

Information for Prisoners and their Appointed Representatives

Victim observers at a private parole oral hearing

What you need to know

The Parole Board is an independent body that sits as a court. It carries out risk assessments on prisoners to determine whether they can be safely released into the community.

The Parole Board Rules 2019 (as amended) allow for an eligible victim to apply to observe a private parole **oral hearing** (where one is to be held) of a prisoner who committed an offence against them, directly or indirectly. The Parole Board adopts the definition of a victim as set out in the Code of Practice for Victims of Crime 2020.

The Code defines a victim as either:

- a) a person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence (criminal offence means an offence that is committed, or subject to criminal proceedings, in England and Wales, or
- b) is a close relative (or a nominated family spokesperson) of a person whose death was directly caused by a criminal offence. (This normally refers to the spouse, the partner, the relatives in direct line, the siblings and the dependants of the victim. Other family members, including guardians and carers, may be considered close relatives at the discretion of the service provider).

This information sheet provides advice and guidance for you about a victim applying to observe your oral hearing. **You should read this document very carefully.**

The Parole Board always recommends that you seek legal representation to help you with your parole review. A legal representative can support and advise you with submitting any views about a victim observing your parole hearing.

If you do not have a legal representative or anyone else supporting you with your parole hearing (which means you are unrepresented) you can ask your Prison Offender Manager (POM), Key Worker or another member of the prison staff to help you understand this document. The final section at the end of this document has specific advice if you are unrepresented.

Victim Personal Statements

Most victims engaged with the parole process will be signed up to the Victim Contact Scheme (VCS) which is run by the Probation Service. A victim will be allocated a Victim Liaison Officer (VLO) who will provide them with advice and support about parole reviews.

Victims signed up to the VCS can write a Victim Personal Statement (VPS) to the Parole Board setting out the impact that the crime has had upon them. You should be provided with the opportunity to read the victim's VPS unless it has been agreed that you are not allowed to see it in which case you are usually provided with a short summary (called a gist). Victims don't always write a VPS and so check with your legal representative or a Prison Offender Manager (POM) if one has been submitted.

In some cases, a victim (or someone else on their behalf) will ask to read out the VPS to the Parole Board panel who is considering your parole hearing. Victims have been able to do this for a long time and therefore you may already be aware this is a possibility. You will be told if this is going to happen and your legal representative (if you have one) will usually be present when the VPS is read out. You can make your wishes known about being present when the VPS is being read out and the Parole Board will take them into consideration when making the final plans for your hearing. No one can force you to attend if you don't want to. Victims who attend only to read their VPS to the Parole Board panel will leave before the oral hearing starts. There is usually a short break after the VPS is read out and before your oral hearing starts.

Victim observing your parole hearing

A victim observing your oral hearing is different to them reading a VPS to a Parole Board panel. Observing is something new. A victim may ask to read out their VPS and stay to observe your oral hearing.

The victim will apply to the Parole Board Panel Chair (the person in charge of your oral hearing) who will decide if they can observe. You will be able to submit your own views about this. The step-by-step process can be found at the end of this document.

How will I know if a victim has applied to observe my oral hearing?

- A victim can request to observe your oral hearing in an application made through their VLO to the Parole Board.
- The application should be made as early as possible, but **at least eight weeks** before the date of your oral hearing. Sometimes applications are made late, but there must be sufficient reasons given for why it is late before the Parole Board will consider it.
- You might not be given the name of the victim who has applied.
- More than one victim might apply.
- You and your representative will be notified if an application is received.

What can I do about the application?

- You will have an opportunity to submit your views about the attendance of any victim requesting to observe your oral hearing. These are called **your representations**. You will usually have seven days to submit your representations from the date the request for representations is sent. An extension request for this deadline can be made with reasons provided if you need more time.



- Your representations can include your views about things such as:
 - Any impact on you due to the victim watching the oral hearing or being seen by the victim.
 - Any impact on you where a victim has asked permission to have someone else with them on the day for support who may also observe the oral hearing (for example a family member or friend).
 - Possible delay to the hearing or making the hearing longer.
 - Concerns about any witnesses giving evidence.
 - If the application is made late, how it may have impacted you.
- There may be other things you want to say that are not in the above list and you can include them in your representations.
- You should also think about any information you do not want the victim to hear which would need to be discussed in "closed session", for example:
 - Sensitive information that may put you at risk.
 - Information about other offending or other victims.
- **If you have a representative, they will be able to support you and make representations on your behalf.**
- If the application is agreed, the victim will be permitted to observe the **open session** of the hearing. What is discussed in the open session will be decided by the Panel Chair who will consider any representations made by you and other attendees. As much of the discussions as possible should take place in the open session although some information, such as prison location or potential release address, may still be kept private in the open session.
- However, some information may need to be discussed in **closed session**. Victims are not allowed to observe this part of the hearing. Discussions in closed session might include confidential information about you or another person, for example your private medical records, details of other victims, or proposals for release such as an address.
- The Secretary of State can also make representations which may include information provided by your Prison Offender Manager (POM), Community Offender Manager (COM) and other witnesses attending who know you. For example, a witness may wish to withhold their name from the victim or believe that their evidence should be given in the closed session.

What happens next?

- Parole Board policy states that an application from a victim to observe your oral hearing should be agreed, unless there are exceptional reasons not to. This is also set out in the Parole Board Rules.
- The Panel Chair will consider your representations and any from the Secretary of State before making a decision on the application.
- The Panel Chair will have due regard to fairness to you and the effectiveness of the hearing whilst also being fair to victims.
- The Panel Chair will be mindful that a victim observing will not be seen or heard by you and therefore cannot unduly interfere with the oral hearing.



- When considering the application, the Panel Chair will ensure that you have a *reasonable opportunity* to give your best evidence to the Parole Board panel at your oral hearing. Adjustments can be made, for example, any discussions involving the Risk Management Plan or sensitive information which is confidential can be undertaken in the closed session, without the victim present. This gives you a reasonable opportunity to give your best evidence to the panel.

What happens if the application is refused?

- If the application is refused, the victim will not be permitted to observe your oral hearing.
- The victim can still apply to read their VPS to the Parole Board panel on the day by themselves or by someone else, but they will not be permitted to stay and observe the hearing.
- The victim can request a summary of your parole decision once it has been made.

What happens if the application is accepted?

- If the Panel Chair agrees that the victim can observe your oral hearing, you will be notified as soon as possible.
- The Panel Chair will then work out the arrangements for the day including start time and any breaks (such as lunch) and confirm these with attendees.
- The Panel Chair will consider what information must be dealt with in a closed session. Your representative and/or POM will let you know about this.
- The victim will observe by joining your oral hearing remotely and will not be in the room with you. You will not see or hear them, other than if you are present if they are reading their VPS to the panel at the start of the hearing.
- In some cases, the Panel Chair may hold a case management conference to discuss the arrangements prior to the oral hearing. You, your representative and other attendees will be invited to this meeting.
- You will be given a timetable well in advance of your oral hearing which will confirm if there is a victim observing and who will be with them.
- The victim can ask the Panel Chair for permission to allow someone to accompany them on the day, for example a family member or friend. The victim may request that this person also observes the oral hearing.
- The victim can ask the Panel Chair for permission to take notes on the day.
- The victim can request a summary of your parole decision once it has been made.

What if things change?

- If circumstances change ahead of the oral hearing, the Panel Chair may review the original decision about a victim observing.
- If you are aware of any change in circumstances or there is new information that might influence the decision you can submit further representations which will be considered.
- The Secretary of State may also make further representations if something changes and these will also be considered.



- This will only happen if there have been significant developments since the original decision was made.
- The victim may change their mind and decide not to attend. You will be told of this happens.

What about confidentiality?

- The victim must sign a Confidentiality Agreement in order to observe your oral hearing. If they do not sign it, they will not be allowed to observe.
- The Confidentiality Agreement forbids the victim to discuss or share information about your oral hearing. It explains that:
 - They must abide by the Parole Board Rules, which set out the private nature of oral hearings.
 - They must not record or capture any images of the hearing which may be in breach of the United Kingdom General Data Protection Regulation (UK-GDPR).
 - They may be permitted to take notes but must agree to keep them private and securely destroy them within three months.
 - The Board sits as a court, and interference with its proceedings can be contempt of court.
- The Confidentiality Agreement informs the victim that a breach of any of the above may lead to legal action or other serious consequences.
- A VLO or HMPPS Victim Representative will be with the victim during the observation and ensure that the Confidentiality Agreement is being followed.

What happens on the day?

- Once you, your representative, and all the other attendees (Parole Board panel and witnesses) are present, the Panel Chair will make brief introductions and remind everyone what has been agreed about procedures.
- Once this has happened, the Panel Chair will allow the HMPPS Victim Representative and the victim to join the hearing via a remote link.

The following points may be helpful to understand what this means:

- A HMPPS Victim Representative will sit with the victim on the day.
- The HMPPS Victim Representative and victim will observe the hearing together from a laptop. This means they will watch the hearing on a screen via a remote link.
- The victim will not be in the same location as you and your representative, the Parole Board panel, or other attendees.
- The victim will be able to see and hear the attendees at the hearing, including you, but they will not be able to take part. Their camera and microphone will be switched off.
- No one in the hearing will be able to see or hear the victim.
- The victim can stay for the open session, which would usually be the majority of the hearing.
- The victim will not be allowed to stay to observe the closed session, where the most personal and confidential information will be discussed.



- The Panel Chair can cut the remote link at any time should they need to, for example if there is any disruption, you become distressed, or something else unusual happens.
- If the victim wishes to take a break for any reason your oral hearing will not be paused or disrupted.

Will I be able to talk to the victim?

- It is important to state that having a victim observe the hearing is not an opportunity for you to talk to the victim in any way; or for the victim to talk to you.
- You should talk to your appointed representative for advice if you think you want to contact the victim at some point in the future.
- If you do not have a representative you can talk to your POM, Key Worker or other member of the prison staff.

What if my hearing is adjourned or deferred?

- If your oral hearing is adjourned or deferred and a victim has been approved to observe, this approval will remain for the rearranged oral hearing. This would only be reviewed if there were a change in circumstances meaning it would no longer be appropriate or safe for the victim to observe.

Will the victim be supported?

- Victims who observe are made aware of the detailed nature of the discussions and that this may be distressing.
- In the majority of cases, an HMPPS Victim Representative will support the victim on the day of the oral hearing. Afterwards, their VLO will assist them and signpost to any victim support they may require.
- Often a victim is accompanied by a family member or close friend on the day, either in the hearing or they may be nearby to give support when needed.

What about victims not signed up to the VCS?

- A victim who is not signed up to the VCS is still able to apply to observe your oral hearing. However, they will not be supported by a VLO or HMPPS Victim Representative.
- They will need to apply direct to the Parole Board and explain what their link is to your case.
- The Panel Chair will consider the application and ask you for representations in the usual way.
- Where the application is agreed, special arrangements will be made to assist the victim to observe on the day and to ensure the Confidentiality Agreement is followed.

Important information if you are not legally represented

- The Parole Board always strongly recommends that you seek representation from a legal representative for all your parole matters.



- Information about finding a lawyer can be found on the following resources:
 - [Association of Prison Lawyers](http://www.associationofprisonlawyers.co.uk/member-firms/)
 - [Prisoners Advice Service](https://www.prisonersadvice.org.uk/) - <https://www.prisonersadvice.org.uk/>
 - [Howard League for Penal Reform](https://howardleague.org/) - <https://howardleague.org/>
 - [Prison Reform Trust](https://prisonreformtrust.org.uk/) - <https://prisonreformtrust.org.uk/>
- If you are unrepresented, we advise that you read the Parole Board's booklet [*Getting ready for a parole review without a lawyer*](https://www.gov.uk/government/publications/getting-ready-for-a-parole-review-without-a-lawyer) (<https://www.gov.uk/government/publications/getting-ready-for-a-parole-review-without-a-lawyer>). It provides guidance and support for prisoners who choose to represent themselves during the parole process or, for whatever reason are unable to appoint a lawyer rather than seeking a legal representative.
- If you still wish to represent yourself, then your POM should explain what a victim observing means for you, and your oral hearing. You can then make an informed decision about submitting any representations about this. You will need to submit your representations within seven days of being told that a victim has requested to observe your oral hearing.

STEP BY STEP PROCESS

