider whether a prisoner is excluded from open conditions and notify the prisoner. (see constraint paragraphs <u>4.6.1</u> and <u>4.6.3</u>).	PPCS
3.4.4	Prisons must alert report writers that a pre-tariff sift is to take place as part of the SPRM.	Prison
3.4.5	All relevant report writers must be invited to the SPRM and, if it is not possible for them to attend, they must provide a written contribution. The POM must be invited to all SPRMs.	Prison
3.4.6	Where the prison identifies that the prisoner will require documents to be translated for example due to a disability or language barrier, the prison must follow <u>requirement 3.6.8</u> of this framework.	Prison
3.4.7	The prison must ensure that the SPRM takes place two months before the pre-tariff review process is due to commence to ensure there is sufficient time to complete the pre-tariff sift process.	Prison
3.4.8	The SPRM must consider whether to recommend that a case be referred to the Parole Board for consideration of the prisoner's transfer to open condition. As part of this consideration, the SPRM must consider whether the first two criteria of the test for a move to open conditions is met (see guidance at 5.8.2).	Prison
3.4.9	Prisoners must have the opportunity to attend the SPRM. They must be notified that an SPRM is to take place during which the consideration of submitting the prisoner's case to a pre-tariff parole review by the Parole Board will be discussed. Reports which are to be considered at the SPRM must be provided to the prisoner as soon as possible beforehand to enable them to submit representations to the meeting.	Prison
3.4.10	Prisons must submit the SPRM full report to PPCS via email within five working days of the meeting. The prison must ensure that a copy of the SPRM full report is disclosed to the prisoner within one working day of completion.	Prison
3.4.11	PPCS is responsible for deciding whether the case proceeds to the Parole Board and must notify the prisoner of the decision in writing within ten working days of receiving the SPRM record. As part of this consideration, PPCS will decide whether all three of the criteria in the test for open conditions has been met (see guidance 5.8.2), in addition to whether there is a reasonable prospect of the Parole Board recommending a move to open conditions.	Prison PPCS
3.4.12	The prison must ensure that a copy of the decision is disclosed to the prisoner within one working day of receipt.	Prison
Further Pre-Tariff Request		Action By
3.4.13	If the SPRM recommends that an Indeterminate Sentenced Prisoner (ISP) merits a further pre-tariff sift after previously being sifted out, or merits a further pre-tariff sift prior to tariff expiry, then the reasons explaining the prisoner's good progress must be recorded in the SPRM minutes (see guidance paragraph <u>5.4.8</u>). This will only apply to exceptional cases.	Prison

	As part of this consideration, the SPRM must consider whether the first two criteria of the test for a move to open conditions is met (see guidance at 5.8.2).	
3.4.14	The prison must only recommend an exceptional pre-tariff review where there is sufficient time for the review to be concluded before the on-tariff review.	Prison
3.4.15	The prison must give the record of the SPRM to the prisoner and must also forward this to PPCS, who will consider whether the criteria for a pre-tariff review have been met.	Prison PPCS
3.4.16	PPCS is responsible for deciding whether the case proceeds to the Parole Board and must notify the prisoner of the decision in writing within ten working days of receiving the SPRM record. As part of this consideration, PPCS will decide whether all three of the criteria in the test open conditions have been met (see guidance 5.8.2), and that there is a reasonable prospect of the Parole Board recommending a move to open conditions. In these cases, PPCS will notify the prison of the decision which will also confirm the commencement date of the pre-tariff review. The POM must also inform the VLO that the case is being referred to the PB for a pre-tariff review.	PPCS Probation Service Prison
3.4.17	The prison must ensure that a copy of the decision is disclosed to the prisoner within one working day of receipt.	Prison
Advancing the Pre-Tariff Review Date		Action By
3.4.18	Prior to submitting a request for advancement, consideration must be given to whether the first two criteria of the test for a move to open conditions is met (see guidance at 5.8.2). This must be evidenced as part of any future requests for advancement of the review.	Prison
3.4.19	Requests for a review advancement must be endorsed by the Head of OMU and must not be made any sooner than the point four and a half years before tariff expiry (see guidance paragraph 5.4.12).	Prison
3.4.20	On receipt of an application, PPCS is responsible for checking that the prisoner qualifies for an advancement and issuing the decision to the prison. As part of this consideration, PPCS will decide whether all three of the criteria in the test open conditions have been met (see guidance 5.8.2), and that there is a reasonable prospect of the Parole Board recommending a move to open conditions.	PPCS
3.4.21	The prison must ensure that a copy of the decision is disclosed to the prisoner within one working day of receipt.	Prison

3.5 Exceptional Transfer to Open Conditions (without reference to the Parole Board)

This section of the Policy Framework only applies to indeterminate sentenced prisoners. In exceptional circumstances, indeterminate sentenced prisoners can be transferred to open conditions without reference to the Parole Board.

Consideration of Exceptional Transfer to Open Conditions		Action By
3.5.1	Upon receipt of an application for exceptional transfer to open conditions, PPCS is responsible for assessing whether the application meets the criteria as defined in <u>5.8.2</u> of the guidance and issuing a decision to the prisoner (see guidance paragraphs <u>5.5.4</u> to <u>5.5.6</u> on making an application).	PPCS Prison Probation Service
3.5.2	The prison must ensure that a copy of the decision is disclosed to the prisoner within one working day of receipt.	Prison
3.5.3	Where PPCS identify that the dossier is not up to date, the prison must provide new reports on the prisoner's progress.	Prison
3.5.4	PPCS is responsible for checking with the VLO to ascertain if there is any victim involvement in the case and, where appropriate, asking whether the victim(s) wish to submit a Victim Personal Statement (VPS). Where the victim wishes to do so, the VPS must be submitted before the application can be considered. For further information please refer to the <u>Handling Sensitive Information Policy Framework</u> .	PPCS Probation Service
Application Accepted		Action By
3.5.5	Where a parole review is underway, PPCS is responsible for ensuring that the Parole Board is notified immediately.	PPCS
3.5.6	Upon receipt of the notification the prison must arrange a transfer in the same way as following an accepted recommendation (see requirement paragraph <u>3.8.13</u>).	Prison
Application Rejected		Action By
3.5.7	PPCS is responsible for notifying the Parole Board, prisoner and legal representative within 14 working days.	PPCS
3.5.8	Where the prisoner decides to appeal the decision, the appeal must be considered by PPCS.	PPCS
3.5.9	If the appeal is upheld, the case will be reconsidered as an exceptional transfer to open conditions (see requirement paragraph <u>3.5.1</u>). If the appeal is not upheld, PPCS is responsible for issuing their decision to the prison.	PPCS
3.5.10	The prison must ensure that a copy of the decision is disclosed to the prisoner within one working day of receipt.	Prison

3.6 Generic Parole Process (GPP)

This section of the Policy Framework applies to all indeterminate sentenced prisoners and all parole eligible determinate sentence prisoners.

This section of the Policy Framework also applies to prisoners subject to the Power to Detain legislation found in sections 244ZB and 244ZC of the Criminal Justice Act 2003, where a standard determinate sentenced prisoner is found to pose a significant risk of commission of serious further offences were they to be released automatically at their conditional release date and is referred to the Parole Board instead. Guidance on this process is set out in the Power to Detain Policy Framework. Where the HMPPS Panel

decides that the prisoner meets both the legal threshold and the policy criteria for referral to the Parole Board, the prisoner's case will follow the process set out in this chapter of the Framework, which may be expediated for these cases.

The GPP is the standardised parole process for pre-tariff, on tariff and post-tariff ISPs and for those determinate-sentenced prisoners who are eligible to be released on licence by the Parole Board, which all parties must follow to ensure the timely referral of a prisoner's case. For guidance on timings of reviews see [guidance 5.1.1](#).

All requirements for COM/Probation Practitioner in this section will, for pre-tariff reviews, be the responsibility of the POM.

This version of the Framework introduces a new streamlined dossier referral process to the Parole Board. The new process will only be implemented for all parole reviews commencing from 1st May 2025¹.

Compiling the Core Dossier		Action By
3.6.1	PPCS will assess whether a prisoner is excluded from open conditions (see constraints paragraphs 4.6.1 and 4.6.2). PPCS must write to any prisoner whom they believe should be excluded from open conditions as soon as it comes to light. These prisoners may be eligible for a progression regime (see Progression Regime Policy Framework for more information).	PPCS
3.6.2	PPCS will compile the core dossier two weeks before review initiation at week 0 (see requirements 3.6.4 to 3.6.8).	PPCS
3.6.3	When compiling the core dossier, PPCS is responsible for obtaining all mandatory documents required under the Parole Board Rules, where available. When requested, the Prison is responsible for obtaining any missing or out of date documents for the core dossier within the requested timescale.	PPCS Prison
Review Initiation – Week 0		Action By
3.6.4	PPCS will issue an initial notification letter to the prison, Probation Practitioner and VLO requesting reports for the dossier and an information proforma to HOIE for IFNPs via email (see requirement paragraph 3.3.8).	Prison PPCS
3.6.5	The prison must ensure that a copy of the notification is disclosed to the prisoner, within one working day of receipt.	Prison
3.6.6	Upon receipt of the initial notification letter, the prison must commission all prison-based reports (see guidance paragraph 5.6.24).	Prison Probation Service YJS
3.6.7	Where any relevant reports to be prepared have been identified at a SPRM or in the most recent Parole Board decision, the prison must commission the reports as soon as possible.	Prison
3.6.8	Where the prison or Probation Practitioner identify concerns about a prisoner's mental capacity to participate in their parole review, PPCS must be notified as soon as possible and, ideally, where	Prison Probation Service

¹ Parole Board Reviews which commenced prior to 1st May 2025 will continue to follow the previous dossier referral process.

	applicable at the beginning of the parole process. Please see <u>Chapter 3.13</u> for further information on this process.	YJS
3.6.9	<p>Where the prison identifies that the prisoner will require documents to be translated, (including the BSL language translators) for example due to a disability or language barrier, the prison must ensure that PPCS are notified as soon as possible. Whether the prison, prisoner or anyone else informs PPCS, PPCS will notify the Parole Board at the point of referral so that where required, reasonable adjustments, where possible, can be made.</p> <p>Guidance on translating documents into the Welsh Language as part of HMPPS' Welsh Language Scheme can be found at the following link.</p> <p>It is the responsibility of the prison to arrange for the translation of HMPPS documents.</p>	Prison PPCS
Evidence Compilation – Week 4		Action By
3.6.10	<p>The prison must ensure that all mandatory prison-based reports are completed and uploaded to PPUD as they are received in line with the deadlines set out at paragraph 5.6.13 and disclosed to the Probation Practitioner.</p> <p>Guidance on mandatory reports is available at 5.6.13 and guidance on providing a quality report is available at 5.6.16 of this framework</p> <p>To note: Prisons must not upload any documents to the dossier for cases which are managed by PPCS National Security Casework Team (NCS). These must be sent directly to: nationalsecuritycasework@justice.gov.uk</p>	Prison
3.6.11	<p>OMU/Probation administrative staff must complete the relevant milestones on PPUD. Further guidance on these processes is available on EQuiP.</p> <p>This does not apply to cases managed by PPCS NSC (see requirement at 3.6.10)</p>	Prison Probation staff YJS
Submission of PAROM and supporting documents to PPCS – Week 6		Action By
3.6.12	<p>The Probation Practitioner/YJS must ensure that their PAROM1 and OASys or Asset Plus are completed and submitted to PPCS for inclusion in the dossier.</p> <p>The Probation Practitioner must use the EPF2 as part of pre-release planning. This is a tool which suggests additional licence conditions that the Probation Practitioner may wish to consider as part of this planning and highlights the policies in place for each condition. More information regarding licence conditions can be accessed via this link.</p> <p>For Victim Personal Statements (VPS), see the requirements set out in paragraph 3.6.67 and constraint as set out in paragraph 4.4.6.</p>	Prison Probation Service YJS
3.6.13	If the victim wishes to submit a VPS, the VLO must provide it direct to PPCS for inclusion in the dossier at this stage.	HMPPS

3.6.14	<p>In accordance with the Parole Board Rules, from 3 April 2023 when report writers create a report for the parole dossier, they are permitted (but not required) to provide the Parole Board with their professional opinion on whether the prisoner is safe to be managed in the community, or moved to open prison conditions, provided that they feel able to give a such an opinion. Any professional opinion which the report writer gives the Board should be made by reference to the report writer's area of competence, as well as to their interactions with the prisoner.</p> <p>HMPPS reports must still present all relevant information and a factual assessment pertaining to risk based the report writer's professional judgment. Guidance on report quality is available at 5.6.16 of this Framework.</p>	Probation Service YJS
3.6.15	<p>Where considered appropriate, the Secretary of State will present the Parole Board with an overarching Secretary of State view on the prisoner's suitability for release which takes account of all reports and available evidence, including any professional opinions offered by report writers, where the case meets the criteria outlined in paragraph 5.6.20.</p> <p>HMPPS Report Writers will be informed at the earliest opportunity where the Secretary of State chooses to provide an overarching Secretary of State view.</p>	PPCS
3.6.16	<p><u>Terrorist and terrorist connected offences</u></p> <p>There is a presumption that a prisoner serving a determinate custodial sentence for an offence listed in section 247A(2) of the Criminal Justice Act 2003 or an indeterminate sentence for a specified terrorist or terrorist connected offence will be unsuitable for open conditions, unless exceptional circumstances can be evidenced. In indeterminate sentence cases <u>only</u>, where POMS /Probation Practitioners consider there are exceptional circumstances, they must submit a case to PPCS. PPCS is responsible for determining whether the prisoner's circumstances are exceptional. Where considered exceptional, the referral to the Board must include the rationale for this decision and ask the Parole Board for advice on the prisoner's suitability for consideration of open conditions. Please see 5.8.7 for further guidance.</p>	PPCS Prison Probation Service YJS
3.6.17	<p><u>Terrorist and terrorist connected offences</u></p> <p>Where the offender is serving consecutive or concurrent sentences, they are presumed unsuitable for open conditions if any sentence forming part of the overall sentence envelope is a specified terrorist or terrorist connected offence; and the presumption applies for the duration of the sentence envelope (including whilst released or recalled during that envelope). Where an indeterminate sentence forms part of the sentence envelope then, unless the indeterminate sentence is for a terrorist or terrorist connected offence, the presumption ends at the end of the sentence envelope for the determinate sentences. If an offender is released on licence, sentences imposed subsequently to this won't form part of this envelope and once the original envelope ends, the presumption will</p>	PPCS Prison Probation Service YJS

	no longer apply (unless the new sentence is for a specified terrorist or terrorist connected offence).	
Referral to the Parole Board – Week 8		Action By
3.6.18	PPCS is responsible for compiling, reviewing and checking the full dossier to identify if there is any missing information or any issues that could potentially delay the case progressing through the Parole Board process.	PPCS
3.6.19	Upon a request by PPCS, report writers must provide any missing information to PPCS within the timescale provided. Prisons are responsible for uploading any missing prison-based reports or additional information direct to the dossier. Probation will provide any missing probation reports or additional information directly to PPCS. This does not apply to cases managed by PPCS NSC (see requirement at 3.6.10)	Prison Probation Service YJS
3.6.20	Where missing information has been provided, PPCS will ensure that the information (in the form of a report) is placed at the end of the dossier and not directly behind the report to which they relate (see constraint paragraphs 4.4.1 and 4.4.2).	PPCS
3.6.21	PPCS is responsible for collating the Secretary of State's evidence and formally referring the case to the Parole Board via an electronic dossier on PPUD. The prison and Probation Practitioner will also receive an automatic notification.	PPCS
3.6.22	Upon receipt of the PPUD automatic notification, the prison must ensure that a copy of the full dossier is disclosed to the prisoner immediately upon completion and that the prisoner is given the opportunity to discuss their case with their legal representative either on a legal visit, on the telephone or via video-link.	Prison
3.6.23	Where the prisoner is not represented, prisons must ensure that the prisoner's personal representations are uploaded to PPUD immediately upon receipt and added to the dossier.	PPCS
3.6.24	Prisons must ensure that prisoners have ready access to their parole dossier as frequently as the facilities and resources of the prison allow.	Prison
Parole Board Member Case Assessment (MCA) - Week 14		Action By
3.6.25	From the point of referral, the Parole Board is responsible for requesting representations from the prisoner or legal representative. All representations must be emailed directly to the Parole Board within 4 weeks of the formal referral of the dossier by PPCS.	PPCS Prison
3.6.26	Where the prisoner or legal representative wish to submit an application to the Parole Board to reduce the 21-day reconsideration window, this must be copied to PPCSreconsiderationteam@justice.gov.uk . The Parole Board will provide the PPCS Reconsideration Team, with an opportunity to submit representations on behalf of the Secretary of State.	Prisoner Legal Representati ve
3.6.27	The Parole Board is responsible for issuing the MCA decision to PPCS (including ReconsiderationTeam@justice.gov.uk), the Probation Practitioner and prison (see guidance paragraphs 5.6.36 to 5.6.40 on the decisions and constraint paragraph 4.4.3).	Parole Board

3.6.28	<p>The prison must ensure that a copy of the decision is disclosed to the prisoner within one working day of receipt. When informing prisoners that the Parole Board has made a negative decision, staff must ensure that appropriate support for the prisoner is put in place, where required, to ensure the safety of both the prisoner and staff.</p> <p>Where there is victim involvement, the Probation Practitioner must also follow requirement paragraphs 3.6.69 to 3.6.71 (<u>please also see sections 3.6.73 to 3.6.77 for further information on Parole Board decision summaries</u>).</p>	Prison
Decision Outcomes – No Direction for Release/Negative Decision		Action By
3.6.29	Upon receipt of a no direction for release direction by the Parole Board, PPCS must set the next review in line with <u>chapter 3.8</u> , once the decision becomes final	PPCS
Decision Outcomes – Recommendation for Transfer to Open Conditions		Action By
3.6.30	PPCS is responsible for considering a recommendation by the Parole Board for an ISP to be transferred to open conditions within 28 calendar days (See ISPs transferring to open conditions requirement paragraph <u>3.8.7</u> and constraint paragraph <u>4.4.5</u>).	PPCS
Decision Outcomes – Direction for Release		Action By
3.6.31	Upon receipt of a Parole Board direction for the release, all parties must follow the process set out in requirement <u>chapter 3.9</u> (see constraint paragraph <u>4.2.1</u> for IFNPs).	Prison Probation Service
3.6.32	Where the Parole Board directs the release of a prisoner, all parties must give effect to this direction as soon as is reasonably practicable. See <u>constraint 4.5.1</u> .	PPCS Prison Probation Service
3.6.33	<u>Parole eligible determinate sentenced prisoners only:</u> Where the prisoner has reached their conditional release date (CRD) or non-parole release date (NPD) and are to be automatically released, the prison is responsible for commencing preparation for release, which includes providing the prisoner with a paper copy of, and an explanation of, their licence.	Prison
Decision Outcomes – Oral Hearing		Action By
3.6.34	Where the Parole Board has directed the case to an oral hearing, all parties must proceed to requirement paragraph <u>3.6.36</u> .	Prison Probation Service
3.6.35	If the MCA (or duty) member refers the case to an oral hearing, the Parole Board is responsible for issuing Parole Board oral hearing directions to all parties.	Parole Board
Oral Hearing Directions		Action By
3.6.36	The prison must ensure that Parole Board oral hearing directions and timetables are disclosed to the prisoner within one working day of receipt.	Prison
3.6.37	Where the Parole Board directs that a report must be provided by the prison, prisons must ensure that the report is uploaded to the end of the dossier by the deadline set by the Parole Board panel and disclosed to the prisoner.	Prison Probation Service YJS

3.6.38	<p>Where directed by the Parole Board, the prison must commission reports from psychologists and/or psychiatrists (and other specialist reports) at the earliest opportunity.</p> <p>In line with requirement 3.6.14 HMPPS report writers are permitted (but not required) to provide the Parole Board with their professional opinion on whether the prisoner is safe to be managed in the community, or move to open prison conditions, provided they feel able to give such an opinion.</p>	Prison
3.6.39	<p>If there are any concerns regarding the completion of specialist reports these must be flagged to PPCS at the earliest opportunity, to allow them to consider whether it is appropriate to make a request to the Parole Board, that the direction is revoked or varied. For more information on revoking/varying directions see requirement <u>3.6.47</u>.</p>	Prison PPCS
3.6.40	<p>Prisons must ensure that the dossier is recompiled on PPUD to ensure that all parties are notified that the report has been uploaded.</p>	Prison
3.6.41	<p>PPCS is responsible for liaising directly with the Probation Practitioner to ensure that the Probation Service and YJS directions are met. The Probation Practitioner must notify PPCS of any developments that may affect the Parole Board's assessment of risk (such as a new adjudication or completion of an offending behaviour course) by submitting an addendum report.</p> <p>In line with requirement 3.6.14 HMPPS report writers are permitted (but not required) to provide the Parole Board with their professional opinion on whether the prisoner is safe to be managed in the community, or move to open prison conditions, provided they feel able to give such an opinion.</p>	PPCS Probation Service YJS
3.6.42	<p>PPCS must ensure that the dossier is recompiled on PPUD upon receipt of all Probation Service directions to ensure that all parties are notified that the report has been uploaded.</p>	PPCS
3.6.43	<p>The prison must ensure that a copy of any additional reports is disclosed to the prisoner within one working day of receipt.</p>	Prison
3.6.44	<p>The Parole Board is responsible for securing and uploading all third-party information directed by the panel, as set out in the Parole Board/PPCS Third-Party Directions Protocol. Third-party Information and reports that supplement and are intrinsic to the Risk Management Plan remain the responsibility of PPCS. (See guidance paragraph 5.6.36).</p>	Parole Board
3.6.45	<p>PPCS will retain responsibility for all directions compliance, including third-party information, in all cases managed by the PPCS National Security Casework Team.</p>	PPCS
3.6.46	<p>The Parole Board is responsible for ensuring that the dossier is recompiled on PPUD upon receipt of all third-party directions to ensure that all parties are notified that the report has been uploaded, as set out in the Third-Party Directions Protocol.</p>	Parole Board
3.6.47	<p>Where a direction which HMPPS is responsible for cannot be complied with within the required timescale, or where the information is either not available or would incur disproportionate</p>	Prison Probation Service

	cost, the directed report writer must ensure that PPCS is alerted immediately so that they can consider whether to seek a variation or revocation of the direction(s) under the Parole Board Rules providing full reasons. HMPPS staff, must send all requests to vary or revoke HMPPS directions to PPCS. PPCS is responsible for making an application to the Parole Board before the deadline for the direction is reached.	YJS
3.6.48	All HMPPS applications for non-disclosure must be submitted to the Parole Board via PPCS no later than eight weeks before the date of the oral hearing. Any requests submitted after this deadline must include a full explanation of the delay. Further information on applications for non-disclosure is available in the Handling Sensitive Information Policy Framework, including information provided by victims for the purpose of Parole Board reviews.	PPCS Prison Probation Service
3.6.49	The Parole Board will set the hearing type, (e.g. face to face, remote (video/telephone) hearing). If witnesses wish to give their evidence in a different format to that set by the Parole Board, they must notify the Parole Board to seek agreement from the Panel Chair no later than eight weeks before the date of the oral hearing. All parties must also follow requirement 3.6.57 in regard to remote attendance requests.	PPCS Prison Probation Service YJS
Notification of Oral Hearing Date		Action By
3.6.50	The Parole Board Oral Hearings Administration and Attendance Policy Framework sets out the agreed protocol between prisons, probation, PPCS and the Parole Board in respect of Parole Board oral hearings. The requirements in that Policy Framework must be adhered to at all times.	PPCS Prison Probation Service YJS
3.6.51	Where the Parole Board have requested witness availability, the HMPPS witness must notify the Parole Board of the availability via email and copy in PPCS, within two weeks of the request.	PPCS Prison Probation Service YJS
3.6.52	The Parole Board is responsible for setting the hearing date, time and format of the hearing (remote or face to face). The Parole Board will provide all parties with at least three weeks notification of this information by issuing a hearing timetable.	Parole Board
3.6.53	Once the date of the hearing is confirmed, all witnesses must ensure that they attend the hearing. The POM/Probation Practitioner must also inform the VLO of the oral hearing date promptly.	Prison Probation Service YJS
3.6.54	Where the Parole Board has exceptional difficulty in contacting or securing HMPPS witness attendance, the matter will be escalated to PPCS, who will attempt to resolve the issue.	PPCS Prison Probation Service YJS
3.6.55	Prisons and the Probation Service must discuss any difficulties regarding the attendance of HMPPS witnesses with PPCS immediately.	Prison Probation Service
3.6.56	In exceptional cases, where a witness is no longer able to attend, they must notify PPCS immediately. Where deemed appropriate	Prison

	PPCS is responsible for informing the Parole Board and seeking agreement from the Panel Chair for an alternative witness to attend.	Probation Service YJS
3.6.57	HMPPS witnesses wishing to give their evidence remotely must notify PPCS immediately with full reasons (unless that oral hearing has been convened as a remote hearing). PPCS is responsible for notifying the Parole Board to seek agreement from the Panel Chair.	Prison Probation Service YJS
3.6.58	The Parole Board is responsible for deciding whether to approve a request for a witness to give evidence remotely.	Parole Board
Requesting Deferral/Adjournment of Parole Board hearings		Action By
3.6.59	HMPPS staff, must notify PPCS of any new information that could impact the timely review of the case (see constraint paragraph 4.4.4).	Prison Probation Service YJS
3.6.60	PPCS is responsible for deciding whether to submit a deferral/adjournment request to the Parole Board and prisoner's legal representative.	PPCS
3.6.61	The Parole Board is responsible for deciding whether to accept or reject the deferral/adjournment request.	Parole Board
3.6.62	Upon receipt of the Parole Board's decision, the prison must disclose the decision to the prisoner within one working day.	Prison
Oral Hearing Decision		Action By
3.6.63	The Parole Board is responsible for issuing the oral hearing decision to all parties.	Parole Board
3.6.64	Where the prisoner or legal representative wish to submit an application to the Parole Board to reduce the 21-day reconsideration window, this must be copied to PPCSreconsiderationteam@justice.gov.uk . The Parole Board will provide the PPCS Reconsideration Team, with an opportunity to submit representations on behalf of the Secretary of State.	Prisoner Legal Representative
3.6.65	Upon receipt of the Parole Board's decision following an oral hearing, further guidance for prisons on this process can be found on EQuIP.	PPCS Prison
3.6.66	The prison must ensure that a copy of decision is disclosed to the prisoner within one working day of receipt. When informing prisoners that the Parole Board has made a negative decision, staff must ensure that appropriate support for the prisoner is put in place, where required, to ensure the safety of both the prisoner and staff. The POM/Probation Practitioner is responsible for informing the VLO of the decision (please see sections 3.6.71 to 3.6.75 for further information on Parole Board decision summaries).	Prison
3.6.67	All parties must follow the requirements set out in requirement paragraphs 3.6.27 to 3.6.29 (as applicable).	Prison Probation Service YJS

3.6.68	Where the Parole Board have recommended a transfer to open conditions, all parties should follow the paragraph 3.6.28 and guidance paragraph 5.8.2 for ISPs transferring to open conditions.	Prison Probation Service YJS
Victim Involvement during the GPP process		Action By
3.6.69	PPCS are responsible for checking whether there is any victim involvement and, if so, whether the victim intends to submit a Victim Personal Statement (VPS). Further information and guidance on submission of a VPS can be found here.	PPCS
3.6.70	Probation Practitioners must ensure that the VLO is kept up to date on the progress of the case and any developments within the Parole review. This includes promptly informing the VLO of key dates and stages, such as dates for the submission of the PAROM report and VPS. The probation Practitioner must also update the VLO with dates of oral hearings, any adjournments or deferrals and the decision of the Parole Board. VLOs must ensure that any VPS representations regarding licence conditions and/or the VLOR is submitted to PPCS for inclusion in the dossier.	PPCS Probation Service YJS
3.6.71	In cases where there is a VPS within the dossier, it must be stored away from the prisoner and kept with the prisoner's file within OMU. Prisoners must only read the VPS under supervision or when locked in their cell alone and must not be permitted to take them away or share with third parties. Victims can ask that their VPS is not disclosed to the prisoner. Please see more information about this process in the Handling Sensitive Information Policy Framework . If a prison is not sure if a VPS is to be seen by the prisoner, they must check with PPCS.	Prison
3.6.72	Where the victim or their family has asked to be kept informed of a prisoner's progress then it is the responsibility of the Probation Practitioner to ensure that the VLO is kept up to date throughout the parole process. This includes notifying the victim liaison officer (VLO) of the parole hearing date, the outcome of the parole review, and the decision following a Parole Board recommendation for open conditions. Other key and significant developments may also exceptionally be provided to the victim.	PPCS Probation Service YJS
Parole Board Decision Summaries		Action By
3.6.73	Where a victim, who is involved in the Victim Contact Scheme, wishes to request a Parole Board decision summary (PBDS), the VLO must email the request directly to the Parole Board, via summaries@paroleboard.gov.uk , copying in the Probation Practitioner. This request can be made at any time, within six months of the date of the decision.	Probation Service
3.6.74	The Parole Board is responsible for providing the PBDS to PPCS, the prison, the VLO and the Probation Practitioner.	Parole Board
3.6.75	Upon receipt of the PBDS, the VLO must ensure that a copy is disclosed to the victim as soon as possible.	Probation Service

3.6.76	Where the prisoner is in custody, upon receipt of the PBDS, the POM must ensure a copy of it is disclosed to the prisoner within one working day.	Prisons
3.6.77	Where the prisoner has been released, the Probation Practitioner must ensure that a copy of the PBDS is disclosed to the individual as soon as possible.	Probation Service YJS
Setting Aside a Parole Board Direction to Release		Action By
This section of the Policy Framework applies to all Parole Board release decisions. Where the Parole Board makes a direction to release , they have the power to set aside their decision if the case meets certain criteria (please see guidance section 5.6.41 for more details). This section of the Policy Framework came into force with the commencement of the changes to the Parole Board Rules 2019.		
3.6.78	Prisons and/or the Probation Service must inform the allocated PPCS case manager, (within the timescales outlined at 5.6.44), where it is considered that the case meets the criteria for the Parole Board to consider setting aside their decision. If the PPCS case manager is not known, then the notification should be sent to the PPCS functional mailbox marked as urgent . See Guidance section 5.6.50 for the full criteria.	Prison Probation Service
3.6.79	PPCS will consider the case and decide whether to make an application to the Parole Board to set aside their decision. The application will be made using a SHRF to the Parole Board. PPCS will email the application to the Parole Board for consideration. See Guidance section 5.6.50 for the full criteria and timescales for submission of applications to the Parole Board.	PPCS
3.6.80	The Parole Board will seek representations from the prisoner (within seven calendar days).	Parole Board
3.6.81	The Parole Board will consider the case and decide whether to set aside their decision to release.	Parole Board
3.6.82	Where the Parole Board decides to set aside their release direction, the decision will be retaken. The Parole Board will specify whether this is to take place on the papers or at an oral hearing and will make bespoke directions to progress the case towards a decision.	Parole Board
3.6.83	The Parole Board is responsible for issuing the decision to PPCS, the prison, the Probation Practitioner and the legal representative (where applicable).	Parole Board
3.6.84	The prison must ensure that a copy of the Parole Board decision is disclosed to the prisoner within one working day of receipt.	Prison
3.6.85	Probation Practitioners must ensure that VLOs are informed of the Parole Board decision. VLOs must ensure that the victim is informed as soon as possible. In the event that an application to set aside the Parole Board decision is granted, any Parole Board Decision Summary that had previously been issued is no longer valid, and an amended summary will be issued when the new decision is made.	Probation Service

3.6.86	Where the Parole Board decides not to set aside their decision, the original direction for release will stand and the prisoner will be released in line with the agreed risk management plan.	Probation Service PPCS Prison
Setting Aside a Parole Board Direction Not to Release		
This section of the Policy Framework applies to all Parole Board decisions not to release. Where the Parole Board makes a direction not to release , they have the power to set aside their decision if the case meets certain criteria (please see guidance section 5.6.46-5.6.50 for more details). This section of the Policy Framework came into force with the commencement of the changes to the Parole Board Rules 2019.		
3.6.87	Where the prisoner does not have legal representation and wishes to submit a request to the Parole Board for their direction not to release to be set aside, prisons must ensure that the request is emailed to the Parole Board within one working day of receipt. Legal representatives should email the request directly to the Parole Board for consideration. See Guidance section 5.6.47 for the full criteria on whether a case can be considered.	Prison Probation Service YJS
3.6.88	The Parole Board will seek representations from the Secretary of State and/or prisoners (where applicable) within seven calendar days.	Parole Board
3.6.89	The Parole Board will consider the case and decide whether to set aside their release decision.	Parole Board
3.6.90	The Parole Board is responsible for issuing the decision to PPCS, the prison, the Probation Practitioner and the legal representative (where applicable).	Parole Board
3.6.91	The prison must ensure that a copy of the Parole Board decision is disclosed to the prisoner within one working day of receipt.	Prison
3.6.92	Where the Parole Board decides to set aside their direction not to release, the decision will be retaken.	Probation Service
3.6.93	Probation Practitioners must ensure that VLOs are informed of the Parole Board decision. VLOs must ensure that the victim is informed as soon as possible. In the event that an application to set aside the Parole Board decision is granted, any Parole Board Decision Summary that had previously been issued is no longer valid, and an amended summary will be issued when the new decision is made.	Probation Service
3.6.94	Where the Parole Board decides not to set aside their decision not to release, PPCS will set the next review in line with the GPP process (see chapter 3.8 and/or recall review processes (for more information on this process, please see the Recall, Review and Re-release of Recalled Prisoners Policy Framework)).	PPCS Probation Service Prison

3.7 Reconsideration of Parole Board Decisions

This section of the Policy Framework only applies to all indeterminate sentenced prisoners and parole eligible determinate sentenced prisoners (as detailed in [Guidance at 5.1.1](#)).

Where the Parole Board makes a decision regarding release, the decision will remain provisional for 21 calendar days from the date the decision has been issued², to allow prisoners or PPCS on behalf of the Secretary of State to submit an application to the Parole Board to have the decision reconsidered, where the criteria is met.

Parole Board Decisions to Not Release		Action By
3.7.1	As stated in requirement paragraph <u>3.6.28</u> , prisons must ensure that the decision to not release the prisoner is disclosed to the prisoner within one working day of receipt. When informing prisoners that the Parole Board has made a negative decision, staff must ensure that appropriate support for the prisoner is put in place, where required, to ensure the safety of both the prisoner and staff.	Prison
Application Window Extension Requests		Action By
3.7.2	All extension requests must be submitted directly to the Parole Board within the 21-calendar day application window via email to <u>Reconsideration@paroleboard.gov.uk</u> .	Prison Probation Service YJS
3.7.3	Where the prisoner does not have legal representation and wishes to submit an extension request, prisons must ensure that the extension request is emailed to <u>Reconsideration@paroleboard.gov.uk</u> within one working day of receipt.	Prison
3.7.4	The Parole Board is responsible for deciding whether to approve extension requests and issuing their decision to PPCS (<u>PPCSreconsiderationteam@justice.gov.uk</u>), the prison, the Probation Practitioner and legal representatives (where applicable).	Parole Board
3.7.5	Probation Practitioners must ensure that VLOs are informed of the Parole Board decision. VLOs must ensure that the victim is informed as soon as possible.	Probation Service YJS
3.7.6	Prisons must ensure that a copy of the Parole Board extension decision is disclosed to the prisoner within one working day of receipt.	Prison
The Application		Action By
3.7.7	Where a prisoner does not have legal representation and wishes to submit an application for the decision to be reconsidered by the Parole Board, prisons must ensure that the application is emailed to <u>Reconsideration@paroleboard.gov.uk</u> within one working day of receipt.	Prison
3.7.8	Where a prisoner makes an application, the Parole Board will provide PPCS via <u>reconsiderationteam@justice.gov.uk</u> with the option of submitting representations on behalf of the Secretary of	PPCS Prison

² The decision will remain provisional for 21 calendar days from the date the oral hearing decision has been issued or the MCA decision has been issued (subject to the 28-calendar day period for the prisoner to request an oral hearing closing).

	State direct to the Parole Board (copied to the prison and the legal representative, where applicable) within seven calendar days of receipt of the notification from the Parole Board.	Probation Service YJS
3.7.9	Where Secretary of State representations are received, the prison must ensure that a copy of the representations are disclosed to the prisoner within one working day of receipt.	Prison
Parole Board Reconsideration – The Decision		Action By
3.7.10	The Parole Board is responsible for issuing the reconsideration decision to PPCS (PPCSreconsiderationteam@justice.gov.uk), the PPCS Case Manager, the prison, the Probation Practitioner and the legal representative (where applicable).	Parole Board
3.7.11	The prison must ensure that a copy of the Parole Board decision is disclosed to the prisoner within one working day of receipt.	Prison
3.7.12	Where the Parole Board has decided to direct a reconsideration of the decision, they will specify whether this is to take place on the papers or at an oral hearing and will make bespoke directions to progress the case towards a decision.	Parole Board
3.7.13	Where the Parole Board has granted an application for reconsideration and subsequently direct the case to MCA or an Oral Hearing, Probation Practitioners must ensure that VLOs are informed of the Parole Board decision. VLOs must ensure that the victim is informed as soon as possible.	Probation Service YJS
3.7.14	Where the Parole Board have decided to direct the case to MCA, all parties must follow the Parole Board Member Case Assessments requirement paragraphs 3.6.25 to 3.6.27 and guidance paragraphs 5.6.35 to 5.6.37.	Prison Probation Service YJS
3.7.15	Where the Parole Board have decided to direct the case to Oral Hearing, all parties must follow the Decision Outcomes - Oral Hearing requirement paragraphs <u>3.6.36 - 3.6.68</u> . In recall cases, all parties should follow Chapter 4.17 of the <u>Recall, review and Re-release of Re-called Prisoners Policy Framework</u> .	Prison Probation Service YJS
3.7.16	Where the Parole Board have decided that the original negative decision is to be upheld, PPCS will set the next review as set out in <u>chapter 3.8</u> .	PPCS
Parole Board Release Decisions		Action By
3.7.17	All reconsideration eligible Parole Board release decisions are provisional until the reconsideration window has closed. Upon receipt of a provisional Parole Board release decision, the Probation Practitioner must ensure that the VLO is notified of the decision and of any victim related licence conditions, as soon as possible	Probation Service YJS
3.7.18	VLOs must ensure that the victim is informed of the decision and of their right to request a summary of that decision from the Parole Board and that they can request the decision is reconsidered as soon as possible. <u>All reconsideration request forms</u> must be sent to PPCS via	Probation Service YJS

	reconsiderationrequests@justice.gov.uk . See guidance paragraph 5.7.9 for further information on when a decision can be reconsidered.	
Application Window Extension Requests		Action By
3.7.19	PPCS are responsible for submitting all extension requests directly to the Parole Board within the 21-calendar day application window. All requests should be sent via email to Reconsideration@paroleboard.gov.uk .	PPCS
3.7.20	Probation Practitioners/VLOs must notify PPCS via PPCSreconsiderationteam@justice.gov.uk immediately where an extension will be required. The email must include clear reasons why the extension is required, and the length of the extension being requested.	Probation Service YJS
3.7.21	The Parole Board is responsible for deciding whether to approve extension requests and issuing the decision to PPCS (PPCSreconsiderationteam@justice.gov.uk), the prison, Probation Practitioner, and legal representatives (where applicable).	Parole Board
3.7.22	PPCS is responsible for ensuring that VLOs are informed of the Parole Board decision. VLOs must ensure that the victim is informed as soon as possible.	PPCS
3.7.23	Where an extension is agreed, prisons must ensure that the prisoner is notified within one working day of receipt.	Prison
PPCS Internal Reconsideration Review		Action By
3.7.24	Where PPCS decide internally that a reconsideration application should be submitted to the Parole Board, PPCS must notify the prison, Probation Practitioner, VLO and legal representative (where applicable). VLOs must ensure that the victim is informed as soon as possible.	PPCS Probation Service YJS
3.7.25	Prisons must ensure that a copy of the notification is disclosed to the prisoner within one working day of receipt.	Prison
3.7.26	PPCS is responsible for submitting the application to the Parole Board Reconsideration Team for a review by their reconsideration assessment panel.	PPCS
Exceptionally reducing the 21-day window		Action By
3.7.27	For guidance on seeking approval from the Parole Board for exceptionally reducing the 21-day reconsideration window, all parties must follow sections 5.7.13 to 5.7.14 of this Policy Framework.	Prison Probation Service YJS
Victim Requests for Reconsideration to PPCS		Action By
3.7.28	Where a victim (or interested party) submits a request for the release decision to be reconsidered, all requests must be submitted to PPCS via reconsiderationrequests@justice.gov.uk .	Probation Service YJS
3.7.29	Upon receipt of the request from the victim or interested party, PPCS is responsible for deciding whether the request meets the eligibility criteria (see guidance paragraph 5.7.5). This is in addition to the review completed by PPCS, as outlined at 3.7.24.	PPCS

3.7.30	Where there are grounds for reconsideration, PPCS is responsible for writing and submitting the application to the Parole Board.	PPCS
3.7.31	Where an application is submitted to the Parole Board, PPCS must ensure that the prison, the applicant, Probation Practitioner, VLO and the legal representative (where applicable) are notified.	PPCS
3.7.32	Prisons must ensure that a copy of the application and notification is disclosed to the prisoner within one working day of receipt.	Prison
3.7.33	Where the request does not meet the criteria, PPCS is responsible for notifying the victim or interested party.	PPCS
Parole Board Reconsideration Assessment Panel		Action By
3.7.34	The Parole Board is responsible for issuing the reconsideration assessment panel's decision to PPCS (PPCSreconsiderationteam@justice.gov.uk), Probation Practitioner, prison and legal representatives (where applicable).	Parole Board
3.7.35	Prisons must ensure that a copy of the Parole Board assessment panel decision is disclosed to the prisoner within one working day of receipt.	Prison
3.7.36	In a case with a victim, PPCS is responsible for issuing the decision to VLOs. VLOs must ensure the victim is informed as soon as possible. Where the application is made following a request from an interested party, PPCS is responsible for issuing the decision to that interested party.	PPCS Probation Service YJS
3.7.37	Where no application is received or submitted to the Parole Board within the 21-day window, PPCS is responsible for notifying the prison and the Probation Practitioner that the release decision is now final.	PPCS
3.7.38	Probation Practitioners must ensure that VLOs are informed the Parole Board decision is now final. VLO must ensure that the victim is informed as soon as possible.	Probation Service YJS
3.7.39	Prisons must ensure that a copy of the notification is disclosed to the prisoner within one working day of receipt.	Prison
Parole Board Reconsideration – The Decision		Action By
3.7.40	The Parole Board is responsible for issuing the reconsideration decision to PPCS (PPCSreconsiderationteam@justice.gov.uk), the prison, the Probation Practitioner and legal representative (where applicable).	Parole Board
3.7.41	Prisons must ensure that a copy of the decision is disclosed to the prisoner within one working day of receipt.	Prison
3.7.42	Where the Parole Board direct the case to MCA or an Oral Hearing, PPCS must ensure that VLOs/or other interested parties requesting reconsideration are informed of the Parole Board decision. VLOs must ensure that the victim is informed as soon as possible.	PPCS Probation Service YJS
3.7.43	Where the Parole Board has decided to direct a reconsideration of the decision, they will specify whether this is to take place on the papers or at an oral hearing and will make bespoke directions to progress the case towards a decision.	Parole Board
3.7.44	Where the Parole Board have decided to grant the case to MCA, all parties must follow the Parole Board Member Case	Prison

	Assessments requirement paragraphs 3.6.25 to 3.6.28 and guidance paragraphs 5.6.36 to 5.6.39.	Probation Service YJS
3.7.45	Where the Parole Board have decided to direct the case to Oral Hearing, all parties must follow the Decision Outcomes - Oral Hearing requirement paragraphs 3.6.32 to 3.6.33. In recall cases, all parties should follow Chapter 4.17 of the <u>Recall, Review and Re-release of Recalled Prisoners Policy Framework</u> .	Prison Probation Service YJS
3.7.46	Where the Parole Board have decided that the original release is to be upheld, all parties must follow the Decision Outcomes – Direction for Release requirement paragraphs 3.6.29 to 3.6.31.	Prison Probation Service / YJS

3.8 Setting the next review date

All indeterminate sentenced prisoners and parole eligible determinate sentenced prisoners are entitled to have their case reviewed by the Parole Board as set out in the Timing and Frequency of Parole Reviews guidance 5.6.1.

Setting the Next Review Date for all Indeterminate and Determinate Parole Eligible Sentenced Prisoners		Action By
3.8.1	PPCS is responsible for setting the next review date where the Parole Board has made no direction for release within 14 calendar days of the Parole Board decision becoming final. PPCS will issue notification of the next review to the prisoner (via OMU), POM, Probation Practitioner and legal representatives (where applicable).	PPCS
3.8.2	The Probation Practitioner/POM must provide their views on the work that needs to be undertaken in custody by prisoners and how long it may take within five working days of a request by PPCS, unless an alternative timescale is agreed with PPCS.	Prison Probation Service
3.8.3	PPCS must provide reasons to the prisoner to explain the review period that has been set and the reasons for this, as well as confirmation of any outstanding risk issues identified by report writers or set out in the Parole Board decision.	PPCS
3.8.4	The prison must ensure that a copy of the decision is disclosed to the prisoner within one working day of receipt.	Prison
3.8.5	Upon receipt of the next review date from PPCS, prisons must ensure that they are progressing the prisoner towards accessing their outstanding sentence plan objectives e.g. transferring the prisoner where appropriate.	Prison
Review periods		Action By
3.8.6	For IPP, DPP, EDS and SOPC sentenced prisoners, a presumptive review period will be set unless following consultation with the POM/Probation Practitioner there are clear reasons that an alternative review period would be beneficial to the prisoner (e.g. completion of offender behaviour courses). The	PPCS

	<p>review period will be set from the date of the prisoners' most recent hearing. In line with statutory requirements, a maximum review period of 24 months will be set.</p> <p><u>IPP and DPP sentenced prisoners</u></p> <p>For IPP sentenced prisoners: The presumptive maximum review period will be set at 18 months.</p> <p>For DPP sentenced prisoners: The presumptive maximum review period will be set at 12 months.</p> <p><u>For all other indeterminate sentenced prisoners</u></p> <p>In line with statutory requirements, a maximum review period of up to 24 months will be set.</p> <p><u>EDS and SOPC sentenced prisoners</u></p> <p>For cases where there is less than 13 months from the panel date to the CRD, PPCS is responsible for notifying the prison that the prisoner <u>will not</u> receive a further review and will be released at their CRD.</p> <p>For cases where there are 13 months or more from the panel date to the CRD, PPCS is responsible for notifying the prison when a prisoner <u>will</u> receive a further review.</p> <p>The presumptive review period will be set at 12 months.</p> <p><u>For DCR sentenced prisoners</u></p> <p>An annual review will be set, if there is in excess of 13 months to the prisoners Non Parole Date (NPD). If there is less than 13 months to the NPD, then the prisoner will not be entitled to a further review.</p> <p><u>For EPP sentenced prisoners</u></p> <p>An annual review will be set.</p> <p>In all cases there must be a clear justification for the review period which has been set.</p>	
	ISPs transferring to open conditions	Action By
3.8.7	Upon receipt of the Parole Board decision, PPCS is responsible for ensuring that all papers considered by the panel are considered when making a decision on the prisoner's transfer to open.	PPCS
3.8.8	The Secretary of State (or their delegated official) is responsible for deciding whether to accept or reject the Parole Board's recommendation for an ISP to move to open conditions in accordance with the policy set out at <u>5.8.2</u> . The Parole Board must have taken into account the Secretary of State's directions to the Parole Board which includes the criteria set out at <u>5.8.2</u> in Guidance. This decision must take place within 28 calendar days of receipt of the Parole Board decision.	PPCS

3.8.9	PPCS is responsible for ensuring that a review period is set that enables the prisoner to demonstrate sufficiently their progress in open conditions to the Parole Board.	PPCS
3.8.10	When considering the length of time to set the next review in these cases, in addition to the points in guidance section 5.8.1. PPCS must take the ROTL timetable into account. For further information, see the Release On Temporary Licence (ROTL) Policy Framework.	PPCS
3.8.11	PPCS is responsible for issuing a letter outlining their decision to accept or reject the Parole Board's recommendation and setting a suitable date for the next Parole Board review to the prison/prisoner, POM, Probation Practitioner and legal representative (if applicable).	PPCS Prison
3.8.12	The prison must ensure that a copy of the letter is disclosed to the prisoner within one working day of receipt.	Prison
3.8.13	Following receipt of the Secretary of State's decision that the prisoner should transfer to open conditions, the holding establishment must organise a transfer to an appropriate open establishment, liaising with the proposed open establishment, and will book transport via Population Management Unit (PMU).	Prison
Changing the date of the next review		Action By
3.8.14	If it becomes apparent, following notification of the next review date, that the review period set is no longer sufficient or has become excessive then prisons must notify PPCS and ask for the review period to be amended. The Head of OMU (see guidance section 5.8.11 to 5.8.12) must endorse any such request.	Prison

3.9 Release

This section applies to the following prisoners, where the Parole Board has directed the release of:

- Indeterminate Sentenced Prisoners (ISP),
- Extended Determinate Sentence (EDS) prisoners;
- Sentences for Offenders of Particular Concern (SOPC);
- Discretionary Conditional Release (DCR) sentenced individuals;
- Terrorist Offenders and;
- Those standard determinate sentenced prisoners subject to a decision to detain them past their conditional release date pursuant to section 244ZB of the Criminal Justice Act 2003, managed under the Power to Detain Policy Framework, where the initial release was determined by the Parole Board.

A prisoner cannot be released on licence until the reconsideration window has closed and the decision has been confirmed as final.

The Parole Board will set the licence conditions in these cases and where these prisoners have been recalled and their re-release has been directed .

Making arrangements for release		Action By
3.9.1	PPCS is responsible for ensuring effective liaison with Probation Practitioners to satisfy themselves that the release arrangements	PPCS

	will be in accordance with those agreed by the Parole Board for as soon as reasonably practicable. In all cases, if a licence condition makes reference to an exclusion zone, a map must be provided by the Probation Practitioner (see constraint paragraph 4.7.3).	Probation Service YJS
3.9.2	PPCS must arrange a release date with the Probation Practitioner.	Prison Probation Service YJS
3.9.3	If the release decision has been issued before the TED/PED then release must take place on an agreed date that is as soon as practicable after TED/PED (see constraint paragraph 4.7.1). If the TED/PED falls on a weekend, Friday or bank holiday then the release must be arranged for the preceding working day. If the release decision has been issued after the TED/PED then arrangements must be made in accordance with requirement paragraphs 3.9.4 to 3.9.11. Please see Discretionary Friday/pre-Bank Holiday Release Scheme Policy Framework for further information.	Prison PPCS
3.9.4	PPCS is responsible for contacting the prison to confirm the release date and inform the prison when to expect the release licence and associated documents.	PPCS
3.9.5	PPCS is responsible for preparing and issuing the licence and associated documents to the prisoner/prison/probation.	PPCS
3.9.6	Where the prisoner is liable to deportation, PPCS must ensure that Home Office Immigration Enforcement (HOIE) are notified of the release decision, so that consideration can be given to detaining the prisoner under Immigration Act powers. The procedure for handling such cases is set out in <u>PSI 04/2013 – The Early Removal Scheme and Release of Foreign National Prisoners</u> .	PPCS
3.9.7	Where detention under immigration powers is authorised for IFNPs, HOIE is responsible for providing a copy of the IS91 authority to detain to PPCS as soon as possible (see constraint paragraph 4.7.2).	HOIE
3.9.8	If the prisoner's release plan requires them to reside in Approved Premises then PPCS must be satisfied that a bed space is available before effecting release.	PPCS
3.9.9	The prison must provide the prisoner with a copy of their licence and associated documents on the day of release.	Prison
3.9.10	On the actual day of release, the prison must alert the relevant police force that the prisoner is being released that day.	Prison
3.9.11	PPCS is responsible for issuing a copy of the licence to the PNC Bureau, once there is confirmation of the prisoner being released, for all cases where the Parole Board have directed release. Prisons are responsible for this in all other determinate cases.	PPCS Prison
Varying Licence Conditions prior to release		Action By
3.9.12	In exceptional circumstances where there is a need to amend or add new licence conditions after the Parole Board decision, prior to the prisoners release on licence, the Probation Practitioner must ensure requests to vary or add licence conditions are submitted to PPCS, as soon as possible, with full reasons why a	Probation Service

	variation is deemed necessary and why the application was not before the Parole Board at the oral hearing. In order to complete this task, Probation Practitioners must review the EPF 2 Plan completed for the PAROM to assess suitability of any additional licence conditions. More information regarding licence conditions can be accessed via this link .	
3.9.13	PPCS is responsible for submitting requests to vary or add licence conditions to the Parole Board.	PPCS
3.9.14	The Parole Board is responsible for deciding whether to accept or reject the request.	Parole Board
3.9.15	The Parole Board is responsible for issuing a decision to PPCS, the prison, Probation Service and the prisoner's legal representative as a matter of urgency.	Parole Board
3.9.16	The prison must ensure that a copy of the decision is disclosed to the prisoner within one working day of receipt.	Prison

3.10 Adverse Developments

This section of the Policy Framework only applies to indeterminate sentenced prisoners. All parties must follow the requirements below where an adverse development occurs to ensure that the prisoner is detained in the correct category of prison which reflects their risk.

Notification of an adverse development		Action By
3.10.1	<p>When an adverse development has occurred in an ISP case, prisons must inform PPCS using a LISP4 form available on EQuIP within five working days. This must contain sufficient information and supporting evidence to explain the adverse development and any necessary context to it. Adverse developments do not only occur in open conditions, and when they do happen, a LISP4 must be submitted in the following circumstances:</p> <ul style="list-style-type: none"> • Following removal from open conditions; • When an ISP has been recommended or approved for open conditions but is still in closed awaiting transfer to open. See guidance paragraph 5.10.1 for examples of adverse developments. <p>As part of the LISP4 form to PPCS, practitioners must ensure that the first two criteria of test for open conditions (set out in guidance 5.8.2) are considered.</p> <p>If an individual has received a release decision from the Parole Board and an adverse development then occurs, the release decision must take precedence, unless an application to the Parole Board is made to set aside their decision- see Requirement 3.6.78.</p>	Prison
3.10.2	In line with requirement 3.6.14 HMPPS report writers are permitted (but not required) to provide the Parole Board with their professional opinion on whether the prisoner is safe to be managed in the community, or move to open prison conditions, provided they feel able to give such an opinion.	Prison

3.10.3	PPCS will review the LISP4 form within five working days of receipt from the prison and liaise with the prison where further information is required. Where further information is required, the prison must amend the LISP4 form and resubmit to PPCS.	Prison
3.10.4	Once the LISP4 has been finalised, the prison must ensure that the prisoner is provided with a copy of the LISP4 within one working day of receipt so that they can make representations.	Prison
3.10.5	PPCS will consider the case within 28 calendar days of receipt of the prisoner's representations or receipt of confirmation that representations are not being submitted. This may include contacting the receiving prison to ensure there are no further developments. As part of this consideration, PPCS will decide whether the criteria in the test for open conditions has been met (see guidance 5.8.2).	PPCS
3.10.6	PPCS is responsible for deciding whether to: <ul style="list-style-type: none"> • Issue a warning letter to the ISP; • Refer new information to the Parole Board for consideration in the context of an ongoing Parole Board review; • Refer a case to the Parole Board (where a prisoner has been returned to closed conditions following an adverse development) for advice on the whether the prisoner is considered suitable for return to open conditions; • Direct that the prisoner will remain in closed conditions until their next scheduled Parole Board review. See guidance at 5.10.3.	PPCS
Warning Letters		Action By
3.10.7	Upon receipt of a warning letter, in cases where prisoners have already been removed to closed conditions, the holding establishment and the open establishment must arrange for the return of the ISP prisoner to open conditions, with the assistance of Population Management Unit (PMU) as soon as possible.	Prison
3.10.8	The prison must ensure that a copy of the decision is given to the prisoner within one working day of receipt.	Prison
Remain in Closed Decision		Action By
3.10.9	Upon receipt of a 'remain in closed' decision, the prison must ensure that a copy of the decision is given to the prisoner within one working day of receipt.	Prison
Advice Cases – Combined with the GPP		Action By
3.10.10	PPCS is responsible for considering whether to refer the case to the Parole Board for advice on whether the ISP's is suitable to be returned for open conditions and whether to request consideration that the advice case is combined with an existing GPP review.	PPCS
3.10.11	The Parole Board is responsible for deciding whether to combine the advice case with the review and notifying PPCS of their decision.	PPCS Prison
3.10.12	Where it has been decided that the advice case and the review should be combined, PPCS is responsible for notifying the prison.	PPCS

3.10.13	The prison must ensure that a copy of the decision from PPCS is disclosed to the prisoner within one working day of receipt.	Prison
3.10.14	Where it is agreed that the advice case and an existing GPP review will be combined, all the parties must follow the requirements set out in requirement chapter 3.6 .	Prison Probation Service
3.10.15	Where it is not agreed that the advice case and existing GPP review will be combined, all parties should follow the process set out in Advice Cases – Separate to the GPP (see requirement paragraph 3.10.15).	Prison Probation Service
Advice Cases – Separate to the GPP		Action By
3.10.16	PPCS is responsible for considering whether to refer the case to the Parole Board for advice on whether the ISP's is suitable to be returned for open conditions.	PPCS
3.10.17	PPCS is responsible for compiling the advice case dossier and referring the dossier to the Parole Board.	PPCS
3.10.18	The Parole Board is responsible for issuing the Parole Board decision to PPCS, prison and Probation Practitioner.	PPCS Prison Probation Service YJS
3.10.19	The prison must ensure that a copy of the Parole Board decision is disclosed to the prisoner within one working day of receipt.	Prison
3.10.20	PPCS is responsible for reviewing the Parole Board decision and making a final decision on the adverse development and issuing the decision to the prison, POM, Probation Practitioner and legal representative (if applicable).	PPCS
3.10.21	Upon receipt of a 'remain in closed' decision, the prison must ensure that a copy of the decision is given to the prisoner within one working day of receipt.	Prison
3.10.22	Upon receipt of a return to open decision, the holding establishment and the open establishment must arrange for the return of the ISP prisoner to open conditions, with the assistance of Population Management Unit (PMU). The prison must ensure that the decision is disclosed to the prisoner within one working day of receipt.	Prison

3.11 Transfer of prisoners during a Parole Board review

Arrangements for transfer during parole process		Action By
3.11.1	Where it has been agreed that a prisoner will transfer to another establishment during their Parole Board review to access a progression opportunity in line with their sentence plan, or where transfer must take place for security reasons, the establishment must notify PPCS as soon as possible of the transfer and reasons (see constraint paragraph 4.9.1 and guidance paragraphs 5.11.1 to 5.11.2).	Prison
3.11.2	It is essential that prisoners are not transferred after their oral hearing date has been listed unless a transfer is wholly unavoidable. In such cases, the prison must notify PPCS and the Parole Board immediately. The receiving establishment must also ensure arrangements are made for the prisoner to attend the hearing.	Prison

3.11.3	Staff at the sending establishment are responsible for ensuring that PPUD is updated with the correct establishment.	Prison
3.11.4	Where a transfer is necessary during a review, the sending prison must take responsibility for completing any outstanding directions as it will normally have greater knowledge of the prisoner.	Prison
3.11.5	As set out in guidance paragraph 5.11.1, there may be circumstances where the receiving prison is better placed to complete the outstanding directions. Where an agreement cannot be reached, it is the responsibility of the sending prison to complete the reports.	Prison
3.11.6	Receiving prisons must ensure that they have procedures in place for checking on the progress of the prisoner's oral hearing before the decision is taken to accept a prisoner during the review period.	Prison
Transfer between British Island jurisdictions		Action By
3.11.7	Prisons must notify PPCS (pre-releaseteamA@justice.gov.uk) when a prisoner is transferred on a restricted or unrestricted basis to another jurisdiction outside of England or Wales. Further information on the transfer of prisoners between jurisdictions can be found in the guidance section of this Policy Framework and the Travel and Transfer on Licence and PSS Outside of England and Wales Policy Framework.	Prison PPCS
3.11.8	PPCS is responsible for ensuring that prisoners transferred on a restricted basis to another jurisdiction are still considered by the Parole Board in line with the GPP to ensure that their suitability for release is considered (see requirement chapter 3.6). For further information see guidance paragraphs 5.11.4 to 5.11.7.	PPCS
3.11.9	Prisons must notify PPCS (pre-releaseteamA@justice.gov.uk) when a prisoner is transferred on a restricted or unrestricted basis to England or Wales from another UK jurisdiction. Further information on the transfer of prisoners between jurisdictions can be found in the guidance section of this Policy Framework and the Travel and Transfer on Licence and PSS Outside of England and Wales Policy Framework.	Prisons
3.11.10	Prisoners transferred on a restricted basis from another jurisdiction remain the responsibility of the transferring jurisdiction and the release of these prisoners must be considered by the Parole Board or equivalent in the transferring jurisdiction. Please see section <u>3.11.11</u> for further information on restricted transfers ISPs and moves to open conditions.	Prison PPCS
Restricted Transfer Indeterminate Sentenced Prisoners (ISPs) and Moves to Open Conditions		Action By
<p>This section of the Framework (para 3.11.11 to 3.11.15) applies to ISPs who have been transferred on a restricted basis to England or Wales from Scotland, Isle of Man, Guernsey, or Jersey. Northern Ireland cases will remain the responsibility of the transferring jurisdiction.</p> <p>Any decision for a move to open conditions will need to meet the test for open conditions, outlined within Guidance <u>5.8.2</u>.</p>		
Restricted Transfer Pre-Tariff Prisoners		
3.11.11	All pre-tariff prisoners must have their suitability for a move to open conditions considered in line with the processes set out in chapter 3.4 of this Framework.	PPCS Prison

Restricted Transfer On/Post Tariff Prisoners		
3.11.12	The prison is responsible for considering whether a prisoner meets the first two criteria of the test for open conditions (see guidance 5.8.2). This consideration should be completed in line with the categorisation review guidelines, and the sentence planning review process. This is set out in the Security Categorisation Policy Framework .	Prison
3.11.13	Where it is considered that the first two criteria for the test for open conditions is met, the prison must complete the 'Restricted Transfer ISP On/Post Tariff – Recommendation for a Move to Open Conditions' report (available on EQuIP to download). The completed report must be provided to PPCS, with all relevant sentencing documentation and, where appropriate, a report from security and healthcare. In line with requirement 3.6.14 HMPPS report writers are permitted (but not required) to provide the Parole Board with their professional opinion on whether the prisoner is safe to be managed in the community, or move to open prison conditions, provided they feel able to give such an opinion.	Prison
3.11.14	Upon receipt of the report, PPCS will assess whether a prisoner is excluded from open conditions (see constraints paragraph 4.6.1 and 4.6.2). PPCS must write to any prisoner whom they believe should be excluded from open conditions as soon as it comes to light. These prisoners may be eligible for a progression regime (see Progression Regime Policy Framework for more information). As part of this consideration, PPCS will also decide whether all three of the criteria in the test for open conditions has been met (see guidance 5.8.2). PPCS are responsible for deciding whether the case proceeds to the Parole Board and must notify the prisoner of the decision in writing within ten working days.	PPCS
3.11.15	Where the prisoner is not excluded from open conditions and is considered to have met the three criteria for the test for open conditions, PPCS will refer the dossier to the Parole Board for advice on open conditions (see requirement paragraph 3.3.9) within four weeks. The case will follow the normal GPP process see chapter 3.6.	PPCS
3.11.16	Upon receipt of the Parole Board decision, the prison is responsible for ensuring that the home area Probation Practitioner is provided with a copy of the decision. Where the Parole Board make a recommendation for a move to open conditions, PPCS is responsible for deciding whether to accept or reject the Parole Board's recommendation for an ISP to move to open conditions, taking into account the Secretary of State's directions to the Parole Board. This decision must take place within 28 calendar days of receipt of the Parole Board decision.	Prison PPCS
3.11.17	The prison must ensure that a copy of the decision is disclosed to the prisoner within one working day of receipt. Where there is victim involvement, the Probation Practitioner must also follow requirement paragraphs 3.6.69 to 3.6.72 (please also see sections 3.6.73 to 3.6.77 for further information on Parole Board decision summaries).	Prison Probation Service

Transfer between jurisdictions - Repatriation		Action By
3.11.18	Where repatriation is granted and the prisoner is removed from the England or Wales, outside the British Islands, prisons must ensure that they inform PPCS. In these cases, PPCS is responsible for cancelling the GPP process.	Prison
Removal to another jurisdiction – Early Removal Scheme (ERS)		Action By
3.11.19	Where ERS is granted and the prisoner is removed from England or Wales, prisons must ensure that they inform PPCS. In these cases, PPCS is responsible for cancelling the GPP process.	Prison
3.11.20	Where ERS is granted and the prisoner is returned to prison custody within England and Wales, prisons must ensure that they inform PPCS. In these cases, PPCS is responsible for commencing the GPP process.	Prison

3.12 Prisoners detained under the Mental Health Act 1983

This section of the Policy Framework applies to parole eligible prisoners who have been transferred to hospital under the Mental Health Act. It also applies to those individuals who are no longer detained under Mental Health Act powers but who are eligible for parole.

Notification of prisoners transferred to hospital under the Mental Health Act		Action By
3.12.1	Following validation of the court order, MHCS must notify PPCS of any prisoners admitted to hospital directly from court. PPCS and prisons will follow requirement paragraph 3.1.8 for calculation of the TED or paragraph 3.1.2 for calculation of the PED.	MHCS PPCS Prison
3.12.2	On transfer to hospital under section 47/49 or S45A, MHCS must alert PPCS.	MHCS PPCS
3.12.3	Once the transfer has taken place, PPCS must inform the POM/ Probation Practitioner, the prisoner's legal representative (if known) and the Parole Board of the transfer. The review will be suspended until either: <ul style="list-style-type: none"> • a positive recommendation to the First-tier Mental Health Tribunal or Mental Health Review Tribunal for Wales (MHT) for discharge is received from the hospital responsible clinician; • the MHT notifies the SSJ (MHCS) that the patient would be entitled to absolute or conditional discharge under s74 MHA; or • the SSJ (MHCS) receives a recommendation from the RC and decides to remit the prisoner to prison custody under s50 MHA. 	PPCS
Mental Health Tribunal – Positive Recommendations from the Responsible Clinician		Action By
3.12.4	Upon receipt of a conditional discharge recommendation from the Responsible Clinician (in their report to the MHT) that the prisoner no longer requires treatment in hospital, MHCS will inform PPCS. This will take place 6 weeks prior to the MHT	MHCS PPCS

	<p>sitting. In cases where a prisoner is eligible for a parole review³, PPCS will reactivate an existing PPUD review or create a new accelerated parole review.</p> <p>PPCS will issue the initial notification letter to the Probation Practitioner, the hospital, the VLO, the prison (for information purposes) and an information proforma to HOIE for IFNPs via email (see requirement paragraph 3.3.8)</p> <p>Please note: the accelerated process only applies where the prisoner is eligible for release by the Parole Board within the 27-week timescale of the accelerated review.</p>	
3.12.5	Upon receipt of the MHTs discharge recommendation ⁴ , PPCS are responsible for referring the dossier to the Parole Board within two working days. All parties must follow the requirement paragraph 3.12.12 to 3.12.16).	PPCS
3.12.6	In cases where the MHT does not recommend discharge, PPCS will cancel the parole review and inform the Probation Practitioner, VLO and prisoner.	PPCS
Mental Health Tribunal – Negative Recommendations from the Responsible Clinician		Action By
3.12.7	<p>In cases where a prisoner is eligible for a parole review⁵ having received a positive First Tier Tribunal's MHT discharge recommendation, despite a negative recommendation from the Responsible Clinician³, which may result in the prisoner being remitted back to prison or them remaining in hospital until a decision is made by the Parole Board, PPCS is responsible for reactivating an existing PPUD review or creating a new accelerated review.</p> <p>PPCS will issue the initial notification letter to the Probation Practitioner, the hospital, the VLO, the prison (for information purposes) and an information proforma to HOIE for IFNPs via email (see requirement paragraph 3.3.8).</p> <p>Please note: the accelerated process only applies when the prisoner is eligible for release by the Parole Board within the 41-week timescale of the accelerated review.</p>	PPCS
Remission by the Secretary of State under Section 50 of the Mental Health Act		Action By
3.12.8	Upon remission, MHCS must inform PPCS when a prisoner has been remitted back to custody under s.50 of the MHA (see guidance paragraph 5.12.5).	MHCS
3.12.9	Where PPCS have been notified of the prisoner's remission, PPCS is responsible for commencing an accelerated parole	PPCS

³ Where they have passed their tariff, served their minimum term or are due a scheduled review.

⁴ This may result in the prisoner being remitted back to prison or them remaining in hospital until a decision has been made by the Parole Board

⁵ Where they have passed their tariff, served their minimum term or are due a scheduled review.

	review or re-activating an existing PPUD review (see requirement paragraph 3.12.8 to 3.12.12).	
3.12.11	PPCS will issue the initial notification letter to the Probation Practitioner, the prison, the VLO and an information proforma to HOIE for IFNPs via email (see requirement paragraph 3.3.8).	PPCS
Parole Board Review		Action By
3.12.12	Where requested by PPCS, the prison, which last held the prisoner in custody, must supply any sentence planning documents that may have been completed before the prisoner's transfer to hospital within 21 calendar days.	Prison
3.12.13	The Probation Practitioner must provide the PAROM1, OASys or Asset Plus within 28 calendar days of a request from PPCS. On receipt, PPCS is responsible for compiling the dossier, incorporating that PAROM1 and paperwork from the Tribunal.	PPCS Probation Service
3.12.14	In remitted to prison cases, the prison must provide the On/Post Tariff Parole Custody Report parole, SPR-H security report and any other mandatory documents for the dossier. These should be uploaded direct to the dossier by the prison. This does not apply to cases managed by PPCS NSC (see requirement at 3.6.10).	Prison
3.12.15	Where available MHCS will provide PPCS with copies of hospital reports (set out in guidance at para 5.12.10) for inclusion in the dossier. PPCS will upload any MHT/specialist reports (written whilst detained under MHA) to the dossier. The prisoner's consent is not required as these documents fall under those listed on the Parole Board Rules. Upon receipt of a notification from PPUD, the Probation Practitioner will be able to access the additional reports.	MHCS PPCS Probation Service
3.12.16	PPCS is responsible for collating the Secretary of State's evidence and formally referring the case to the Parole Board via an electronic dossier on PPUD. The prison and Probation Practitioner will also receive an automatic notification. Where the prisoner is held in hospital, PPCS will provide a copy of the dossier to the hospital via email. In cases where the Responsible Clinician has made a positive recommendation ahead of the MHTs recommendation being issued, PPCS will check the dossier and await the MHTs discharge recommendation before referring the case to the Parole Board. In cases where a positive recommendation has been issued by the MHT following a negative recommendation from the RC ahead of the MHT and/or the prisoner has been remitted to prison, PPCS will check the dossier and refer the case to the Parole Board once all mandatory documents have been received.	PPCS

3.12.17	<p>Upon receipt of the PPUD automatic notification or notification via email, the prison/hospital must ensure that a copy of the full dossier is disclosed to the prisoner immediately upon completion, within one working day.</p> <p>The prisoner will also be given the opportunity to discuss their case with their legal representative either on a legal visit, via a telephone call or video link. See guidance at 5.6.21 for more information.</p>	Prison Hospital
3.12.18	The Parole Board is responsible for issuing the decision to all parties.	Parole Board
3.12.19	The prison / hospital (if applicable) must ensure that a copy of the Parole Board decision is disclosed to the prisoner within one working day of receipt.	Prison Hospital
3.12.20	All decisions made by the Parole Board will be subject to the Reconsideration process (see requirement section 3.7).	PPCS
3.12.21	In cases where the Parole Board direct release, PPCS in conjunction with the Probation Service, are responsible for facilitating the release of the prisoner, in line with the requirements in chapter 3.9 of this framework.	PPCS Probation Service
3.12.22	In cases where the Parole Board make no direction for release, PPCS, in conjunction with the Probation Service, are responsible for setting the date for the next review, in line with the requirements in chapter 3.8 of this framework.	PPCS
Return to custody before On Tariff Review		Action By
3.12.23	For indeterminate prisoners who are pre-tariff and have not yet reached the date of their on-tariff review (6 months prior to TED), the pre-tariff sift will also take place as normal, where there is sufficient time for the review to be concluded before the on-tariff review. See chapter 3.4 for more information on Pre-Tariff Reviews for ISPs.	PPCS Prison Probation Service
3.12.24	In cases where the prisoner has been remitted back into prison custody, the prison will resume responsibility for disclosing the completed dossier.	Prison
Deterioration in a Prisoner's Mental Health following a Section 74 (1) (b) Recommendation		Action By
3.12.25	The prison must notify PPCS where concerns are raised about any apparent deterioration in the prisoner's mental health since the Tribunal recommended discharge.	Prison
3.12.26	PPCS should inform MHCS, for consideration of exercising the Secretary of State's power to make a discretionary referral of the case to the Tribunal under section 71 of the MHA on the grounds that there has been a material change in circumstances in light of the deterioration of the patient's mental health.	PPCS MHCS
Parole Board Decisions and Releases		Action By
3.12.27	The Parole Board is responsible for sending all decisions to PPCS, the prison, hospital (if applicable), Probation Practitioner and legal representative.	Parole Board

3.12.28	Prisons must follow requirement paragraph 3.6.25 to 3.6.28 of this framework in relation to the Parole Board's MCA decision.	Prison
3.12.29	PPCS is responsible for issuing parole licences for section 74 (1) (b) recommendations where the prisoner remains in hospital (see guidance paragraph 5.12.6) and requirement <u>section 3.7</u> for the Reconsideration process).	PPCS
Non-Parole Licences and Standard Determinate Sentenced (SDS) Prisoners and Extended Determinate Sentenced (EDS) Prisoners Transferred to Hospital		Action By
3.12.30	Where a prisoner is not to be returned to prison, MHCS is responsible for identifying transferred prisoners approaching the end of their custodial sentence three months before their CRD/NPD. MHCS will notify the prison and the Probation Service to remind them of the statutory duty to supervise the patient.	MHCS
3.12.31	Prisons are responsible for agreeing release arrangements with the Probation Practitioner and issuing the licence.	Prison

3.13 Parole and Mental Capacity

This section of the Policy Framework should be followed where there are concerns about the prisoner's mental capacity to participate and make decisions about their parole or recall review.

Parole and Mental Capacity		Action By
3.13.1	Where the prison or Probation Practitioner identify concerns about a prisoner's mental capacity to participate in their parole review, PPCS must be notified as soon as possible and, ideally, where applicable at the beginning of the parole/recall process.	Prison Probation Service YJS
3.13.2	Upon receipt of a notification, PPCS are responsible for reviewing the prisoner's case and setting up a case discussion (where appropriate). Further information is available in <u>chapter 5.13</u> .	Prison Probation Service YJS
3.13.3	Where PPCS request further reports/information, HMPPS staff and/or other relevant stakeholders must provide any missing information to PPCS within the timescale provided. This may include identifying a suitable person to act as a Litigation Friend on the behalf of the prisoner. See section 5.13 for further guidance.	Prison Probation Service YJS
3.13.4	PPCS is responsible for deciding whether an application should be made to the Parole Board to appoint a Litigation Friend. Further information on Litigation Friends is available in <u>chapter 5.13</u> .	PPCS
3.13.5	Where it is decided that an application will be submitted, PPCS is responsible for making the application to the Parole Board	PPCS
3.13.6	The Parole Board are responsible for deciding whether the identified individual should be appointed as a Litigation Friend	Parole Board
3.13.7	Where the Parole Board approve the application, PPCS will inform the POM and Probation Practitioner of the Parole Board's	PPCS

	decision. The POM is responsible for ensuring that the prisoner and appointed Litigation Friend are informed of this.	Prison
3.13.8	Where the Parole Board reject the application on the grounds that the nominated Litigation Friend is deemed unsuitable, PPCS is responsible for liaising with relevant HMPPS staff to ascertain whether another candidate can be identified. Where all options to identify a Litigation Friend have been exhausted, PPCS will apply to the Parole Board for a referral to be made for the Official Solicitor to be appointed to act as the Litigation Friend of last resort. Please see chapter 5.13 for further guidance.	PPCS
3.13.9	The Parole Board is responsible for applying to the Official Solicitor for a Litigation Friend to be appointed and informing PPCS of the outcome.	Parole Board

4. Constraints

PART 1 – POST-SENTENCE AND PRIOR TO FIRST PAROLE BOARD REVIEW

4.1 Minimum Term reviews for prisoners sentenced when aged under 18 years to detention during His Majesty's Pleasure (HMP)

Applications for HMP tariff reviews		Action By
4.1.1	Only prisoners aged under 18 years at sentencing are eligible to apply for a review of their tariff. Prisoners aged 18 years and over when sentenced are excluded from applying for any tariff review (see paragraph 3.2 and guidance 5.2.1)	PPCS
4.1.2	Eligible prisoners can only apply for further reviews whilst they are still aged under 18 years and two years has passed since the previous application was determined (see paragraph 3.2.6 and guidance 5.2.1).	PPCS
4.1.3	When completing a TAR for a HMP Tariff review, the views of staff should relate solely to an assessment of the detainee's progress and they should not make any recommendations as to the length of tariff or the outcome of the review by the High Court (see paragraph 3.2.4 and guidance 5.2.2).	Probation Service YJS Prison

4.2 Indeterminate Sentenced Foreign National Prisoners (IFNPs)

The parole process		Action By
4.2.1	Where an IFNP has been considered as ineligible for removal under TERS, they cannot be released on licence without having been granted parole by the Parole Board (see requirement paragraph 3.6.27 and guidance paragraph 5.9.2).	Prison
Removal under TERS		Action By
4.2.2	Although TERS can be approved prior to their Tariff Expiry Date (TED), a prisoner cannot be removed under TERS prior to the tariff expiry (see requirement paragraph 3.3.28).	Prison

PART 2 – PAROLE BOARD REVIEWS

A prisoner cannot decide to opt out of the parole process.

4.3 Pre-tariff reviews for ISPs

Pre-tariff sifts		Action By
4.3.1	Where a recommendation from an SPRM is likely to be negative, the prison must not take this as an indication that the pre-tariff sift is unnecessary; a pre-tariff sift must be held before every pre-tariff review and the prison will be expected to account for failure to hold one on time (see requirement paragraph 3.4.1 and guidance paragraph 5.4.2).	Prison

4.4 Generic Parole Process

Quality Assurance and Referral to Parole Board		Action By
4.4.1	The prisons are no longer responsible for issuing the full dossier to the Parole Board and Probation Practitioner electronically via PPUD (see requirement paragraph 3.6.21).	Prison
4.4.2	Once the full dossier has been disclosed, prisons must not change the order or pagination of the original disclosed dossier (see requirement paragraph 3.6.20).	Prison
Parole Board Member Case Assessment (MCA)		Action By
4.4.3	HMPPS report writers (including those commissioned to write reports on behalf of HMPPS) must not contact the Parole Board directly unless it is in regard to witness availability.	Prison Probation Service
Requesting deferrals or adjournments of Parole Board hearings		Action By
4.4.4	Requests for a deferral must not be sent direct to the Parole Board (see requirement paragraph 3.6.60).	Probation Service YJS Prison
Oral Hearing Outcomes – Parole Board Recommendation of a Transfer to Open Conditions		Action By
4.4.5	PPCS must not request the Parole Board to consider recommending a transfer to open conditions for determinate sentenced prisoners. This is the responsibility of the prison Governor.	PPCS Prison
Victim Involvement during MCA and Oral Hearing		Action By
4.4.6	Where a victim has submitted a VPS, the VPS must not be sent directly to the Parole Board or prison. Instead, it must be sent directly to PPCS, who will consider the document for non-disclosure before uploading it to the dossier and providing a copy to the prison (see requirement paragraph 3.6.69). Please see the Victim Contact Scheme Policy Framework for further information.	Probation Service Prison PPCS

4.5 Reconsideration of Parole Board Decisions

Release Decisions		Action By
4.5.1	Prisons must not release prisoners until PPCS confirm that the reconsideration process has been completed and the release decision is final (see guidance paragraph 5.7).	Prison

4.6 Setting the Next Review

Exclusion from Open Conditions		Action By
4.6.1	<p>A prisoner in closed conditions must not be assessed for open conditions if they have, more than once during their current sentence, or within the two years prior to:</p> <ul style="list-style-type: none"> • the date of the next re-categorisation decision, or • the date of the next parole hearing, or • the first date of the proposed ROTL): <ol style="list-style-type: none"> i. Absconded (or been absconding) from open conditions; and/or ii. Failed to return from a period of ROTL; and/or iii. Been convicted of a criminal offence that took place when they were on ROTL; and/or iv. Escaped (or continued to escape) or attempted to escape from prison custody. <p>unless there are exceptional circumstances (see guidance paragraph 5.8.6).</p>	Prison
4.6.2	<p>Terrorist and terrorist connected offences</p> <p>There is a presumption that any prisoner serving a custodial sentence, whether determinate or indeterminate, for an offence listed in section 247A(2) of the Criminal Justice Act 2003 is unsuitable for open conditions, unless exceptional circumstances can be evidenced. Alternate options should be considered for e.g. a Progression Regime</p>	Prison
4.6.3	<p>A Foreign national prisoner in closed conditions must not be assessed for open conditions if they have been served a deportation order and have exhausted all appeal rights in the UK. For more information see PSI 37/2014 'Eligibility for Open Conditions and for ROTL of Prisoners Subject to Deportation Proceedings'.</p>	Prison

4.7 Release

Making arrangements for release		Action By
4.7.1	Where the Parole Board has made a release decision the prison must not release the prisoner until his TED/PED (see requirement paragraph 3.9.3).	Prison
4.7.2	IFNPs who are served a deportation order must not be released until HOIE have considered whether to detain under immigration powers (see requirement paragraph 3.9.7).	Prison PPCS
4.7.3	Where a release plan is revised following the Parole Board's decision the release must not take place until the Parole Board have confirmed via a stakeholder response form that the revised plan is satisfactory (see requirement paragraph 3.9.1).	Prison Probation Service PPCS

4.8 Adverse Developments

Notification of Adverse Development		Action By
4.8.1	Prisons must not send any information directly to the Parole Board. LISP 4 should not be uploaded direct to the PPUD dossier. Prisons are asked to ensure that they provide the LISP4 to PPCS via email (to the appropriate Parole Eligible Casework Functional Mailbox).	Prison

4.9 Transfer of prisoners during a Parole Board review

Arrangements for transfer during parole process		Action By
4.9.1	Prisoners may be transferred during their Parole Board review to access a progression opportunity only in line with their sentence plan or for security reasons, (see requirement paragraph 3.11.1 and guidance paragraph 5.11.1).	Prison
4.9.2	Prisoners must not be transferred to another establishment after their hearing date has been listed unless the receiving establishment can accommodate arrangements for the prisoner to attend the hearing (see requirement paragraph 3.11.2 and guidance paragraph 5.11.1). Prisoners who meet the criteria for transfer but who have outstanding criminal proceedings against them in the UK will not be considered for transfer until these proceedings have been resolved.	Prison

5. Guidance

PART 1 – NEWLY SENTENCED PRISONERS AND CHANGES IN SENTENCE

5.1 Newly Sentenced Indeterminate and Parole Eligible Determinate Sentenced Prisoners

5.1.1 This framework sets out the Generic Parole Process (GPP) for all indeterminate sentenced prisoners (ISPs) as well as those determinate sentenced prisoners who are eligible for discretionary early release by the Parole Board. These include:

- Discretionary Conditional Release (DCR) prisoners (i.e. serving four years or more and were sentenced before 3 December 2012 where the offences were committed before 4 April 2005 and the offence is one appearing on Schedule 15 to the CJA 2003 (sexual/violent offences) **OR** the PED fell before 9 June 2008) are eligible to be considered for release on licence by the Parole Board at the halfway point of their sentence. These prisoners will follow the standard GPP process as indicated (see requirement [chapter 3.6](#)) but can be referred to as prisoners with a Standard Determinate Sentence (SDS);
- Extended Sentence for Public Protection (EPP) prisoners sentenced before 14 July 2008 pursuant to Section 227 or 228 of the CJA 2003 who are eligible to be considered for release on licence by the Parole Board at the halfway point of their custodial term. (Schedule 20B of the CJA 2003 release provisions apply);
- Extended Determinate Sentence (EDS) prisoners sentenced pursuant to sections 266 to 268 and 279 to 282 of the Sentencing Act 2020 (formerly section 226A or 226B of the CJA 2003) who are eligible for release by the Parole Board at two-thirds point of the custodial term under s246A CJA 2003. (From 13 April 2015 this will include all EDS sentences imposed on or after that date. For those sentences imposed before that date only those sentenced to ten years or more or who were being sentenced for offence under Schedule 14 of the Sentencing Act 2020 (formerly Schedule 15B of the CJA 2003) will attract discretionary release by the Parole Board);

- Special custodial sentence for certain Offenders of Particular Concern (SOPC) under sections 265 and 278 of the Sentencing Act 2020 (formerly s.236A of the CJA 2003). It applies to prisoners sentenced on or after 13 April 2015 who have committed a qualifying offence from the updated Schedule 13 of the Sentencing Act 2020 (formerly Schedule 18A of the CJA 2003). They are eligible for release by the Parole Board at the halfway point of the custodial term and have a guaranteed one year on licence after release at CRD.
- Terrorist prisoners serving determinate sentences subject to initial release by the Parole Board (in accordance with s247A of the Criminal Justice Act 2003).
- The Power to Detain process applies to prisoners, aged 18 years and over at their conditional release date and who are serving standard determinate sentences for offences other than terrorist or terror connected offences, due for release under section 243A, 244 or 244ZA of the Criminal Justice Act 2003 ('qualifying sentences').

Identification of Newly Sentenced Parole-Eligible Prisoners

- 5.1.2 Establishments are responsible for identifying and notifying PPCS of any newly determinate sentenced prisoners that are subject to discretionary release by the Parole Board and any newly sentenced prisoners that are subject to an indeterminate sentence.
- 5.1.3 The Youth Custody Service Release and Resettlement Team is responsible for calculating the sentences for children and young people placed in secure children's homes. Secure Training Centres are responsible for calculating and issuing their own calculations. These calculations need to be provided to PPCS in line with the requirements outlined within this Framework.
- 5.1.4 Transcripts for ISPs are obtained by PPCS and will be loaded onto PPUD where they can be accessed by those staff in the establishment. Transcripts of sentencing remarks are not normally available until at least seven weeks after the date of sentence. Any enquiries about the provision of sentencing remarks for ISPs should be directed to PPCS via TranscriptPublicProtection@justice.gov.uk.
- 5.1.5 The Parole Board Rules outlines the mandatory documents that must be included in the parole dossier. Therefore, in order for these documents to be available for inclusion, they must be provided to PPCS at the time of sentencing. These documents include:
- Indictment
 - Order of Imprisonment
 - Previous convictions
 - Police summary of evidence (case summary mg5)
 - Prosecution case summary
 - Pre-trial medical/psychiatric/psychologist's report
 - Pre-sentence probation report
 - Post sentence probation report (please note that since 1 December 2020, Post Sentence Reports are no longer used for prisoner's sentenced on or after that date.)

5.2 Minimum Term Reviews for Prisoners Sentenced to Detention During His Majesty's Pleasure (HMP)

Eligibility

- 5.2.1 Prisoners aged under 18 years of age at the point of sentence are eligible for a minimum term review of their tariff. Where the High Court has previously considered the prisoner's case, the prisoner can re-apply every two years from the date of the High Court decision or where the Secretary of State first gave notice that the application was rejected, but only if the prisoner is under the age of 18 on the day on which the application is made. Prisoners aged 18 years or over at the point of sentencing are not eligible to apply for a minimum term review of their tariff.

Applications for HMP Minimum Term Review

- 5.2.2 Where a prisoner wishes to make an application for a reduction in their tariff, PPCS will prepare the core dossier. Upon receipt of an automatic notification from PPCS via PPUD, the prison is responsible for compiling the full dossier and disclosing the final version to the prisoner.
- 5.2.3 When completing the Tariff Assessment Report (TAR), the assessment should relate solely to the detainee's progress since the point of sentencing. Prisons should not make any recommendations as to the length of tariff or the outcome of the review by the High Court.

Criteria for reduction of minimum term in respect of HMP detainees

- 5.2.4 In deciding whether to make a reduction order, the High Court must, in particular, take into account any evidence:
- (a) that the relevant young offender's rehabilitation has been exceptional;
 - (b) that the continued detention or imprisonment of the offender for the remainder of the minimum term is likely to give rise to a serious risk to the welfare or continued rehabilitation of the offender which cannot be eliminated or mitigated to a significant degree.

Exceptional Progress in Prison

- 5.2.5 Specific factors indicative of exceptional progress may include a prisoner having demonstrated:
- An exemplary work and disciplinary record in prison;
 - Genuine remorse and accepted an appropriate level of responsibility for the part played in the offence;
 - The ability to build and maintain successful relationships with fellow prisoners and prison staff;
 - Successful engagement in work, (including offending behaviour/offence-related courses).
- 5.2.6 All of these should ideally have been sustained over a lengthy period and in more than one prison. It is not to be assumed that the presence of one or all of these factors will be conclusive of exceptional progress having been made in any individual case. Whether the necessary progress has been made will be a matter to be determined taking into account the specific factors present in each case.

5.2.7 To reach the threshold of exceptional progress there would also need to be some extra element to show that the prisoner had assumed responsibility and shown themselves to be trustworthy when given such responsibility. Such characteristics may well be demonstrated by the prisoner having done good works for the benefit of others. Examples would be acting as a Listener (helping vulnerable prisoners), helping disabled people use prison facilities, raising money for charities, and helping to deter young people from crime. Again, ideally, there would need to be evidence of sustained involvement in more than one prison over a lengthy period.

5.3 Indeterminate Sentenced Foreign National Prisoners (IFNPs)

Eligibility for TERS

5.3.1 All IFNPs that are liable for deportation will have their eligibility for TERS considered under the scheme. All IFNPs will be presumed suitable for removal under the scheme unless they meet the criteria for refusal (see guidance paragraphs 5.3.2 and 5.3.9). This includes recalled ISPs. Decisions confirming suitability for removal are taken by PPCS and will be conveyed to the prisoner, the prison and HOIE.

5.3.2 PPCS must consider the following criteria when deciding whether to refuse removal under TERS:

- Whether the prisoner has a confiscation order made against him or is subject to confiscation order proceedings;
- Whether the prisoner has outstanding criminal charges (in which case the holding establishment must notify PPCS of any outstanding criminal proceedings or police investigations and report the outcome as soon as it is known);
- Whether there is evidence that the prisoner is planning further criminal offences, including plans to evade immigration control and return to the UK unlawfully;
- Whether the prisoner is serving a sentence for a terrorism-related offence (in considering such cases, PPCS must always consult with the Joint Extremism Unit before a final decision is made);
- Whether the removal of the prisoner from prison would undermine the confidence of the public in the criminal justice system.

Further guidance can be found in paragraph 5.3.9 and 5.3.10.

5.3.3 Those IFNPs serving an indeterminate sentence in a young offender institution will be considered for removal under TERS under the same process as for adults.

5.3.4 IFNPs who have been deported from the UK previously will be considered for TERS in the normal way, subject to the criteria in requirement paragraph 3.3.3 and guidance paragraph 5.3.8.

5.3.5 IFNPs who have been Unlawfully at Large (UAL) will be considered for TERS in the normal way when they have completed their tariff. Time spent UAL will not count as time served against the tariff.

5.3.6 IFNPs serving sentences of imprisonment imposed by courts martial and subject to the same release framework under the Crime (Sentences) Act 1997 as prisoners who have been sentenced by non-military courts should be assessed for TERS on the same basis as other prisoners.

Newly Sentenced IFNPs

- 5.3.7 Notification of the TED date will alert HOIE to the earliest point at which they should commence removal procedures.
- 5.3.8 PSI 52/2011 Immigration, Repatriation and Removal Services provides guidance on the categories of FNP that need to be referred to the HOIE's Criminal Casework (CC).

The TERS Process

- 5.3.9 Confirmation of no barriers to the IFNP's removal from the UK will be received if the following are present: -
- Any in-country right of appeal against deportation or any other immigration decision has been exhausted;
 - Appropriate travel documentation has been secured.
 - A deportation order has been issued.
- 5.3.10 Following a prisoner's TED, if PPCS is notified that there are no barriers to the prisoner's removal from the UK and they have a travel document then PPCS will consider the prisoner's suitability to be removed under TERS without waiting for the next Parole Board review to commence. This will ensure that, where there are no barriers to removal, prisoners can be removed without unnecessary delay.

Authorisation of Removal

- 5.3.11 Where PPCS authorises the IFNP's removal, PPCS must notify HOIE, the prison and the POM (and Probation Practitioner if one has been assigned).
- 5.3.12 HOIE must inform the prison of the date that they will affect the removal and the prison must notify PPCS of this date.
- 5.3.13 The governor of the holding establishment may hand over the IFNP to an IRC for the purpose of removal from the UK either on or after TED.
- 5.3.14 The parole review should continue until formal notification of deportation is received from HOIE. HOIE must inform PPCS once the prisoner has been removed from the country at which point, PPCS will notify all parties, and the review will be cancelled.
- 5.3.15 Where removal is unsuccessful, the prisoner's parole review will continue.
- 5.3.16 Where there is a failure in the deportation process then the prisoner may continue to be held in the IRC if there is a realistic prospect of re-arranging removal in the near future.

TERS Breach Process

- 5.3.17 Where a prisoner has returned to the UK and is liable to be detained, the PPCS confirmation will advise which prison released the prisoner and the receiving establishment must obtain the prisoner's original sentencing warrant and prison records (see requirement paragraph 3.3.34).
- 5.3.18 Any subsequent consideration of a removal under TERS, must take into consideration any previous breaches.

PART 2 – PAROLE BOARD REVIEWS

5.4 Pre-Tariff Reviews for ISPs

5.4.1 Pre-Tariff ISPs are eligible to have their case referred to the Parole Board to consider their suitability for transfer to open conditions up to three years prior to their TED. In order to target Parole Board and HMPPS resources effectively, the Secretary of State only refers those pre-tariff cases to the Parole Board where there is a reasonable prospect of the Board making a positive recommendation. Prior to a scheduled pre-tariff review, a pre-tariff sift will take place to ascertain whether an ISPs pre-tariff review should take place.

Pre-tariff Sift

5.4.2 PPCS calculate the pre-tariff review date once they have received notification of a newly sentenced ISP. Prisons will be made aware of the pre-tariff review date shortly after via a notification (see requirement paragraph 3.1.8).

5.4.3 The SPRM should consider whether to recommend that a case be referred to the Parole Board for consideration of the prisoner's suitability for open conditions. As part of this recommendation, practitioners must consider the first two criteria of the test for open conditions (set out in guidance 5.8.2).

5.4.4 A sift is not required for prisoners who are excluded from open conditions due to the Secretary of State's policy on those with a history of abscond or escape (see constraint paragraph 4.6.1). Prisons should consult the PPCS if there is any doubt over whether a sift is required.

5.4.5 The following areas should be considered by the SPRM in making their recommendation to PPCS: -

- Static risks identified in the case;
- Current Asset Plus or OASys Risk of Serious Harm assessment;
- Risk of abscond;
- Interventions undertaken or ongoing, including accredited programmes and completion dates where applicable;
- Progress against objectives in the sentence plan and prisoner's engagement with this progress;
- Custodial behaviour;
- Outstanding sentence planning targets;
- Security information available.

5.4.6 The following factors will normally lead to a presumption that the prisoner does not meet the criteria to be referred to the Parole Board for a first/further pre-tariff review, however this does not mean the prisoners are automatically excluded. The prisoner may be eligible for an exceptional transfer to open (see requirement chapter 3.5). The factors are:-

- Exclusion from open criteria is met (see constraint paragraph 4.6.1 and 4.6.2)
- Category A status;
- OASys assessment of high/very high risk of harm;
- A proven adjudication for serious violence within last 12 months.

5.4.7 Where factors have been identified that may preclude the ISP from a pre-tariff review the SPRM must record them in the SPRM minutes, stating that the prisoner has been deemed

unsuitable for referral. Where such factors do exist but the SPRM considers that there are exceptional circumstances leading them to conclude that the prisoner's case should be referred, the minutes must set out clearly what the circumstances are which have led to this exceptional recommendation.

Further Pre-Tariff Request

- 5.4.8 Where a prisoner is considered to have made good progress since their last SPRM or since their last pre-tariff review, the SPRM may consider whether it is appropriate to recommend that the case be referred to the Parole Board for a further pre-tariff review prior to tariff expiry. The decision to recommend referral is for the SPRM. As part of this, practitioners must consider the first two criteria of the test for open conditions (set out in guidance 5.8.2).
- 5.4.9 The criteria to be applied for a further review are the same as for an initial pre-tariff review, namely: there is evidence of sufficient progress on the part of the prisoner to suggest that if the case was referred to the Parole Board, there would be a reasonable prospect that the prisoner may receive a positive recommendation in support of a transfer to open conditions.
- 5.4.10 Governors may delegate any requirement under this process to suitable grades within their establishment as long as that person has the necessary knowledge and skills to perform that requirement.
- 5.4.11 A decision to advance the review date does not guarantee that a pre-tariff review will take place. This decision will be taken by PPCS.

Advancing the Pre-Tariff Review Date

- 5.4.12 Where an ISP becomes a Category C prisoner or a female Second Stage prisoner, the prison can apply to PPCS for the date of the pre-tariff review to be brought forward by six months to begin three and a half years before tariff expiry. This application cannot be submitted any earlier than four and a half years before tariff expiry.
- 5.4.13 Prior to submitting a request for advancement, consideration must be given to whether the first two criteria of the test for a move to open conditions is met (see guidance at 5.8.2). This must be evidenced as part of any future requests for advancement of the review.

When requesting an advancement, prisons should provide PPCS with the following:

- The date that the prisoner becomes a Category C prisoner or a female Second Stage prisoner;
- A copy of the most recent SPRM report.

- 5.4.14 This will aid PPCS in determining whether the prisoner qualifies for an advancement of their first pre-tariff review. PPCS will work with the POM to gather their views on whether the review should be advanced by the final decision lies with PPCS.

5.5 Exceptional Transfer to Open Conditions

- 5.5.1 The Secretary of State is required to consider transfer to open conditions in cases where an ISP has demonstrated exceptional progress whilst in custody. This decision is made without reference to the Parole Board. The Secretary of State will apply all three of the criteria in the test for open conditions criteria (set out in Guidance 5.8.2), alongside the criteria for exceptional progress when considering an exceptional transfer to open conditions.

5.5.2 This process only applies to ISPs where the case has been referred to the Parole Board, the parole process has commenced and there is a complete dossier of reports.

5.5.3 The criteria for exceptional progress are:

- The prisoner's parole dossier must contain evidence that the prisoner has made significant progress in addressing all identified risk factors; and
- There must be a consensus among report writers that the prisoner is suitable and safe to be transferred to open conditions; and
- There are no areas of concern identified which would clearly benefit from further exploration by an oral hearing of the Parole Board; and
- The prisoner has demonstrated in their representations that there are clear benefits to being transferred to open conditions immediately rather than following the established process (for example, because it would maintain the momentum of their recent progress or would allow sufficient time for the prisoner to be fully tested in open conditions prior to the expiry of their tariff).

5.5.4 As part of this consideration, practitioners must consider whether the first two criteria of the test for a move to open conditions is met (see guidance at 5.8.2).

5.5.5 Applications for an exceptional transfer to open can be submitted to PPCS in the following ways:

- If the prisoner does not have legal representation, the prisoner can apply via the prison;
- If the prisoner does have legal representation, the legal representatives can apply;
- Exceptionally the prison can apply where it has been identified as part of an SPRM that the prisoner would benefit from an exceptional transfer to open.

5.5.6 Applications should provide any supporting evidence that will aid PPCS with determining whether the prisoner qualifies for an exceptional transfer to open.

5.5.7 Applications are considered on their individual merits, although usually the prisoner will have to meet all the criteria for their application to be regarded as exceptional. The restrictions on transferring to open conditions by virtue of any previous absconds, escapes (For further information please see Release On Temporary Licence Policy framework) or deportation status also apply (for further information please see Release on Temporary Licence Policy Framework). PPCS will make the final decision on whether to transfer an ISP to open conditions without reference to the Parole Board.

5.5.8 In the event that an exceptional transfer to open conditions is accepted then in pre-tariff cases, the Parole Board will inform the prisoner that the review is now closed. For on and post-tariff reviews, the Parole Board will continue to review the case but only in terms of suitability for release.

5.6 Generic Parole Process (GPP)

Timing and Frequency of Parole Board reviews

5.6.1 An ISPs first Parole Board review must take place no later than their tariff expiry date and must take place at least every two years thereafter.

- 5.6.2 A parole eligible terrorist and terrorist connected prisoner will be parole eligible at the two thirds point of their sentence or, if their sentence is an Extended Determinate Sentence, Special Custodial Sentence for Certain Offenders of Particular Concern or Extended Sentence for Public Protection, at the two thirds point of their custodial term. Their first review must take place no later than their Parole Eligibility Date (PED) and at least every two years thereafter until the expiry of their sentence or custodial term (as applicable), at which point they must be released. A parole eligible terrorist and terrorist connected prisoner is a prisoner serving a determinate sentence for an offence listed in s247A(2) of the CJA 2003 (being a terrorist offence listed in Part 1 of Schedule 19ZA to the CJA 2003 or an offence listed in Part 2 of that Schedule which was determined by the court to have had a terrorist connection). This provision overrides the timing and frequency provisions of the determinate sentences specified below.
- 5.6.3 Those serving any extended sentences, including Extended Determinate Sentence (EDS) imposed before 13 April 2015 where the custodial period was one of ten years or more or where the offence was listed in Schedule 5B of the CJA 2003, as well as all those serving and EDS imposed on or after 13 April 2015, will be parole eligible at the two thirds point of their custodial term. Their review must take place no later than their Parole Eligibility Date (PED) and at least every two years thereafter until the expiry of their custodial term, at which point they must be released.
- 5.6.4 Those serving a Special Custodial Sentence for Certain Offenders of Particular Concern (SOPC) pursuant to sections 265 and 278 of the Sentencing Act 2020 (formerly section 236A of the Criminal Justice Act 2003) for sex offences are currently eligible for release by the Parole Board at the halfway point of their custodial term (for terrorist offenders on a SOPC, see para 5.6.2 above). Their first review must take place no later than their PED and at least every two years thereafter until the expiry of their custodial term, at which point they must be released. The Police, Crime, Sentencing and Courts Act (2022) altered the eligibility for release of SOPC prisoners who committed a sex offence, sentenced on or after 28 June 2022. They will be eligible for release by the Parole Board at the two thirds point of their custodial term. Their first review must take place no later than their PED and at least every two years thereafter until the expiry of their custodial term, at which point they must be released. Prisoners sentenced to a SOPC for sex offences prior to 28 June 2022 will not be affected by this change.
- 5.6.5 Those serving a Discretionary Conditional Release (DCR) sentence have their PED at the halfway point of the sentence and must be reviewed annually thereafter until the two thirds point of the sentence, at which point they must be released.
- 5.6.6 For those standard determinate sentenced prisoners subject to the Power to Detain process, the Parole process (potentially expediated) will commence once the HMPPS panel has taken a decision that a case should be referred to the Parole Board. Consideration to refer to the Parole Board under the Power to Detain should not take place more than 12 months prior to conditional release.
- 5.6.7 Those prisoners serving an Extended Public Protection (EPP) sentence that was imposed before 14 July 2008 are eligible for parole at the halfway point of their sentence and will be reviewed annually until the expiry of their custodial term.
- 5.6.8 The review date is calculated on the basis of time spent in custody. If a prisoner escapes, then the date of his or her review will normally be put back by the period the prisoner was unlawfully at large.

5.6.9 It is imperative that PPCS and prisons ensure the timely commencement of the GPP. It is essential that all parties adhere to the GPP timetable to ensure that the review process is concluded on time.

PPUD Automatic Notifications

5.6.10 When a new document is uploaded to a placeholder in the dossier on PPUD, the uploading member of HMPPS staff should click 'Create Dossier' to issue an automatic notification. The automatic notification will notify them that a new report has been added to the dossier and the dossier was recompiled.

5.6.11 The automatic notification is issued to all parties listed on the PPUD contact list for that review including the Probation Service, the holding prison and Parole Board. It is important that the correct contact details for all parties are stored on PPUD and are regularly updated. If the contact details are incorrect or an incorrect party (e.g. prison) is recorded on PPUD, the notification will still be issued to them.

Compiling the Core Dossier

5.6.12 PPCS will complete a review of the core dossier at the start of each GPP review. It is the Prison's responsibility to provide up to date previous convictions (and any other requested documents) at this stage upon request from PPCS. All mandatory documents are set out in The Parole Board Rules and prisons must ensure that they provide the document to PPCS when requested.

Review Initiation – Week 0

5.6.13 Upon receipt of the automatic PPUD notification that the core dossier has been compiled, PPCS will commission the following mandatory documents:

- On/Post Tariff PAROM1 (Probation Practitioner)
- The full OASys report reviewed within the last 12 months from the target month of the review hearing, countersigned, where required, by OASys supervisor

On receipt of the automatic notification, the prison will commission the following mandatory reports:

- On/Post Tariff Parole Custody Report (previously SPRL) to be provided within four weeks.
- SPR H - security report to be provided within three weeks.

5.6.14 The Prison may commission/upload to the dossier the following reports where identified as necessary:

- SPR E – PRA (Psychology Risk Assessment) Report;
- SPR F – Health Care Report;
- Prisoner's personal representations.

Reports for Parole Reviews

5.6.15 All reports should be completed in line with the timescales requested and added to the parole dossier in a timely manner to ensure the GPP process can be progressed appropriately.

- 5.6.16 All reports provided should be of good quality to ensure that they provide the Parole Board with all information pertaining to the prisoner's risk, plans for progression (in line with their sentence plan) and suitability for release into the community. The information must be up to date, accurate and reliable. HMPPS staff should take a collaborative approach (including close liaison with the VLO), sharing information with other report writers and departments where appropriate, to enable well informed, good quality and timely submission of reports for the Parole Board. Their contents should be supported by evidence, with sources of information noted. Further information is available on the following links - Parole and Recall Dossier Quality Principles document and the OMIC Parole Quality Assurance Frameworks.
- 5.6.17 Further to the amendments to the Parole Board Rules 2019, which introduced the overarching Secretary of State view, in line with requirement 3.6.12, when report writers create a report for the parole dossier, they are permitted (but not required) to provide the Parole Board with their professional opinion on whether the prisoner is safe to be managed in the community, or moved to open prison conditions, provided that they feel able to give a such an opinion. Any professional opinion which the report writer gives the Board should be made by reference to the report writer's area of competence, as well as to their interactions with the prisoner.
- 5.6.18 HMPPS report writers (including those externally commissioned and written on behalf of HMPPS) must continue to provide a rigorous and comprehensive assessment of the prisoner's risks and needs, using evidence-based tools and applying their professional judgment. Fundamental to the risk/needs assessment will be an account of the activities, interventions, and other work which the prisoner has completed with a view to reducing their risk, as well as a statement of outstanding risk factors. In addition, a full risk management plan should be provided which sets out how specific areas of risk will be managed on release.
- 5.6.19 Probation Practitioners/YJSs should include any available information on aftercare provisions for those prisoners who have previously been detained under the Mental Health Act 1983 in reports to ensure that the Parole Board is in receipt of all necessary information. Please see 5.12.12 for further information.
- 5.6.20 The Parole Board Rules do not affect the Parole Board's powers to specifically direct that a report writer provides a report which contains an opinion on a prisoner's suitability for release or open conditions. In those circumstances, report writers must comply with the Parole Board's direction to the extent that they feel able to give an opinion. Further guidance is available via this [link](#) on EQUIP.
- 5.6.21 Following the High Court's judgment in Bailey and Morris v Secretary of State for Justice Judgment, changes were made to the Parole Board Rules 2019 which came into force on 3 April 2023. HMPPS witnesses attending an oral hearing (including psychologists commissioned by HMPPS) should be mindful that the Parole Board has a power to ask witnesses questions to satisfy itself of the level of risk of the prisoner. It is a matter for the Parole Board to determine what questions it asks a witness, and witnesses must assist the Parole Board by providing answers to their questions to the extent that each witness is able to answer the question. Any professional opinion which the witness gives to the Parole Board should be made by reference to their area of competence, in addition to their interactions with the prisoner. HMPPS Witnesses must co-operate with the Parole Board and must truthfully answer any questions posed by the Parole Board during the hearing, to the extent that the witness feels capable of providing the Board with an answer. If a witness feels capable of providing an opinion on the question of whether a prisoner can be safely managed in the community or be transferred to open conditions, they should provide the Parole Board with their opinion. Where the witness feels unable to provide a professional

opinion, they should explain why. Witnesses who provide the Parole Board with their opinion should ensure that the opinion presented is their own, and not on behalf of the Secretary of State. The Secretary of State is a party to Parole Board proceedings and may wish to present their own overarching Secretary of State view as to whether or not the statutory release test is met, or on whether a prisoner should be moved to open conditions, see requirement 3.6.17 for further information. It should be noted that from 3rd February 2025 the Victims and Prisoners Act 2024 codifies the statutory release test and sets out in legislation some of the factors the Parole Board must consider when making a decision on release. More information on this is available on EQuIP.

- 5.6.22 Where considered appropriate, the Secretary of State may choose to provide the Parole Board with an overarching Secretary of State view which takes account of all reports and available evidence, including any professional opinions offered by report writers pertaining to the prisoner's suitability for release. The Public Protection Group will agree with the Secretary of State which cases meet the criteria for an overarching Secretary of State view. HMPPS Report Writers will be informed at the earliest opportunity where the Secretary of State chooses to provide an overarching view. Where an overarching Secretary of State view is provided, the Secretary of State will be represented at an oral hearing by either a Secretary of State representative or by legal Counsel.
- 5.6.23 HMPPS Reports should continue to provide any factual evidence which may be pertinent to the criteria for an overarching Secretary of State view, which are: 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):
- Cases involving multiple victims or where there is a history of serious offending, indicating a pattern or escalation of such offences;
 - Where the gravity of the offending behaviour indicates that, if further such offences were to be committed, the level of harm to the public would be particularly grave; and
 - Where a case raises issues in relation to victims' confidence more broadly in the parole system.
- 5.6.24 In the case of Johnson⁶, the High Court confirmed that the Parole Board need to consider the risk that a prisoner may pose to the public if they were released from custody, up to and beyond their conditional release date and sentence expiry date (SED). The decision must be taken purely by reference to the need to protect the public. If their assessment is that the prisoner will pose a more than minimal risk of serious harm to the public, then the release test is not met. However, also note, the High Court in Dich and Murphy clarified the test and held there must be a causal link between preventing/reducing risk and continued detention for the release test to be satisfied. This also applies to offenders who have been recalled to custody. Further information on the Johnson Judgement is available via this link.
- 5.6.25 Probation Practitioners are encouraged to consider what reports/information or referrals might also be necessary for the parole review, (for example, healthcare reports, local authority reports, referrals to social care or accommodation providers) and ensure that the progress of the completion of these reports/referrals is contained within the PAROM in order to update the Parole Board accordingly. POMs should assist to ensure these reports/referrals are progressed, for example, by providing the Probation Practitioner with necessary information and support the individual to engage with this progress. When

⁶ *Secretary of State for Justice v The Parole Board* [2022] EWHC 1282 (Admin)

commissioning reports that require funding, this will be a matter for the Parole Board to consider and direct where deemed necessary.

- 5.6.26 It is imperative that the dossier includes contributions from a range of staff as effective risk assessment is based on a multi-disciplinary approach that draws on a range of sources.
- 5.6.27 Healthcare information is likely to be required by the Parole Board where the prisoner's physical or mental health is relevant to their risk of harm. For example, it may have an impact on their physical ability to commit another serious violent offence, or the prisoner may need specialist care and/or accommodation to be available before they can be safely released on licence.
- 5.6.28 Prison healthcare staff will be asked to provide evidence to the Parole Board on a professional basis, not an expert basis. This means that they are required to provide factual evidence about the prisoner's health, such as the diagnosis, including any autism diagnosis, their physical capacity, the treatment being provided, and, where appropriate, their prognosis. They are not required to provide an opinion on the prisoner's risk of harm and should not offer one. The task of assessing risk is the responsibility of the POM, Probation Practitioner and in some cases, a psychologist or other expert.
- 5.6.29 NHS England and NHS Wales have confirmed that requests by the Parole Board for professional evidence, including oral evidence, are covered by existing healthcare contracts and therefore should be completed as 'business as usual' tasks. In the event that Healthcare staff raise issues about their contractual requirements they should be referred to this Framework and advised to seek guidance from their local commissioning team in the first instance. If concerns persist then OMU staff must escalate the matter to PPCS.
- 5.6.30 Specialist reports (for example reports providing expert evidence pertaining to risk) are not covered under the NHS healthcare contracts. It is the responsibility of the holding establishment to pay any fees for these specialist reports directed by the Parole Board. Where prisons are unsure if the report is considered a specialist or professional report, they can contact the PPCS case manager for advice. Further guidance on Parole Board directed specialist reports can be found here.
- 5.6.31 Where there are concerns that a direction for a specialist report may not be necessary, these should be addressed as soon as possible, via the variation/revocation process (please see Requirement 3.6.45).
- 5.6.32 Where there are concerns that a direction for a specialist report may not be clear, clarification should be sought, or a variation requested (please see Requirement 3.6.45).
- 5.6.33 Upon being notified of any dispute about the completion of a report, PPCS will seek to resolve the matter in conjunction with colleagues in the NHS England/Wales as necessary.
- 5.6.34 When all mandatory prison-based reports and any supporting documents have been uploaded to PPUD, the prison must manually complete milestone 21a. The prison will check the reports prior to uploading them in line with the Parole and Recall Dossier Quality Principles guidance document. The prison will also ensure that all prison-based reports are disclosed to the Probation Practitioner.
- 5.6.35 PPCS is responsible for referring the dossier to the Parole Board. In cases where the prisoner is held in hospital, PPCS will provide a copy of the dossier via email. Upon receipt of the dossier, the hospital must ensure that a copy of the full dossier is disclosed to the prisoner immediately and that the prisoner is given the opportunity to discuss their case with their legal representative either on a legal visit or on the telephone or via video link.

The dossier and all information regarding the prisoner's parole should be provided in person. If a VPS is present in the dossier at this stage, then the hospital will need to take appropriate measures to store it as detailed in requirement 3.6.69.

Parole Board Member Case Assessment (MCA) – Week 14

- 5.6.36 The Parole Board will become responsible for requesting legal representations from the point of formal referral by PPCS. The Parole Board will issue a decision at MCA stage. Further information is available in the Member Case Assessment (MCA) Guidance.
- 5.6.37 The Parole Board will be responsible for acquiring all third-party directions (except where any third-party report is intrinsic to the proposed risk management plan for the prisoner). PPCS will retain responsibility for all directions compliance in National Security and terrorism risk cases, managed by the PPCS National Security Casework Team. The Parole Board will be responsible for re-compiling and disclosing the dossier as shown in requirement paragraph 3.6.44.
- 5.6.38 All Parole Board directed HMPPS directions will remain the responsibility of PPCS and the prison, including the recompiling of the dossier and disclosing the dossier to all parties.

Decision Outcomes – No Direction of Release / Negative Decision

- 5.6.39 Where the Parole Board makes a negative decision on the papers at the MCA Stage e.g. that the prisoner must stay in closed conditions, the prisoner has 28 calendar days to make representations requesting an oral hearing. The decision will remain provisional until the 28 calendar days have elapsed, after which the decision will become final (unless the prisoner has successfully requested an oral hearing), or the decision is subject to reconsideration.

Decision Outcomes – Direction of Release

- 5.6.40 All parties should refer to requirement chapters 3.7 and 3.9 and guidance chapters 5.7 and 5.9 in this framework.

Oral Hearing Directions

- 5.6.41 See guidance paragraphs 5.6.28 to 5.6.31 for information on the Parole Board Member Case Assessment (MCA).

Notification of Oral Hearing Date

- 5.6.42 The attendance of witnesses at an oral hearing is a matter for the Parole Board. Each party must apply in writing to the Parole Board (copied into the other parties) for leave to call witnesses. A witness may only attend if so directed by the Parole Board.
- 5.6.43 The Parole Board will contact all witnesses who have been directed to attend the hearing to ascertain their availability, so that this can be taken into account when the hearing is listed. It is important that witnesses provide their availability direct to the Parole Board within the deadline set. The Parole Board is not bound by witness availabilities.
- 5.6.44 Witnesses not based at the prison where the hearing is being held are encouraged to apply to give their evidence by video- or telephone conference wherever possible in order to reduce travel expenses and improve efficiency by reducing time spent out of the office.
- 5.6.45 Where a HMPPS member of staff wishes to attend an oral hearing as an observer, they should apply in writing via PPCS to the Parole Board. PPCS will submit applications to

observe an oral hearing eight weeks before the date allocated for the oral hearing. The panel chair will consider the request, and will agree or refuse. The Parole Board will consult with the prisoner prior to agreeing or refusing any such request. Victims engaged with the Victim Contact Scheme can also apply to observe an oral hearing and should speak to their victim liaison officer.

New Information Relating to Risk

5.6.46 Where new information comes to light regarding the prisoner's risk at any point during the parole process, the relevant report writer should contact PPCS immediately.

Secretary of State Representatives

5.6.47 PPCS will consider sending a Secretary of State Representative to attend an oral hearing but only where representation is required in order to facilitate the progress of the review.

5.6.48 Where PPCS deem it appropriate for a Secretary of State Representative to attend, they will inform the prison and the Parole Board who the representative will be in advance of the hearing.

5.6.49 Further to the requirement at 3.6.14, which sets out the amendment to the Parole Board Rules 2022, where considered appropriate, the Secretary of State may choose to provide the Parole Board with an overarching Secretary of State view which takes account of all reports and available evidence, including any professional opinions offered by report writers, . Where an overarching Secretary of State view is provided, the Secretary of State will be represented at any oral hearing by either a Secretary of State representative or by legal Counsel.

5.6.50 In addition, and entirely separate to the above, HMPPS (via the HMPPS Victim Representative) also provides support to victims who choose to attend a face to face or public oral hearing in order to read a Victim Personal Statement (VPS). Where a VPS is being read by a victim remotely, the victim will be supported by their Victim Liaison Officer.

Setting Aside Parole Board Directions to Release

This section of the Policy Framework came into force with the commencement of the changes to the Parole Board Rules 2019 on 21 July 2022.

5.6.51 An amendment to the Parole Board Rules 2019 provides the Parole Board with the power to set aside a final decision, where the case meets the following criteria:

- There has been an **error of law or fact (for example where the proceedings were unlawful or relied on factually incorrect information) and the Parole Board made a decision**, which they determine would not have been made were it not for the error, or
- Where a direction given by the Parole Board for the release of a prisoner, which the Parole Board determines it would not have given if:
 - i). It had received information that was available but that was not provided to the Parole Board when they made the decision, or,
 - ii). a change in circumstances relating to the prisoner, that occurred after the decision was issued, had occurred prior to the decision being made.

- 5.6.52 Where the Probation Service or Prison determines that a case meets the criteria for the Parole Board to set aside their decision, they must inform the allocated PPCS case manager (if the PPCS case manager is not known, then the notification should be sent to the relevant PPCS functional mailbox **marked as urgent**). PPCS will assess whether the request meets the criteria, as set out above, for the decision to be set aside and will decide whether an application should be made to the Parole Board.
- 5.6.53 PPCS (on behalf of the Secretary of State) has **21 calendar days from the point that the decision was confirmed as final** to apply to the Parole Board for the decision to be set aside where it believes that an **error of fact or law** was made.
- 5.6.54 PPCS (on behalf of the Secretary of State) has **up until the prisoner is released from custody** to apply to the Parole Board for the decision to be set aside where it believes that there is **new information or a change in circumstances**.
- 5.6.55 It should be noted that where the Parole Board become aware of information that may prompt the need to set aside the original decision, they have the power to commence this process themselves. In these cases, the Parole Board will seek representations from both the Secretary of State and the prisoner and legal representative (where applicable). In these circumstances, the process will mirror the requirements set out above and HMPPS staff should ensure that all appropriate requirements are followed (See requirements 3.6.78-3.6.86).

Setting Aside Parole Board Directions Not to Release

This section of the Policy Framework came into force with the commencement of the changes to the Parole Board Rules 2019 on 21 July 2022.

- 5.6.56 Where the Parole Board makes a direction not to release an individual, the Secretary of State or a prisoner (or legal representative, if applicable) can apply to Parole Board for the final decision to be set aside.
- 5.6.57 The Parole Board has the power to set aside a final decision, where there has been an **error of law or fact (where the proceedings were unlawful or relied on factually incorrect information) and the Parole Board made a decision**, which they determine would not have been made were it not for the error.
- 5.6.58 In the first instance prisoners should seek advice from their legal representative (if applicable) or speak to their Probation Practitioner. Prisoners should write directly to the Parole Board to apply for them to set aside their decision via settingaside@paroleboard.gov.uk.
- 5.6.59 The Secretary of State or the prisoner has **21 calendar days** to apply to the Parole Board for the decision to be set aside where it believes that an **error of fact or law** was made.
- 5.6.60 It should be noted that where the Parole Board become aware of information that may prompt the need to set aside the original decision, they have the power to commence this process themselves. In these cases, the Parole Board will seek representations from both the Secretary of State and the prisoner and legal representative (where applicable). In these circumstances, the process will mirror the requirements set out above and HMPPS staff should ensure that all appropriate requirements are followed (See requirements 3.6.80-3.6.88).

5.7 Reconsideration of Parole Board Decisions

Parole Board decisions to not release

- 5.7.1 Where the Parole Board makes a decision not to release the prisoner following an oral hearing, the prisoner or their legal representative has 21 calendar days to apply direct to the Parole Board for the decision to be reconsidered where they believe that the eligibility criteria has been met. All applications should be sent via email to Reconsideration@paroleboard.gov.uk. The decision will remain provisional for 21 calendar days, after which the decision will become final (unless the prisoner has requested an extension or submitted an application for the decision to be reconsidered).
- 5.7.2 In line with requirement 3.7 when informing the prisoner, that the Parole Board has made a negative decision, it is important that prison staff ensure that appropriate support for the prisoner is put in place, where required, to ensure the safety of both the prisoner and staff.
- 5.7.3. All parole decisions should be issued in person with consideration of how and where the decision outcome should be communicated, so an accurate assessment can be made of the prisoner's risk of harm to themselves or others can be effectively made. For further information on safety in prisons and procedural justice see attached links – Safety in Prisons and Procedural Justice. the relevant links.
- 5.7.4 If the prisoner is under the care of Assessment, Care in Custody and Teamwork (ACCT), particular care should be taken when delivering the news. Staff should ensure that there is the appropriate support in place.

Application Window Extension Requests

- 5.7.5 Extension requests should only be submitted in exceptional circumstances.
- 5.7.6 Where the prisoner wishes to request an extension of the application window, the extension request must be sent direct to the Parole Board FMB Reconsideration@paroleboard.gov.uk within the 21-calendar day deadline. Extension requests can be submitted direct from prisoners or via their legal representative. Legal representatives should send extension requests direct to the Parole Board FMB Reconsideration@paroleboard.gov.uk. Requests sent to PPCS in error will not be accepted by the Parole Board. Extension requests should provide clear reasons why the extension is required and must submitted to the Parole Board prior to day-21.

The Application

- 5.7.7 Applications for reconsideration should only be submitted where the eligibility criteria are met.
The eligibility criteria are 'a party may apply to the Board for the case to be reconsidered on the grounds that the decision –
- a. Contains an error of law;
 - b. Is irrational; or
 - c. Is procedurally unfair
- 5.7.8 Applications can be submitted direct from prisoners or via their legal representative to the Parole Board functional mailbox (FMB) Reconsideration@paroleboard.gov.uk.

Parole Board Release Decisions

- 5.7.9 Where the Parole Board issues a release decision on the papers or following an oral hearing, PPCS (on behalf of the Secretary of State) has 21 calendar days to apply to the

Parole Board for the decision to be reconsidered where it believes that the eligibility criteria has been met. The release decision will remain provisional for 21 calendar days, after which the decision will become final (unless the Secretary of State has requested an extension to the application period or has submitted an application for the decision to be reconsidered). The prisoner cannot be released during this period, unless authorised by PPCS. See guidance paragraphs 5.7.13 – 5.7.14 for further information about how a prisoner may exceptionally be released within the 21-day window.

The Application

- 5.7.10 The eligibility criteria are 'a party may apply to the Board for the case to be reconsidered on the grounds that the decision –
- a. Contains an error of law;
 - b. Is irrational; or
 - c. Is procedurally unfair
- 5.7.11 Only PPCS, on behalf of the Secretary of State, or the prisoner can apply to the Parole Board for reconsideration as they are parties to the proceedings. A victim or interested party (e.g. a member of the public) can also make representations to the Secretary of State requesting that an application of reconsideration be considered and the Secretary of State will consider if the eligibility criteria has been met. Requests for reconsideration can be submitted direct from victims or via the VLO. All requests should be sent to PPCS FMB reconsiderationrequests@justice.gov.uk. **Requests must not be sent direct to the Parole Board.** The Secretary of State must submit any application for reconsideration within the prescribed window, which may have been reduced or extended. If a victim or interested party wishes to submit representations, they should be provided in a timely manner to ensure the Secretary of State can give full consideration to the request. PPCS review all eligible release decisions, and should a request be received from the victim/interested party, they will review the decision for a second time.
- 5.7.12 The prisoner cannot be released while the decision is provisional. However, it is important that Probation Practitioners and PPCS continue to plan for the prisoner's release in the normal way to ensure release goes ahead as soon as possible following the window closing. The length of time that the decision will remain provisional will depend on whether an extension has been granted and whether an application is submitted. The prison should not release the prisoner until PPCS have confirmed that the release decision is final.

Exceptionally reducing the 21-day reconsideration window

- 5.7.13 There is a general power under Rule nine of the Parole Board Rules 2019 for the Parole Board to alter any of the normal times limits set out in the 2019 Rules "*where it is necessary to do so for the effective management of the case, in the interests of justice or for such other purpose as the panel chair or duty member considers appropriate*". An application to alter the normal time limits could be made by the Secretary of State or a prisoner (or legal representative, if applicable). This guidance identifies the cases in which either party can apply to the Parole Board to shorten the 21-day reconsideration period, pursuant to Rule 9. A reduction of this reconsideration window would render the Parole Board decision final earlier, to allow for the prisoner's earlier release.
- 5.7.14 An application to the Parole Board to shorten the 21-day reconsideration period can be made when the following three conditions are satisfied:

1. There are no victims signed up to the Victim Contact Scheme or the Secretary of State has received and considered a request from a victim for reconsideration, and there is no likelihood of further victim requests; *and*
2. The Secretary of State is satisfied that there are no grounds on which to make a reconsideration application; *and*
3. There are exceptional reasons which justify an application to shorten the 21-day reconsideration period, including circumstances for example where:
 - (1) the prisoner is at risk of losing their place in an Approved Premises or other specialist accommodation;
 - (2) the prisoner may lose an opportunity to take up employment;
 - (3) the continuity of a prisoner's healthcare, treatment or medication will be compromised;
 - (4) continued detention may significantly impede arrangements to deport the prisoner;
 - (5) there are other exceptional reasons which justify an application to shorten the 21-day reconsideration period to allow for the prisoner's earlier release.

5.8 Setting the next review date

5.8.1 When considering the timing of the next review, PPCS will:

- Check outstanding and ongoing activities and interventions identified within reports that were placed before the Parole Board in the dossier and as recommended by the Board in its decision;
- Consider the ROTL timetable for ISPs as set out in the Release On Temporary Licence (ROTL) Policy Framework. Check the NPD/CRD date for determinate sentence prisoners;
- Establish with OMU staff and Probation Practitioners any necessary activities and interventions that might need completing, outline a timeframe for completion of any interventions on the sentence plan including the nature of the interventions highlighted by the Parole Board decision and any views that the Board expresses in relation to a testing period;
- Establish the length of the relevant interventions, including the time required to produce post-programme reports in consultation treatment managers/programme managers and other relevant staff;
- Consider those activities and interventions which have been completed or other positive aspects of behaviour that may have been included within the dossier or commented upon by the Parole Board.

ISPs Transferring to Open Conditions

5.8.2 The Secretary of State (or an official with delegated responsibility) will accept a recommendation from the Parole Board (approve an ISP for open conditions) only where:

- the prisoner has made sufficient progress during the sentence in addressing and reducing risk to a level consistent with protecting the public from harm (in circumstances where the prisoner in open conditions may be in the community, unsupervised under licensed temporary release); and
- the prisoner is assessed as low risk of abscond; and
- there is a wholly persuasive case for transferring the ISP from closed to open conditions.

5.8.3 Where the Parole Board recommendation was based on incorrect information, the Secretary of State (or an official with delegated responsibility) is unlikely to accept the

recommendation. The case will normally be referred again to the Parole Board for a fresh consideration and new recommendation, with an explanation, rather than submitting it for formal rejection. For example, where the Board have recommended open on the basis that a particular course is available in open conditions and in fact it is only available in closed conditions.

5.8.4 Where the Parole Board has recommended the transfer of a **Category A prisoner** to open conditions, before a decision is taken as to whether to accept or reject the recommendation, *the Head of PPG (the decision maker) must discuss the recommendation with the HMPPS Directorate of Security (or their delegate).*

5.8.5 When considering whether a prisoner is ineligible for a transfer to open conditions, and abscond, failure to return or escape continues until the prisoner is returned to custody; and the definition of a failure to return is as follows: –

where a prisoner has failed to return to an establishment from ROTL and Unlawfully at Large (UAL) contingency plans have been activated, including notification to the police, unless the prisoner surrenders to prison or police custody later the same day, or other exceptional circumstances apply (e.g. where following further enquiries, the governor is satisfied that the prisoner was unable to return as required due to circumstances beyond their control). The failure to return continues until the offender is returned to custody.

5.8.6 There is a very strong presumption that an ISP with a history of recent or repeated absconding will not be suitable to transfer to open conditions. However, exceptionally, the prisoner might be assessed as to their suitability for open conditions at the next, and each successive, parole review. It is for PPCS to make the assessment as to whether the test of exceptional circumstances is met in each given case following the GPP. The exceptional circumstance criteria are as follows:

- You have made significant progress in reducing your risk of harm and risk of abscond such that a further abscond is judged very unlikely to occur;

AND that you meet one or more of the following exceptions:

- 1) there are compelling circumstances beyond your control which make a placement in open conditions necessary;
- 2) a placement in open conditions is absolutely necessary, in that your need to provide evidence of reduced risk for your parole reviews and your need for resettlement work cannot be met in a progressive regime in closed conditions;
- 3) preventing your return to open conditions would in all the circumstances be manifestly unjust/unfair.

5.8.7 Terrorist and terrorist connected offences

There is a presumption that any prisoner serving a custodial sentence, whether determinate or indeterminate, for an offence listed in section 247A(2) of the Criminal Justice Act 2003 is unsuitable for open conditions, unless exceptional circumstances can be evidenced. Alternate options should be considered e.g. a Progression Regime. In indeterminate cases only, should the POM/ Probation Practitioner consider a prisoner meets the definition of the above offences then they should discuss this further with PPCS and their regional TACT lead if they require further guidance. It is for PPCS to determine whether the circumstances are exceptional. Where considered exceptional, the referral to the Board must include consideration of open conditions.

- 5.8.8 PPCS must be satisfied that the prisoner is not excluded from open conditions by virtue of their deportation status (see Release on Temporary Licence Policy Framework). Where an IFNP has been recommended a transfer to open condition by the Parole Board, an enhanced risk assessment will be conducted by the POM at the request of PPCS for further information refer to Release on Temporary Licence Policy Framework.
- 5.8.9 For more information regarding the eligibility, frequency and duration for different types of ROTL, see the Release On Temporary Licence (ROTL) Policy Framework.
- 5.8.10 Decisions must always be taken on a case by case basis, based upon the individual circumstances of the case. In pre-tariff cases, the next review must always be set prior to the tariff expiry date. The next review date letter must also be copied to the prisoner's legal representative.

Changing the Date of the Next Review

- 5.8.11 Where the review period is no longer deemed as sufficient for the prisoner to complete necessary risk reduction work, PPCS should consider extending the review period.
- 5.8.12 Criteria for extending the review period:
- i. New review period complies with the statutory two years period and
 - ii. If it is rational and reasonable in all the circumstances (e.g. risk has demonstrably increased – not because of resourcing/timescales).
- 5.8.13 Where the prisoner has completed all the necessary risk reduction work, before the initiation of the parole review, PPCS can bring the review forward.

5.9 Release

- 5.9.1 Where the Parole Board directs the release of a prisoner, PPCS will work with the Probation Practitioner and the releasing prison to ensure that the prisoner is released as soon as possible. This includes contacting the Probation Practitioner to confirm the release arrangements and reporting instructions (the time that the released prisoner should report and to whom). This is to ensure the integrity of the release and risk management plan. Where the Probation Practitioner would like to seek a variation to the licence conditions set by the Parole Board, the Probation Practitioner should provide full details of the amended licence condition wording with reasons for the variation to PPCS. PPCS will then seek a variation.
- 5.9.2 If an IFNP is directed release by the Parole Board, see PSI 04/2013 - the Early Removal Scheme and Release of Foreign National Prisoners for further information.

5.10 Adverse Developments

- 5.10.1 An adverse development occurs where an ISPs behaviour suggests an increase in risk and casts doubt on their suitability for open conditions. Some examples of adverse developments are as follows:
- Escape from closed conditions;
 - Abscond from open conditions;
 - Failure on ROTL;
 - Failing a Mandatory/Voluntary Drug Test;

- Security Information comes to light;
- General behavioural concerns;
- Failing a breath test on return from ROTL;
- Breach of conditions while on ROTL;
- Brewing illegal alcohol;
- Possession of an unauthorised item;
- Arrested for assault;
- Arrested for other offences.

If the POM/Probation Practitioner is unsure whether an incident constitutes an adverse development this should be discussed with PPCS.

5.10.2 Upon receipt of the LISP4 the prisoner has a period of 28 days to make representations.

Prisoners should be removed to closed conditions where there is an escalation in risk which the open prison considers to be unmanageable in open conditions. However, where behaviour, or alleged behaviour, is being explored via means of an adjudication for example, and where the immediate risk remains manageable in open conditions, open prisons should wait for the outcome of any adjudication before taking a decision to remove an ISP to closed conditions and submitting a LISP4.

5.10.3 Once a decision is received from PPCS on the adverse development (whether the prisoner should be returned to open or remain in closed), prisons should ensure that a review of their categorisation is undertaken to ensure that the ISP is placed in the most suitable establishment depending on their sentence plan objectives.

5.10.4 Whilst waiting for a decision on the adverse development from PPCS, prisons are able to transfer the ISP across the closed prison estate and this should happen wherever possible to ensure that they continue to progress towards their sentence planning objectives.

5.10.5 It is not always necessary to refer the case to the Parole Board for advice. A warning letter may be issued by PPCS in cases where there are concerns about an ISP's behaviour but the level of risk presented has not substantially increased to warrant more serious action. Warning letters can be issued if an ISP is:

- awaiting transfer to open conditions; or
- has been temporarily transferred from open to closed conditions.

5.10.6 A warning letter should always be considered before a case is referred to the Parole Board for advice. If the adverse development does not affect risk and is not a major development, a warning letter will usually be sufficient. However, *a warning letter must not be used where it is considered that the ISP's risk has increased and there is a causal link to the index offence.*

5.10.7 It is PPCS' responsibility to add the LISP4 and any other relevant documents to the dossier, once a decision has been made on the adverse development.

5.10.8 IFNPs that have been transferred to open conditions will be removed and returned to closed conditions once they have exhausted the appeal process. Prison should not be removing such prisoners until this has been confirmed (see constraints 4.6.3).

5.10.9 Where prisons consider that the behaviour displayed by the prisoner can be managed within open conditions i.e. does not present an escalation of risk, this should be dealt with in line

with local prison processes. In these cases, the LISP4 does not need to be submitted to PPCS.

5.11 Transfer of prisoners during a Parole Board review

- 5.11.1 Where prisons are considering a transfer during a parole review to allow the prisoner to access a progression opportunity in line with their sentence plan, there must be a clear benefit which will support the delivery of their sentence plan objectives. It is important to bear in mind the impact that a transfer during a parole review may have on the prisoner's review. As set out in requirement paragraphs 3.11.1 and 3.11.2, the sending prison must take responsibility for completing any outstanding directions as it will normally have greater knowledge of the prisoner. Exceptionally, there may be cases where the receiving prison is better placed to complete the reports.
- 5.11.2 The sending prison should update PPUD every time a prisoner is transferred to another prison. This will ensure that PPUD has up-to-date details of the prison's OMU functional mailbox as this is where the automatic notification is sent (see guidance paragraphs 5.6.10 and 5.6.11).
- 5.11.3 Prisons should make every effort to ensure that ISPs' outstanding sentence plan requirements are considered as soon after a Parole Board decision as possible. This is to enable any necessary transfers to undertake outstanding interventions/ROTLs to take place before the next parole review commences. In circumstances where a transfer to access outstanding interventions/ROTLs is necessary to support progression during a parole review (but not after an oral hearing date is set) the transfer should be facilitated.

Transfer between jurisdictions

- 5.11.4 The Crime (Sentences) Act 1997 (section 41 and Schedule 1) provides for prisoners to be transferred from England and Wales (E&W) to another United Kingdom jurisdiction, the Channel Islands, or the Isle of Man, and vice versa. The provisions are used primarily to facilitate family contact, enabling prisoners to transfer to another jurisdiction either to complete their sentences, or for time limited periods, to receive accumulated visits, please see the Providing Visits and Services to Prisoners PSI 16/2011 for more information. There is also provision for prisoners to be transferred for judicial purposes.
- 5.11.5 Transfers are made on either an unrestricted or a restricted basis. Where transfers are made on an unrestricted basis the continued administration of the prisoner's sentence becomes a matter entirely for the receiving jurisdiction. Where a prisoner is transferred on a restricted basis the sending jurisdiction continues to administer certain aspects of the sentence. PPCS will therefore need to hold a GPP review for eligible prisoners in the following circumstances:
- For prisoners transferred from E&W to another jurisdiction on a restricted basis
 - For prisoners transferred to E&W on an unrestricted basis
- 5.11.6 If the prisoner possesses an English/Welsh last known address, the Probation Service area for that address to assume responsibility for the prisoner, which includes providing reports in the above cases.
- 5.11.7 If the prisoner does not possess an English/Welsh last known address, the Probation Service area of the sentencing court will assume responsibility for the prisoner, which includes providing reports for the above cases.

Transfer between jurisdictions – Repatriation

5.11.8 Repatriation is the process whereby a prisoner serving a sentence of imprisonment in England and Wales may be able to serve the balance of their sentence in their home country provided that there is an international agreement in place between the UK and the country of origin and the prisoner is subject to a Home Office Deportation Order. Some agreements allow for compulsory transfers but if a prisoner wishes to transfer voluntarily, the Cross-Border Transfer Section should be contacted for confirmation of possibility of transfer at Crossbordertransfers@justice.gov.uk. For further information see PSI 52/2011 - Immigration, Repatriation and Removal Services.

Restricted Transfer Prisoners and Moves to Open Conditions

5.11.9 Transfers to open conditions for indeterminate sentenced prisoners, who have been sentenced in another UK jurisdiction, and are held in an English or Welsh Prison subject to a restricted transfer, are a matter for the receiving jurisdiction (England and Wales) (purely a categorisation decision). In line with the current decision making processes outlined within this Framework, PPCS on behalf of the Secretary of State is responsible for deciding whether an ISP prisoner is suitable for a move to open conditions. The sentencing jurisdiction (e.g. Northern Irish/Scottish/Isle of Man/Channel Islands Parole Board) governs the release of these prisoners into the community subject to licensed supervision.

5.11.10 It should be noted that all restricted transfer indeterminate sentenced prisoners, who were sentenced in Northern Ireland, will remain the responsibility of the Northern Ireland Parole Commissioner. These prisoners will receive a pre-tariff review in line with the Northern Ireland parole process and will be considered for suitability for a move to open conditions, as part of the on/post tariff parole process in Northern Ireland. As with cases considered by the Parole Board for England and Wales, PPCS on behalf of the Secretary of State is responsible for deciding whether or not to accept these recommendations for a move to open conditions in our jurisdiction (England and Wales).

Restricted Transfer Pre -Tariff Prisoners

5.11.11 As stated in the requirement section of this framework, all restricted transfer ISP pre-tariff prisoners (other than those sentenced in Northern Ireland) must have their suitability for a move to open conditions considered in line with the processes set out in chapter 3.4 of this Framework.

Restricted Transfer on/Post Tariff Prisoners

5.11.12 The prison is responsible for considering whether a prisoner meets the first two criteria of the test for open conditions (see guidance 5.8.2). This consideration should be completed in line with the categorisation review guidelines, and the sentence planning review process. This is set out in the Security Categorisation Policy Framework. In doing so, prisons must give specific consideration as to whether the individual's risks are manageable in open conditions, alongside the progress they have made on their sentence to date. As part of normal sentence planning procedures, the prison should consult with the home area Probation Practitioner for their views on whether a move to open conditions should be recommended and whether it is the right time to commence this new process.

5.11.13 When considering whether a prisoner meets the first two criteria for the test for open conditions, prison should check whether the prisoner is excluded from open conditions, in line with the constraint paragraph 4.6.1.

- 5.11.14 Prisons are able to commence this process for considering a move to open conditions at any time from nine months before the ISPs tariff expiry date but, as the sentencing jurisdiction retain the responsibility for reviewing the prisoner's suitability for release, it is important that prisons are mindful of the timelines for parole reviews being conducted by the sentencing jurisdiction. For example, if a parole review by the sentencing jurisdiction is currently underway, it may be advisable to await the sentencing jurisdiction's decision on release, before commencing the process for consideration of a move to open conditions.
- 5.11.15 As set out in the requirements section paragraph 3.11.13, prisons are responsible for completing the 'Restricted Transfer ISP On/Post Tariff – Move to Open Conditions' report (available on EQuIP to download) and providing this report to PPCS. The prison should also provide all relevant sentencing documentation and, where appropriate, a report from security and healthcare.
- 5.11.16 Where the prisoner is not excluded from open conditions, PPCS will refer the dossier to the Parole Board for advice on open conditions and the case will then broadly follow the generic parole process laid out in chapter 3.6 of this framework. The referral to the Parole Board will only include advice on a move to open conditions. Release is a matter for the sentencing jurisdiction.
- 5.11.17 Where the Parole Board make a positive recommendation for a move to open conditions, PPCS on behalf of the Secretary of State is responsible for deciding whether or not to accept this recommendation for a move to open conditions in our jurisdiction (England and Wales).

Removal to another jurisdiction – Early Removal Scheme

- 5.11.18 All determinate sentenced foreign national prisoners who are confirmed by HOIE as being liable for removal, irrespective of sentence length, offence type or country of origin, must be considered under the Early Removal Scheme (ERS). This allows the Secretary of State to remove prisoners early (up to 18 months before their CRD) and is not voluntary. For further information see PSI 04/2013 - the Early Removal Scheme and Release of Foreign National Prisoners.

5.12 Prisoners detained under the Mental Health Act 1983

- 5.12.1 Prisoners transferred under the provisions of the Mental Health Act 1983 (MHA) do not have a right of access to the Parole Board for as long as they are deemed to have a mental disorder which requires in-patient hospital treatment. While time spent in hospital counts towards the sentence for tariff purposes, in the event that a prisoner is transferred to hospital during any part of the parole review process, that review will be suspended. While detained in hospital, the Secretary of State's functions under the MHA, including consideration of their discharge from hospital, come under the responsibility of the Mental Health Casework Section (MHCS) in the Public Protection Group of HMPPS.
- 5.12.2 Prisoners may be transferred to hospital either immediately by the trial judge when passing sentence (under s.45A of the MHA), or by order of the Secretary of State at any point during the sentence (under s.47). A s.47 transfer direction is often accompanied by a s.49 limitation direction, which places key aspects of the prisoner's time in hospital under the control of the Secretary of State.
- 5.12.3 The power to send a prisoner to hospital under either s.45A or s.47 may be exercised where there is evidence from two registered medical practitioners that:

- the prisoner is suffering from a mental disorder;

- detention in hospital for treatment is appropriate; and
- that appropriate treatment is available for them in hospital

- 5.12.4 A prisoner's suitability to remain detained in hospital under MHA is subject to regular reviews by the 'First Tier Tribunal – Health, Education and Social Care Chamber' ('the Tribunal') and the Mental Health Review Tribunal for Wales. Transferred prisoners may apply to the Tribunal during the second six months of their time in hospital and once in any period of 12 months thereafter. MHCS will automatically refer a restricted patient to the Tribunal after any three-year period during which the patient has been continuously detained in hospital and has not had their case considered by the Tribunal.
- 5.12.5 Where a hospital direction (with a limitation direction) or transfer direction (with a restriction direction) has been made, if the Secretary of State is notified by the responsible clinician or other approved clinician that the prisoner no longer requires treatment in hospital for mental disorder or that no effective treatment can be given, the Secretary of State may remit the prisoner back to prison under s.50 of the MHA.
- 5.12.6 The Tribunal cannot order the discharge of a transfer direction (with a restriction direction) or hospital direction (with a limitation direction) prisoner without the prior agreement of the Secretary of State. Once the prisoner no longer needs treatment, the Tribunal will either recommend they are discharged, and if the Secretary of State does not agree to discharge they will be remitted to prison or, if the Tribunal recommends a conditional discharge but considers that returning to prison might compromise the prisoner's mental health, the Tribunal can recommend the prisoner remains in hospital pending the outcome of the Parole Board review. This is known as a section 74(1)(b) recommendation.

Accelerated Parole Reviews following transfer to hospital under the provisions of the MHA 1983

Positive Recommendation Cases

- 5.12.7 Where the Responsible Clinician makes a positive recommendation for discharge to the MHT, MHCS will inform PPCS so that an accelerated parole review can be commenced. The purpose of this is to ensure that all mandatory reports are prepared, and the parole dossier is ready ahead of the conclusion of the MHT to enable a swift referral to the Parole Board on receipt of a potential positive decision from the tribunal.
- 5.12.8 Where the referral to the MHT is withdrawn prior to the conclusion of the Tribunal, MHCS will inform PPCS. On receipt of this notification, PPCS will inform the prisoner, Probation Practitioner, prison and legal representative that the accelerated parole review has been cancelled.

Negative Recommendation and Remission to prison Cases

- 5.12.9 In cases where the Responsible Clinician makes a negative recommendation for discharge to the MHT, the parole process will only commence upon receipt of a positive decision from the First Tier Tribunal.

For remitted cases, the parole process will commence at the point that the prisoner returns to the prison estate.

As both types of case do not benefit from a preparation period prior to receipt of the decision, it is imperative that the Probation Practitioner engages with the Responsible Clinician as soon as possible to familiarise themselves with the case and to aid the completion of the PAROM.

Hospital reports and the PAROM

5.12.11 In all mental health parole cases, probation practitioners should familiarise themselves with any available hospital reports to aid completion of the mandatory core dossier reports, including the PAROM. Where available, PPCS will add the below reports to the parole dossier which is available on PPUD for Probation Practitioners to access:

- The Responsible Clinician Report (RASB);
- Facilities Report;
- Nursing Report;
- Social Circumstances Report;
- HCR-20 Psychology Report; and
- MHT decision.

5.12.12 Section 117 of the Mental Health Act 1983 requires Integrated Care Boards (ICB's) and local authorities, in co-operation with health and social care providers and voluntary agencies, to provide or arrange for the provision of aftercare to particular patients detained in hospital for treatment who then cease to be detained. Therefore, Probation Practitioners should be aware of the aftercare provisions put in place for the prisoner when preparing the PAROM. Any available information on aftercare provisions should be included in the PAROM to ensure that the Parole Board is in receipt of all necessary information to make a decision on release.

Parole Board Decisions

5.12.13 If the Parole Board make a decision to release the individual and the Probation Practitioner is not local to the hospital, then a social worker in the hospital may agree to serve the licence on behalf of the Probation Practitioner who remains responsible for this task.

5.12.14 Where the prisoner is held in hospital awaiting a Parole Review, the Secretary of State's referral to the Parole Board will only ask for a decision on release. The referral in these cases will not request advice from the Parole Board on a move to open conditions..

5.12.15 If the prisoner is held in hospital and receives no direction for release, the hospital can make an application to MHCS for the prisoner to be remitted to prison.

5.12.16 If the prisoner receives no direction for release and is remitted to prison, the option for an open recommendation can be considered and the case can be referred to the Parole Board as a new referral at any point in the parole process. Where PPCS has set the date for the next review, the prisoner or prison can request that the review is brought forwards in line with the requirement at 3.8.14.

Changes in the prisoner's presentation and discretionary referrals

5.12.17 Periods of instability for patients/prisoners who are moving towards discharge/release are not uncommon therefore, there may be a fluctuation in the individuals presentation following a positive MHT discharge decision and referral of their case to the Parole Board. It is therefore recommended that the Probation Practitioner continues to liaise with the Responsible Clinician throughout the parole process.

5.12.18 The Secretary of State can make a discretionary referral to the Tribunal at any time however, a discretionary referral would only usually be made following an approach from the Responsible Clinician to MHCS confirming why this is now necessary.

5.12.19 However, the decision of the most recent MHT would stand, the individual would remain 'notionally' discharged and the parole review would continue until a further MHT panel is convened and issues another determination under the MHA 1983.

5.13 Parole and Mental Capacity

5.13.1 The Mental Capacity Act (MCA) is designed to allow for the protection and empowerment of people who may lack the mental capacity to make their own decisions, for example, about their care and treatment. In this context, this Framework is concerned with those prisoners who may lack the mental capacity to make their own decisions with regards to their upcoming parole/recall review, including for example, being unable to instruct a legal representative or fully understanding why they may need to do so.

5.13.2 It is the responsibility of the POM/ Probation Practitioner to ensure that PPCS is informed as soon as possible and, ideally, and where applicable, at the very beginning of the parole process. When sending this notification, the POM/Probation Practitioner should include a summary providing details of the concerns and attach any relevant documentation which might assist PPCS in determining whether an application should be made to the Parole Board for a Litigation Friend to be appointed. The POM/ Probation Practitioner can also consider including any relevant information from others known to or working with the Prisoner. In recall cases, this should be flagged as soon as possible after the prisoner is returned to custody. Early identification and notification to PPCS are essential as the assessment of mental capacity can take a considerable length of time.

5.13.3 Mental Capacity and/or related issues are usually determined by way of a Mental Capacity Assessment. These prisoners may also require a Social Care Assessment. Where these assessments are not readily available, there will need to be sufficient robust evidence by way of other reports and assessments to support the view that the prisoner lacks mental capacity to engage with their parole or recall review prior to making an application to the Parole Board. Simply being concerned there may be mental capacity issues will not be sufficient in the absence of compelling supporting evidence. It should also be noted that prisoners with mental illness or other mental health issues do not necessarily lack mental capacity; this is an important distinction and further information on this is available within Annex A – Mental Capacity Supplementary Reading on EQuIP.

5.13.4 Once PPCS have been informed of the concerns about mental capacity, a review of the case will be undertaken and, where necessary, PPCS will organise a case discussion to review the prisoner's circumstances, and the various actions required. This case discussion will aim to ensure that everyone involved in progressing the case through the parole/recall process is clear on what action is required and by when (typically this will involve the POM and the Probation Practitioner as a minimum, as well as any other relevant stakeholders involved in the care and sentence planning of the prisoner). Where it is decided that a full Mental Capacity Assessment should be provided, such assessments must be completed by a suitably qualified and competent specialist, or social work professional. In the interest of the prisoner's wellbeing and also timeliness, it is important that those responsible for completing assessments do so immediately, rather than await a Parole Board direction.

Identifying a Litigation Friend

5.13.5 Where it is identified that a prisoner lacks capacity to engage in the parole process and make informed decisions (including instructing a legal representative), action will need to be taken to identify a Litigation Friend who can act on the prisoner's behalf and in their best interests. HMPPS staff may be aware of a relative or friend who is able, suitable, and willing to act as a Litigation Friend. If this person is willing, the PPCS Case Manager should be

informed as soon as possible so that PPCS can make an application to the Parole Board for the appointment of a Litigation Friend. Further information about Litigation Friends can be accessed via this link.

- 5.13.6 HMPPS staff will need to provide PPCS with information about the proposed person. This information will be included in the application to the Parole Board in order for the panel to consider the request. Only the Parole Board can confirm the appointment of a Litigation Friend. Once agreed, arrangements can be made for the Litigation Friend to secure a legal representative and to attend the oral hearing, if there is to be one. Where a Litigation Friend is appointed, the prisoner will still need a legal representative to advise on parole matters.
- 5.13.7 Where all options to identify a Litigation Friend have been exhausted, PPCS can ask the Parole Board to make a referral for the Official Solicitor to be appointed to act as the litigation friend of last resort. Where this step is required, staff should flag the case to the PPCS Case Manager who will liaise directly with the Parole Board, who are responsible for making the application.

The role of the Parole Board

- 5.13.8 Where required, and as noted above, it is for the Board to confirm the appointment of a litigation friend and, where necessary make an application to the Official Solicitor, if all options to identify a Litigation Friend have been exhausted. In addition, it is also for the Parole Board to consider the way in which the review is progressed fairly in order to allow the prisoner to engage to the best of their ability, considering all reasonable adjustments that may assist. Consideration will be given by the Parole Board to both the timeliness and appropriateness for directing an oral hearing.
- 5.13.9 Where a Litigation Friend has been identified as part of the application to the Parole Board, and the Parole Board agree the appointment, the Parole Board will provide the appointed Litigation Friend with an information sheet setting out the role of the Litigation Friend, as well as, providing advice on how to appoint a legal representative, and what they will do.

The role of the Official Solicitor

- 5.13.10 The Official Solicitor helps people who are vulnerable because of their lack of mental capacity to ensure they are able to utilise the services available to them. The Official Solicitor will act on behalf of the person and in their best interests. Where all options to identify a Litigation Friend have been exhausted, the Parole Board can be asked to make a referral for the Official Solicitor to be appointed to act as the Litigation Friend of last resort.
- 5.13.11 The Official Solicitor will require evidence of the following in order to consider if it would be appropriate to act on behalf of the prisoner:
- That the prisoner concerned lacks capacity to conduct the proceedings;
 - That the Official Solicitor is litigation friend of last resort (i.e. all other options have been exhausted);
 - That the financial circumstances of the prisoner are established i.e. whether the prisoner is eligible for legal aid or would require private funding.