

Oral Hearing Guidance

September 2026 (v4.0)

Document version	Date of Issue	Revision description
Version 1.0	31.12.2021	This guidance was created as part of the Parole Board's project to launch fully revised and updated member guidance.
Version 2.0	27.10.2022	The guidance was updated to reflect the changes following: • The Police, Crime, Sentencing and Courts Act 2022. • The amended Secretary of State 2022 Directions on suitability for open conditions for ISP cases. • The Parole Board Rules 2019 (as amended). • Johnson R v Secretary of State for Justice [2022] EWHC 1282 (Admin). • The review of the Parole Board's paused policies.
Version 2.1	20.12.2023	The guidance was updated to reflect the following changes: • Secretary of State's single view becomes Secretary of State's view. • Witnesses can give professional opinions on the prisoner's suitability for release or move to open. • Section added on witnesses joining oral hearings from abroad. • Victims can read VPS where an application for it to be read at oral hearing has been accepted and the case has been concluded under rule 21. • <i>Pearce</i> [2023] UKSC 13 on appeal from [2022] EWCA Civ 4 • <i>Dich and Murphy</i> [2023] EWHC 945 (Admin) • Secretary of State's Directions for open conditions 2023 • Footnote added on breaks and recording of the hearing. • Changes in practice when conducting oral hearings due to prison staff work pattern.

Version 3.0

31.01.2025

The guidance was updated to reflect the changes following:

- The Victims and Prisoners Act 2024.
- The Parole Board (Amendment) Rules 2024.
- Removal of sections that sit better in other pieces of guidance.
- A table of changes can be found [here](#).

Version 4.0

08.09.2026

The guidance was updated to reflect the changes following:

- The Parole Board (Amendment) Rules 2025.
- Text in **bold** is used to highlight key principles or matters requiring emphasis following themes identified through practice queries.
- A table of changes can be found [here](#).

Contents

1. Introduction	6
2. Roles and responsibilities	7
<i>The parties</i>	<i>7</i>
<i>The prisoner</i>	<i>7</i>
<i>Representative</i>	<i>8</i>
<i>The Secretary of State</i>	<i>8</i>
<i>The Panel Chair</i>	<i>9</i>
<i>Co-panellists</i>	<i>11</i>
<i>The Parole Board case manager</i>	<i>12</i>
<i>Witnesses</i>	<i>13</i>
<i>Observers</i>	<i>16</i>
<i>Victims</i>	<i>16</i>
<i>Attendance from outside of the United Kingdom (UK)</i>	<i>16</i>
<i>Translators, interpreters, and communication specialists</i>	<i>17</i>
3. Pre-Hearing Practice	18
<i>The referral and the dossier</i>	<i>18</i>
<i>Combining Reviews</i>	<i>19</i>
<i>Panel Chair Directions (PCDs)</i>	<i>19</i>
<i>Panel composition</i>	<i>20</i>
<i>Conflict of Interest</i>	<i>22</i>
<i>Format of the oral hearing</i>	<i>22</i>
<i>Public hearings</i>	<i>23</i>
<i>Concluding a case on the papers post-MCA under rule 21</i>	<i>23</i>
<i>The process for concluding a case on the papers under rule 21</i>	<i>26</i>
<i>Proceeding in the prisoner's absence</i>	<i>29</i>
<i>Administrative cancellation of oral hearings already listed</i>	<i>29</i>
<i>Case management conferences</i>	<i>29</i>
<i>Purpose of a Case Management Conference</i>	<i>30</i>
<i>Attendees</i>	<i>31</i>
<i>Recording of proceedings</i>	<i>32</i>
<i>Directions</i>	<i>32</i>
4. Practicalities on the Day of an Oral Hearing	32
<i>Hearings held remotely and participation by telephone and video</i>	<i>32</i>
<i>Face-to-Face hearings in person</i>	<i>33</i>
<i>Access to prisons</i>	<i>33</i>
<i>The hearing room and safety</i>	<i>34</i>
<i>Contact with prison staff</i>	<i>36</i>
<i>Contact with parties and witnesses in advance of the hearing</i>	<i>36</i>
<i>Pre-hearing discussion with the parties</i>	<i>36</i>
<i>Missing participants</i>	<i>37</i>
<i>Pre-hearing panel discussion</i>	<i>38</i>
<i>"On the day" receipt of late papers</i>	<i>39</i>
<i>"On the day" applications to adjourn or defer</i>	<i>40</i>
<i>Prisoners who are not represented</i>	<i>41</i>
5. The Hearing	41
<i>The roles of panel chair and co-panellists</i>	<i>41</i>
<i>Opening the hearing</i>	<i>42</i>
<i>Prisoners with vulnerabilities</i>	<i>44</i>
<i>Prisoner expectations of the parole review</i>	<i>45</i>

<i>Effective questioning</i>	46
<i>Rules of evidence (hearsay evidence)</i>	49
<i>Breaks</i>	49
<i>Conduct, interruptions, and interjections</i>	51
<i>Indications that the prisoner is acting uncharacteristically</i>	52
<i>Keeping an official record of the hearing</i>	52
<i>Time management.....</i>	53
<i>Closing submissions</i>	54
<i>Concluding the hearing.....</i>	54
6. After the Hearing	55
<i>Post-hearing panel discussion</i>	55
<i>Panel decision-making</i>	57
<i>Post-hearing adjournment.....</i>	58
<i>Agreeing, preparing, and issuing the written decision</i>	59
<i>Further information received following the oral hearing.....</i>	60
<i>When the panel decision is made</i>	61

1. **Introduction**

- 1.1 An oral hearing should be directed to add oral evidence to material in the dossier when the *Osborn, Booth & Reilly*¹ (OBR) principles of fairness require it.² An oral hearing can be directed at the Member Case Assessment (MCA) stage, for licence variation/termination referrals, following a rule 20 application from the prisoner, following a reconsideration or set aside decision, or wherever the OBR principles apply. An oral hearing provides the opportunity to take oral testimony and test evidence in order to make an independent assessment of risk of serious harm and its manageability in the community. It can also be an opportunity for a prisoner to talk directly to parole decision-makers.
- 1.2 The Parole Board has been recognised by the courts as being a court-like body making judicial decisions. Accordingly, its hearings have a court-like status stemming from legislation and the duty to independently review the necessity for continuing detention of the prisoner. Panels will recognise the gravity of the parole process for those involved, including the prisoner and victims, as well as society as a whole.
- 1.3 Central to the process are the principles of protection of the public and fairness to the prisoner. Therefore, panels have a duty to demonstrate independence and to ensure that oral hearings are fair – and are seen to be fair – for both parties.
- 1.4 This is the case in all circumstances, irrespective of any operational constraints or the impact of wider events in government or world events. Although panels may need to act more flexibly under such conditions, the Parole Board's principles of protecting the public, ensuring fairness, and applying the codified public protection test³ do not change. In addition, Article 5(4) of the European Convention on Human Rights requires the Parole Board to review the detention of prisoners whose cases are referred to the Parole Board in a timely manner and to ensure procedural fairness.
- 1.5 The oral hearing process is inquisitorial. It is the role of the panel to make inquiries such that it has sufficient evidence to make a decision. The panel can direct additional material, call witnesses and ask questions to gather and clarify evidence. This is different from the adversarial approach found in criminal courts where each party presents their case.
- 1.6 Oral hearings may take place remotely (by video or telephone) or face-to-face (in person) within a prison or secure mental health unit, or any other suitable location. A hybrid hearing may take place where some participants

¹ *Osborn, Booth & Reilly [2013] UKSC 61 concerning the requirement for staging oral hearings and the court's guidance when a case should progress to oral hearing. Please refer to the Member Case Assessment (MCA) Guidance for guidance on the OBR principles.*

² *R (Somers) v Parole Board [2023] EWHC 1160 (Admin)*

³ *The Victim and Prisoners Act 2024 (VAP Act) codified the public protection test. This came into force on 3rd February 2025 and codifies existing member practice. The same test is to be applied for indeterminate and determinate sentence prisoners, even though the two are covered by different legislation: Life Sentence Prisoners (section 28ZA Crime (Sentences) Act 1997 (CSA 1997)) and Fixed-Term Prisoners (section 237A Criminal Justice Act 2003 (CJA 2003)). Please refer to the Guidance on Types of Cases for detailed guidance.*

attend the hearing in person while others join the hearing by video or telephone.

- 1.7 In addition to oral hearings, case management conferences (CMCs) can be directed at MCA stage or by a duty member or panel chair. CMCs are hearings designed to progress cases, from preparation to a final decision being made. Information about CMCs can be found at 3.64-3.792 of this document.
- 1.8 Please note the Parole Board Rules have been amended several times, most recently in 2026 (Parole Board (Amendment) (No. 2) Rules 2026). References to the Rules in this guidance take account of this and will be referred to as 'the Rules' throughout.
- 1.9 Panels may find it useful to refer to the HMPPS [Parole Board Oral Hearing Administration & Attendance Policy Framework \('the 2019 Framework'\)](#) which sets out the expected standards and requirements for the provision and facilitation of all Parole Board oral hearings.
- 1.10 The Decision-Making Framework is a structured approach used by Parole Board panels in making parole decisions. In using the Framework, panels will exercise independent professional judgement. The Framework is a consistent, shared expression of the decision-making process used by panels. It should be followed at all stages of the oral hearing process (prior to the hearing, at the oral hearing, and after the oral hearing).

2. Roles and responsibilities

The parties

- 2.1 There are two parties to the parole process: the prisoner and the Secretary of State for Justice, as defined in rule 2. As equal parties to the oral hearing process, they must be dealt with fairly and equitably by the Parole Board. The parties are entitled to ask questions of witnesses. They may address the panel by way of submissions before, during, or after the hearing. The prisoner should be given the final word, either through a representative or in person.

The prisoner

- 2.2 A prisoner attending a hearing should be invited to answer any questions, but they cannot be compelled to do so. A prisoner choosing not to be represented may speak on their own behalf. Whether or not the prisoner is represented, the panel chair must ensure that they are given the opportunity to understand and engage in the hearing process. In doing so, panels should take into account any vulnerabilities or other factors that may inhibit a prisoner's effective engagement in the parole process. Please see paragraph 5.14 for more detailed information on vulnerable prisoners and 5.37 for more information on reasonable adjustments.
- 2.3 Rule 23 states that a prisoner must notify the Parole Board and the Secretary of State if they do not want a panel at an oral hearing to consider their case or do not want to attend the hearing which has been listed. Rule 24 recognises that attendance is not a requirement.

- 2.4 Under rule 24(1A), a hearing may take place in the absence of the prisoner, or the prisoner and the prisoner's representative, where the panel chair considers it is in the interests of justice to do so. Please see paragraph 3.62 onwards for more information.

Representative

- 2.5 A prisoner may be represented at an oral hearing, but this is not a requirement. A prisoner does not have to be represented by a legal representative; however, the Parole Board always recommends that prisoners should seek a professional legal representative to advise and represent them in their parole hearing. Where prisoners are unable or disinclined to appoint a legal representative, they may represent themselves or ask a non-legally qualified person to represent them, as long as the person does not fall within the exclusions under rule 10(2), namely:

- Any person who is detained or is liable to be detained under the Mental Health Act 1983
- Any person serving a sentence of imprisonment/detention or who is on licence having been released from a sentence of imprisonment/detention
- Any person with a conviction for an offence that remains unspent under the Rehabilitation of Offenders Act 1974

- 2.6 Please see the Guidance on Representation for more information and for guidance on procedural and practical issues that can help ensure Parole Board decision-making is fair and is seen to be fair.

The Secretary of State

- 2.7 The Secretary of State is a party to the proceedings. Secretary of State officials, for example, the Community Offender Manager (COM), Prison Offender Manager (POM) and HMPPS forensic psychologist, will attend an oral hearing as witnesses to give evidence. They do not attend as an advocate or representative of the Secretary of State but are there to present evidence to the panel. Under Part B of the schedule to the Rules, HMPPS report writers may give their professional opinion about a prisoner's suitability for release or open conditions within their reports, where they feel able to do so. If they do not give an opinion, the panel are entitled to ask them for it, and they must answer the panel's questions. In most cases they will be able to give an opinion, however panels may sometimes be told that a report writer lacks the relevant knowledge or expertise to form an opinion. Any professional opinion which the report writer gives to the Board is made by reference to their area of competence, as well as to their interactions with the prisoner.
- 2.8 In some cases, the Secretary of State may choose to send a Secretary of State Representative to provide formal representation⁴ or present a view on the prisoner's suitability for release (or transfer to open conditions). Whilst

⁴ As per the GPP framework, in some cases, PPCS, on behalf of the Secretary of State, 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.

attending the hearing, the Representative may also ask questions of the witnesses.

- 2.9 [The Code of Practice for Victims of Crime](#) entitles victims to request to read their Victim Personal Statement (VPS) to the panel, or have it read on their behalf. **Parole Board policy is that there is a presumption that such requests will be agreed.**⁵ Please see the Victims Guidance for information on who is present at the reading of a VPS and who is there to support the victim.
- 2.10 To summarise, the Secretary of State delegates powers to the Public Protection Casework Section (PPCS), who case manage the Generic Parole Process (GPP) and recall process. The Secretary of State relies on professional witnesses (such as COMs, POMs, and forensic psychologists) to produce reports for the Parole Board, and to present evidence at oral hearings. They may also deploy a Secretary of State Representative to an oral hearing where the case meets certain criteria (for example, complex, high-profile cases or other noteworthy aspects), or where the Secretary of State is providing an overarching view.

The Panel Chair

- 2.11 A panel chair must be a Parole Board member who has undertaken the required training and is either appropriately supervised, or preliminarily or fully accredited to undertake the role while working towards full accreditation. Members who hold preliminary accreditation while working towards full accreditation can sit as a chair without their mentor / practice developer present. The panel chair may be any classification of member, providing they hold the appropriate accreditation or are under supervised training.
- 2.12 The panel chair⁶ is responsible for:⁷

Before the hearing

- Managing case progression and preparation in collaboration with the Parole Board Case Manager or the Panel Chair Support. This includes reviewing the case from allocation and ensuring all necessary steps are taken, setting and reviewing directions, responding to applications and representations (including non-disclosure applications (NDAs), observers including victim observers, and requests to conclude on the papers), and preparing the case using the decision-making framework
- Planning panel, participant and hearing arrangements, including reviewing MCA tier allocation,⁸ panel composition, witness and observer attendance, representation status, and the format of the hearing
- Ensuring fairness, readiness and safety, including reviewing practical arrangements, reasonable adjustments and communication needs. Identifying and escalating security or safety concerns, and keeping co-panellists informed of significant developments

⁵ See *Guidance on Victims* for more information.

⁶ If any party submits a request when the oral hearing is eight or more weeks away, a duty member may be tasked to determine matters or direct actions.

⁷ This list is not exhaustive.

⁸ The Board takes a tiered listing approach. More information can be found here.

- Leading pre-panel discussions, ensuring that all members of the panel are involved, and agreeing how the hearing will be run and the areas of questioning to be covered

During the hearing

- Chairing and conducting the hearing, ensuring it is fair, effective and procedurally compliant
- Asking clear and appropriate questions of witnesses, alongside other panel members (if present)
- Ensuring an official record, by activating the digital recording system (or taking a full written note where recording is unavailable)

After the hearing

- Leading deliberations and decision-making discussions, including post-panel discussions, ensuring all panel members contribute, and agreeing the reasons for the decision
- Drafting and finalising outcomes⁹ including adjournment or deferral notices, additional directions and the written decision, consulting co-panellists on drafts, and ensuring compliance with Rules, policies and procedures
- Ensuring the written decision is agreed by all members of the panel and issued within 14 days in accordance with rule 25(6)¹⁰
- Considering any required follow-up action within 28 days of issuing the written decision where a further application has been received (for example a licence variation request – please refer to the Duty Member Activities guidance for more information).

2.13 Where the panel is comprised of more than one member, the panel chair may act on behalf of the panel on matters arising ahead of the oral hearing. The panel chair may issue and respond to directions, deal with non-disclosure matters, consider requests for adjournment or deferral, and, where appropriate, seek the advice of a specialist Parole Board member¹¹ (whether or not that specialist member is assigned to the hearing panel). The panel Chair may run CMCs with or without any other panel members.

2.14 Where possible it is good practice for the panel chair to consult, canvass views and copy co-panellists into email correspondence (unless it is concerning an NDA¹²). It is essential to inform them about significant developments, including changes to practical arrangements for the day of the hearing.

2.15 The panel chair has a specific role and defined powers to direct and manage the hearing process. **However, when it comes to deciding a case after a hearing, all members of a panel participate in decisions equally.** The panel chair does not have a casting vote. As outlined at paragraph 6.9 a

⁹ A panel chair may delegate the drafting of the decision to a co-panellist.

¹⁰ The record of the decision and reasons must be supplied to both parties within 14 days. However, to ensure that the decision can be issued on time, the panel chair should send it to the Parole Board case manager within 10 days of an oral hearing.

¹¹ A list of specialist advisors can be found on SharePoint.

¹² Please refer to the Non-Disclosure Applications Guidance for more information.

majority decision can be accepted, but the written decision must reflect it as the agreed decision of the entire panel in accordance with rule 26(1).

- 2.16 Only those panel members who have heard all the evidence can participate in the decision-making process. If a panel member does not attend any hearing where evidence is taken, they are not empowered to contribute to any discussion or conclusion about the decision.

Co-panellists

- 2.17 A panel chair may sit alone or be accompanied by one or more Parole Board members. Following directions issued by an MCA panel or duty member, the oral hearing panel is assigned by the Parole Board listings team, using powers of the Parole Board Chair delegated under rule 4(3)(a). Members are allocated according to their accreditation status and availability, as recorded in the Web Access Module¹³ (WAM) system.

- 2.18 The co-panellists are responsible for:

- Preparing the case thoroughly in adequate time ahead of the hearing, applying the decision-making framework to the evidence in the dossier, identifying the key issues, gaps and conflicts in the evidence and areas to focus upon in the hearing
- Alerting the panel chair in sufficient time for any issues to be resolved, such as any vulnerabilities the prisoner may have, the need for further reports, or any other matters that may impact the effectiveness of the hearing at the earliest opportunity to avoid on-the-day adjournments
- Preparing to ask questions of all witnesses, in accordance with the 20 principles for questioning¹⁴ that focus on the issues and address the gaps and/or conflicts in evidence
- Responding to panel chair requests for views in a timely manner
- Contributing to the pre-panel discussions, agreeing how the hearing will be run and the areas of questioning to be covered
- Leading the questioning for the designated witnesses, as agreed in the pre-panel discussion, and asking any relevant follow up questions of witnesses that other panel members have questioned
- Contributing to post-panel discussions, and agreeing the reasons for the decision that will be included in the draft written decision
- Reviewing the draft written decision by the panel chair and providing comments promptly
- In exceptional circumstances writing up a decision in the absence of the panel chair, where suitably accredited (see paragraph 6.20)

- 2.19 All panel members must be familiar with the content of the dossier and have prepared thoroughly in advance. Late papers can be added to the dossier, and this should be checked on WAM the day before a hearing.¹⁵ Every member of the panel takes a full and equal part in the hearing.

¹³ The Parole Board member portal which provides access to cases.

¹⁴ This can be found on the Member Learning & Development SharePoint page.

¹⁵ Under rule 18(2), any additional evidence that a party wishes to present at an oral hearing must be served on the Board and the other party at least 14 days before the date of the oral hearing. Under rule 18(3), any party that wishes to present at an oral hearing documentary evidence which has not

- 2.20 All panel members should refer to the expectations set out in the Member Code of Conduct and the core competencies set out in MAPP when preparing for oral hearings.

The Parole Board case manager

- 2.21 The Parole Board case manager is responsible for on-going management of cases on behalf of the Board. The case manager is the conduit for all communication with the parties and witnesses. They work closely with case managers in PPCS and prisoner representatives. The panel chair must keep in contact with the case manager by email and/or telephone/Microsoft Teams (MS Teams) once a case allocation has been published.
- 2.22 Case managers have delegated authority from the panel chair or duty member to extend any deadlines for directions to be complied with if it does not impede or delay the review. [The Victims and Prisoners Act 2024 \(the VAP Act\)](#) and the Parole Board Rules include provisions for delegated powers that can be undertaken by members of the Secretariat.¹⁶ This includes: making, varying and/or revoking directions; permitting a third party to read out a VPS on behalf of a victim; listing and holding CMCs in respect of delegated case management issues; and determining observer applications (including victim observers).¹⁷
- 2.23 Case managers should keep the panel chair informed of action taken under delegated authority. Where a matter is more complex or requires specific knowledge or expertise, they should consult the panel chair before completing the request.
- 2.24 Under rule 4(4), where a staff member performs a delegated function, either party may apply within 14 days for an automatic re-exercise of that function by the panel chair or duty member. An application under paragraph (4) may not be made in respect of functions delegated under sub-paragraph (3)(a), appointment of panels, or (h), production of summaries. The final decision will rest with the panel chair regardless of whether an application for automatic re-exercise has been received. Therefore, if a decision is made under delegated authority that the panel chair would not have made, further directions can be issued to clarify the position and give clear reasons as to why the decision under delegated authority has been changed. The function cannot be re-exercised if the decision has become final. An information sheet explaining how the re-exercise process works can be found on the Delegated Authority SharePoint page.
- 2.25 Parole Board case managers do not attend oral hearings but should be available by email, MS Teams chat and/or telephone during the proceedings to deal with any issues arising, such as contacting any witnesses who have

been served at least 14 days before the date of the hearing, must serve the material on the Board and the other party, together with an application to the panel chair for permission to do so, as soon as reasonably practicable, and must, as part of that application, give reasons for late service.

¹⁶ These new delegated powers are to be piloted with a small group of staff within the IPP Taskforce before being rolled out across all case management. Detailed guidance will be issued once the pilot has been concluded and the Parole Board moves to a business-as-usual position.

¹⁷ The functions which the Board Chair may delegate to the Board's members of staff are contained in rule 4(3).

failed to attend. Where an oral hearing is taking place with all or some of the participants attending by telephone or video, a member of staff from the hearing support team will work with participants to resolve any technical/connectivity issues.

Witnesses

- 2.26 A party who wishes to call a witness at an oral hearing must make a written application for that person to attend the hearing a minimum of 12 weeks before the hearing date, under rule 13.¹⁸ Witnesses can also be directed to attend by the panel chair or a duty member¹⁹ using the power in rule 6(2).
- 2.27 A party making an application under rule 13 must, at the same time, also serve a copy of the application on the other party under rule 13(3).
- 2.28 Where a direction is made for a witness to attend an oral hearing, the Parole Board must notify both parties in writing within 14 days under rule 13(6). If refusing to call a witness, the panel chair or duty member must give written reasons under rule 13(5). Please refer to the MCA guidance for examples of when it may, or may not, be appropriate to direct a witness.
- 2.29 The written notification of the intention to call a witness must include the witness's name, address, and occupation, and must provide an explanation as to why the witness is being called. Rule 13(7) details the process for calling a witness.
- 2.30 Panel chairs have the discretion to change the timelines set out in rule 13 using the power in rule 9, but they should only do so when they consider this would be fair and not result in unreasonable disadvantage to either party. A panel chair will want to avoid a last-minute adjournment of a hearing wherever possible but will need to balance this against other considerations. For example, they will need to make sure there will be sufficient time before the scheduled date to allow changes to be made fairly for all parties, with opportunity for challenge, and in all practicality (such as giving time for participants to change personal plans).
- 2.31 In general, witnesses attend hearings voluntarily unless they have a good reason for not being able to. The Parole Board does occasionally encounter difficulties with witnesses who are reluctant to attend or do not understand the nature of parole hearings. To that end, panel chairs are advised to consider using the following standard wording for requiring the attendance of witnesses:

"The Parole Board directs that shall attend the hearing to give evidence. The witness should note that the Parole Board will sit as a court. Non-attendance is only permitted in compelling circumstances and only with the prior approval of the panel chair. The Parole Board can seek to enforce attendance, if necessary, by way of a witness summons."

¹⁸ If an application for a witness is made less than 12 weeks before the hearing, the party must submit at the same time an application to the panel chair for permission to do so with reasons for the late submission.

¹⁹ Or under delegated authority. Please see paragraph 2.22 above for more information.

- 2.32 In cases where primary evidence is required as opposed to hearsay, or where a crucial witness is reluctant to attend, the Parole Board may seek the issue of a witness summons from the High Court (Civil Procedure rule 34.4). This power will only need to be used rarely, where a witness is otherwise refusing to co-operate and the panel consider their attendance to be necessary.²⁰
- 2.33 For more information on witness summons, please see the guidance on Contempt of Court and Witness Summons. Please contact the Legal & Policy hub for further advice if consideration is being given to obtaining a witness summons.
- 2.34 In most cases, witnesses give their evidence remotely. However, where a hearing is in person or by a hybrid arrangement, witnesses will need to make their wishes about presenting their evidence known to the panel chair in advance. The presumption is that COMs can participate remotely unless there is a good reason for their attendance in person. The panel chair will need to consider the reasons and whether the request will compromise the fairness of the proceedings in any way. For example, it may be essential for the witness to be in the room with the prisoner. Panel chairs should consider requests sympathetically where there may be other considerations, such as working patterns, caring responsibilities or financial constraints. Whilst these and other factors may be considerations in directing witness attendance, they cannot limit or override directions intended to ensure appropriate quality of evidence and a fair hearing. Panel chairs should agree to such requests where it bears little material impact on the oral hearing.
- 2.35 Under delegated authority, the Parole Board staff (the Secretariat) can approve witness requests to attend remotely where appropriate. If they do so, the parties may apply for the decision to be re-taken through automatic re-exercise by the panel chair or a duty member. However, final discretion in approving remote attendance lies with the panel chair, who has the final say in witness attendance and the means of participating. Where a panel chair agrees to witness attendance remotely, they should be mindful of the arrangements put in place to protect the confidential nature of the proceedings.
- 2.36 The default position is that any victim (or alleged victim) should not be directed to attend an oral hearing. The panel must first consider whether any information the panel needs can be obtained from other sources. The merit of the proposed attendance must be balanced against the need to protect the victim and their wellbeing.
- 2.37 This is the case even when the panel receives a request for a victim to attend an oral hearing as a witness, and the victim has expressed that they are content to attend. The panel must be assured there is no coercion involved and the victim is engaging of their own free will, which will be difficult to ascertain without putting the victim at risk of further harm. Directing or allowing the victim to attend as a witness could also increase the risk of harm if the prisoner blames the victim for any outcome.

²⁰ For example, the panel do not consider that another witness can attend on their behalf to provide evidence to the panel.

- 2.38 Where such a request is made, the panel may wish to make it known in their response that there is nothing to stop the victim from writing a letter of support to submit to the panel. It should be clear that the letter is **not** being directed, but if one is received, the panel can explore the content at the oral hearing and attach relevant weight.
- 2.39 **A panel that is considering directing or allowing a victim to attend an oral hearing as a witness must first seek advice from the Legal & Policy hub before any direction is made, as this should only be considered in exceptional circumstances.**
- 2.40 Children should not be called as witnesses. It would be difficult for them to gain access to a prison (if a face-to-face oral hearing is taking place) and they may not be able to sufficiently comprehend the significance of the parole process. Arguably, it would be inappropriate in any circumstances, considering the duty to safeguard and promote the welfare of children and the possible impact of the proceedings.
- 2.41 The normal procedure is to allow all witnesses to remain for the duration of the hearing (except where information is withheld under rule 6(3)(f) – see below), as hearing evidence submitted by others can impact on the assessment of another witness and can be of use to the panel. At times, it might be appropriate to give permission for a witness to leave once their evidence or others' key testimony has been given, provided the panel are content that no further input will be required. The panel chair should seek the views of the prisoner/prisoner's representative and the Secretary of State Representative (where one is in attendance) in weighing the implications for fairness from such a decision.
- 2.42 Information or reports can be withheld from witnesses or other hearing attendees under rule 6(3)(f). This is to ensure that potentially sensitive evidence which is known to the prisoner but could cause harm if it was shared more widely, can be withheld from witnesses or other hearing attendees when appropriate to do so. This covers those who have given written evidence and are/are not due to attend the hearing, and those who have not given evidence but are due to attend the hearing.
- 2.43 Where panels consider it is necessary to withhold information from witnesses or other hearing attendees, in line with the over-arching requirements of rule 6(2), they should set out clear reasons as to why it is considered necessary in the interests of justice, to effectively manage the case or for such other purpose as the panel chair or duty member considers appropriate, to withhold the information.
- 2.44 The panel must clearly set out who the information should not be shared with. Reasons should be set out on the most appropriate template (e.g. Duty Member Directions/Panel Chair Directions/Stakeholder Response Form (SHRF)). Clear instructions should be given to the Parole Board Case Manager to advise them how to manage the information; for example, advising them not to upload the information to the dossier, and who not to share the information with. Both parties must be given access to the information and should be provided with the opportunity to submit representations.

- 2.45 Where relevant, consideration should be given to the impact of not having sight of the information on witness' risk assessment and evidence. Panels must consider this when determining what weight to place on the evidence.
- 2.46 If the panel needs to take oral evidence about the withheld information during the oral hearing, this should take place in closed proceedings, without the relevant witnesses/relevant other hearing attendees present.
- 2.47 A direction given under rule 6(3)(f) **must not** relate to withholding information or reports from the prisoner (and the prisoner's representative where relevant); such directions are governed by rule 17.

Observers

- 2.48 Requests can be made for observers to attend a Parole Board oral hearing. Observers do not take part in the hearing and do not give evidence to the panel or act as a representative for the prisoner. Please refer to the Observers Member Guidance for further information.
- 2.49 Rule 15 requires oral hearings to be held in private, unless the Parole Board Chair considers that it is in the interests of justice that the hearing be held in public. Please see section 3.21 onwards and the Public Hearings Guidance for more information on public hearings.

Victims

- 2.50 The Parole Board takes the view that the victim(s) of the index offence or of a further offence resulting in a recall should, where possible, be included in, and should be encouraged to engage in, the parole process. This includes submission and, where requested, the reading of a VPS or contributions to reports and recommendations forwarded by a Victim Liaison Officer (VLO) concerning possible licence conditions. Victims may also apply to observe a private parole hearing or request that a hearing be held in public.
- 2.51 A victim may apply to observe an oral hearing under rule 14(4B). Rule 14(4D) requires that the panel chair must direct that the victim may attend the hearing as an observer unless the panel chair considers it is necessary in the interests of justice, to effectively manage the case or for other appropriate reasons, to refuse the application. Where the panel chair refuses the application, they must provide written reasons for the refusal.
- 2.52 Please see the Guidance on Victims for further advice on victim attendance and the sensitive handling of any VPS.

Attendance from outside of the United Kingdom (UK)

- 2.53 Witnesses and prisoner representatives may join proceedings remotely from outside of the UK, providing certain conditions are met. Witnesses should ensure that they have permission from their employer to give evidence from outside the UK, and legal representatives should ensure their firm or agency allows them to represent their client from outside of the UK.

- 2.54 If a witness²¹ wishes to join proceedings from outside of the UK, they should also seek confirmation from the Foreign, Commonwealth, and Development Office (FCDO) as to whether permission is needed, and if so, seek that permission.
- 2.55 The FCDO has published:²²
- A list of countries who are willing to let people in that country give evidence without asking prior permission
 - A list where case by case permission from the national authority is required before a panel can take any oral evidence from a witness in that country
 - A red list of countries that have refused permission so oral evidence cannot be taken from a witness in that country
- 2.56 Should permission be given or not necessary, panels are advised to ensure that the hearing can remain private by asking the witness to confirm the following in writing:
- That they will be joining from a private location where their conversations cannot be over-heard, and any notes/laptops cannot be overseen
 - That their internet connection is stable, secure and reliable
 - That they will not be in a location with an unreasonable risk of distractions, sensitive or personal information on display, or background noise

Similar precautions should be taken for prisoner representatives who wish to join the hearing from outside the UK.

- 2.57 Should permission be necessary but not given, or if the host country has denied permission, panels should not hear evidence from that witness. In such a situation, members should seek advice from the Legal & Policy hub.
- 2.58 Written evidence is permissible even if the witness is currently outside the UK and is not affected by the above requirements.
- 2.59 Guidance on observers (including victim observers) joining from outside of the UK can be found in the Observers Guidance and the Victims Guidance.

Translators, interpreters, and communication specialists

- 2.60 In some cases, a translator, interpreter, or other communication expert (such as a speech and language therapist (SALT), sign language interpreter, or an intermediary) may be directed to participate in a hearing by the panel chair, the MCA panel, or a duty member. Please refer to Guidance on Translators and Interpreters for further information.
- 2.61 The Parole Board has a legal duty to provide services in Welsh, where requested and appropriate. Please refer to Guidance on Welsh Speaking

²¹ Who is attending to give evidence.

²² [Taking and giving evidence by video link from abroad in UK court cases and tribunals - GOV.UK.](#)

Prisoners and Duties regarding the Welsh Language for more information about this and the practical implications.

3. Pre-Hearing Practice

The referral and the dossier

- 3.1 Rule 16(1) states that a case is deemed to be referred to the Board on the date that the Board receives the referral letter and a dossier containing all the information and reports required under rule 16(3) from the Secretary of State.²³
- 3.2 Once the Secretary of State's referral and dossier of evidence is submitted to the Parole Board, and has been accepted, casework decisions are made by an assigned MCA panel. The MCA panel will determine whether the case can be concluded on the papers or set out additional steps that are needed for the matter to be determined fairly and swiftly. If an oral hearing is required, the MCA process assists a future panel to make evidence-based assessments of risk by ensuring the panel has all the written information it needs, that relevant preparatory work is identified and directed (for example the need for interpreters, arrangements in relation to victims, etc), and by ensuring that relevant witnesses are identified. Please refer to the Member Case Assessment Guidance for further information on the MCA process.
- 3.3 Parole Board members allocated to a case will access dossiers for oral hearings via WAM ahead of the scheduled hearing. Oral hearing timetables can also be downloaded from WAM. When downloading materials, panels will be aware that the dossier should contain all the reports indexed on the contents page. Dossiers can be of considerable size, may be compiled non-chronologically and may sometimes import earlier dossiers within current contents. It is worth comparing the uploaded dossier against the contents page in WAM and raise any queries with the case manager if mandatory or other significant materials are not available.
- 3.4 If there is an indication that there may have been an NDA (as evidenced by, say, a gist in the dossier) but the panel has not had sight of the full material, the panel should contact the case manager to check whether there has been an NDA during the current review. If there has, the panel should ask the case manager to provide them with the application, decision, and the full material.
- 3.5 Where a gist has been added to the dossier, but there has not been an NDA submitted during that review, a direction should be made for PPCS to clarify why there is a gist in the dossier and submit a fresh NDA if required. NDAs and non-disclosure decisions from a previous review cannot carry over to a new review. If there is no non-disclosure information, PPCS should confirm.

²³ i.e. (1) the information specified in the Schedule to the Rules; (2) any further information the Secretary of State considers to be relevant to the case; and (3) where the case relates to a request for advice, any information which the Secretary of State considers relevant to the case. If a mandatory report is missing from the dossier please refer to the Member Case Assessment Guidance for further information and advice.

- 3.6 As the oral hearing approaches, additional reports may be available on WAM but not immediately uploaded to the formal dossier. Panels should, therefore, continue to check for updates: the hearing tab in WAM lists individual reports prepared and received for the case. Comparing the dates for the last entries against the day of issue for the latest dossier indicates any reports not yet collated and consolidated within the dossier. Panels are expected to check for new material prior to the hearing and on the day before an oral hearing, if possible.
- 3.7 Concerns or queries about the dossier should be directed to the Parole Board case manager, whose name is registered with the case in WAM.

Combining Reviews

- 3.8 In some circumstances, panel chairs may need to consider combining reviews where there are two active referrals for a case. Information about combining reviews can be found in the Duty Member Activities Guidance.

Panel Chair Directions (PCDs)

- 3.9 Between three and eight weeks²⁴ prior to the oral hearing, the panel chair **must** review the dossier and referral, consider directions, panel composition²⁵ and time allocation set at the MCA stage (and any supplementary changes made by a duty member), and review progress.²⁶ As necessary, further directions must be set,²⁷ using the PCDs template. The aim is to progress the case and ensure that any issues are resolved as early as possible to avoid delay.
- 3.10 **PCDs are required in every case, even when the hearing appears viable and no new directions or significant amendments to MCA directions appear to be needed.** If no further directions are needed, the panel chair must use the template to indicate that the case should progress to oral hearing as scheduled.
- 3.11 Ahead of the hearing, under rule 6²⁸ the panel chair has powers to:
- Decide whether to proceed with the oral hearing or set and explain new directions if an adjournment or deferral is unavoidable. Please refer to the Guidance on Adjournment and Deferrals for further information.
 - Determine an application for non-disclosure of sensitive evidence. Please refer to the Non-Disclosure Applications Guidance for further information.

²⁴ This is the timeframe where PCDs must be issued, but panel chairs may also wish to review the case outside of this timeframe where necessary. For terrorism-risk cases, panel chairs are asked to review cases at least 8 weeks before the oral hearing date.

²⁵ The Board takes a tiered listing approach. More information can be found here.

²⁶ Whilst the requirement is for PCDs to be issued between three and eight weeks before the oral hearing, panels are entitled to issue as many PCDs over the course of an active review as necessary.

²⁷ Material should be directed in advance to allow time for compliance and for the parties to take instructions on the material. For this reason, where possible, panels should avoid requesting material on the day of the hearing.

²⁸ Rule 4 sets out a number of rule 6 directions that can be undertaken under delegated authority. This is currently being piloted before moving to business as usual.

- Vary or revoke existing directions, for example: amending the timetable; requiring new or previously directed information or reports; extending deadlines; directing the attendance of witnesses; agreeing attendance of observers or other participants; confirming a participant's remote attendance at the hearing; and/or standing down previously nominated witnesses. Where changes are made to previous directions, clear reasons **must** be given.
 - Direct that information or reports be withheld from witnesses or other hearing attendees, except where this falls to be considered under rule 17 (see paragraphs 2.42 – 2.47 for further information).
- 3.12 A CMC can also be directed at MCA stage or by a duty member or panel chair. These are designed to progress cases but not to take evidence or make final decisions. Guidance on CMCs can be found at paragraphs 3.68-3.86 below.
- 3.13 Directions must be confined to the purposes of rule 6 and must, therefore, relate to the preparation of the case or assist in the determination of the issues. **Directions must always be relevant, proportionate, reasonable, necessary, lawful, and deliverable.** There is no need to know absolutely everything about a prisoner in order to be able to make a decision about progressing the case. A panel needs enough information to make a defensible and fair decision.
- 3.14 **Directions should not be made in relation to the management of the prisoner's sentence, including but not limited to security or transfer issues, re-categorisation, treatment needs, and sentence planning.** For example, directions that would be considered outside the Parole Board's remit include requirements that the prisoner:
- Has home leave to a release address
 - Attends a particular offending behaviour course, programme, or undertakes one-to-one work
 - Undergoes specific forms of treatment (for example, one-to-one psychology, therapeutic treatment, etc)
 - Be transferred to another establishment for the purposes of completing particular offending behaviour work
 - Be transferred to a secure mental health setting for treatment or assessed for such a transfer
- 3.15 Whilst panels should not comment on specific sentence planning, they will have explored extensive evidence and will be able to identify outstanding risk factors that need to be addressed. Panels may highlight these risk factors in directions.

Panel composition

- 3.16 Members are assigned to a panel for specific cases and do not sit together in the same combination as a matter of course. Co-panellists sit with the panel chair at oral hearings as equals in eliciting relevant evidence and jointly making the decision to conclude the review. Depending on the needs of the case, the panel is made up of any combination of judicial, specialist and independent members. A panel is usually comprised of between one and three members, though occasionally a fourth member may be added. The

starting point for all panel logistics is a single non-specialist chair. Co-panellists should be added only when they are considered necessary in terms of their role, or the number needed in a particular case to complete a proper risk assessment and determination. Particular consideration should be given to the seriousness of the offending and the sentence type.

3.17 The MCA panel will have considered panel composition when directing a case to an oral hearing. Once the case has been allocated, the composition of the panel may be amended on the direction of the panel chair or by a duty member acting in the absence of a panel chair, including the need to stand down or co-opt co-panellists. Standing down co-panellists will usually only be appropriate where there has been a material change to the needs of the case or the evidence required. Any amendments to hearing logistics must be recorded and explained in full in duty member directions or PCDs. The final decision on panel logistics lies with the oral hearing panel chair. When deciding on the composition of the panel, the panel chair should bear the following in mind:²⁹

- The reasons for the panel logistics set out by the MCA panel or duty member and whether those reasons still apply
- Whether the case is particularly complex
- Whether there is considerable divergence of assessments from professionals
- Where there are MCA panel or duty member directions for a specialist member whether the specialist expertise is still required on the panel
- Whether any co-panellist holds an area of speciality that would be beneficial to the decision-making in this case
- Whether any co-panellist would gain relevant professional development, particularly if they are in the early part of their Parole Board career, that would be beneficial to the Parole Board in the long term

3.18 The MCA Guidance and the Specialist Reports Guidance provides additional advice about the expertise a psychologist and/or psychiatrist member can contribute to a panel. It also defines when a judicial member may be regarded as pertinent in chairing a hearing. If, on review of the documentation, an independent member panel chair considers that a specialist or judicial panel chair is required, they should contact the Parole Board case manager to ask for the case to be relisted. When panel allocation is amended in this way, the decision and its rationale should be recorded in PCDs.

3.19 The panel logistics are at the discretion of the panel chair, but it is good practice for the panel chair to consult with co-panellists and take account of their views before making a final decision about the panel. It is also helpful to consult with any existing co-panellists if the panel chair is considering requesting an additional panel member if, for example, the case has developed in complexity since the MCA stage. Once a decision has been made, the panel chair must confirm the panel logistics to the co-panellists and the case manager. Any changes to panel logistics need to be set out by the panel chair with clear reasons in directions.

²⁹ The Board takes a tiered listing approach. More information can be found here.

- 3.20 Co-panellists must not be stood down in cases where oral evidence has already been taken by that panel unless there is an exceptional reason to do so, such as a co-panellist has come to the end of their tenure, or a conflict of interest has emerged. Similarly, co-panellists cannot be replaced, or an additional member added to the panel once oral evidence has been taken. If a co-panellist has to stand down, it is usually more appropriate to determine if the review can continue with the remaining panel members. If the case cannot continue with the remaining panel members, the panel chair may need to defer the case so that it can be repanelled. In such circumstances, advice should be sought from the Legal & Policy hub.

Conflict of Interest

- 3.21 Panel members may find that they are listed for cases where they have had previous direct or indirect personal or professional involvement. Whilst members are not precluded from participating in such cases, they should carefully consider and decide whether they feel there could be a legitimate conflict at the earliest opportunity. If so, they should recuse themselves from the panel. If they do not feel conflicted, they should consider whether the average person could reasonably perceive a conflict. If they believe it could be seen as a conflict of interest, they should recuse themselves.
- 3.22 If a co-panellist considers that despite the previous involvement there is no likelihood of perceived or actual conflict of interest, they should inform the panel chair at the earliest opportunity. The panel chair should explain the situation to both parties and request representations as soon as possible. If the panel chair considers they themselves have a conflict of interest, they should discuss with co-panellists and seek representations in the same way.
- 3.23 The panel should then decide how to proceed in the light of the representations. **There is a high bar for the test for bias and it is only passed in rare cases. The test is whether the well-informed observer³⁰ would think there is a real risk that the decision-maker may be biased. It is not simply whether the prisoner thinks there could be bias.**
- 3.24 Members should not participate in the determination of a case in which any member of their close family or spouse / domestic partner represents a prisoner or is associated in any manner with the case.
- 3.25 Please refer to the Member Code of Conduct for further information on conflicts of interest. Please contact the Legal & Policy hub should further advice be required.

Format of the oral hearing

- 3.26 The MCA panel will have considered on the facts of the case which format of oral hearing is most suitable. Whilst considering this, the MCA panel will have identified relevant issues from the dossier and taken account of any representations that had been made by the prisoner (or their representative),

³⁰ The measure to apply is what a reasonable and relatively well-informed member of the public would think (the "man on the Clapham omnibus" test).

or the Secretary of State. If a case is not suitable for a telephone or video hearing, clear reasons should be contained in the MCA directions.

- 3.27 Panels chairs should also consider whether the format of the hearing is suitable for the case before them. Panel chairs may wish to consult with their co-panellists when doing so, particularly if there are vulnerabilities or medical considerations to be taken into account, before making their decision.
- 3.28 If the panel chair wishes to change the format of the hearing, both parties must have the opportunity to submit representations. **Although neither party has the final say, it is important that any changes during the parole review are communicated to both parties and that they are given the opportunity to submit representations.** The parties should ordinarily be given up to 14 days to respond but a shorter notice period might be appropriate in some circumstances (for example, if a listed hearing slot can be saved by giving a shorter notice period of a telephone or video hearing). On rare occasions, it might prove necessary to change the format of the hearing on the day, for example due to technical difficulties or concerns for the prisoner. In such instances, the panel chair should ask for representations from both parties before proceeding if possible.
- 3.29 Please see the Member Case Assessment Guidance for information on the format of hearings, including a list of factors to take into consideration when deciding the most appropriate format for a hearing.

Public hearings

- 3.30 Rule 15 provides the power to enable oral hearings to be held in public (in full or part) in certain circumstances. The expectation is that oral hearings are to be held in private; however, the Rules provide for the Chair of the Parole Board to consider whether, in the interests of justice, an oral hearing should be held (in full or in part) in public.³¹
- 3.31 This function has been delegated to a pool of judicial members. If an application for a public hearing is received after the case has been allocated, the panel chair will be asked to provide a view.
- 3.32 Please refer to the Guidance on Public Hearings for more information which may assist a panel chair in providing a view. More information about public hearings can be read here: [Applying for a Parole review to be public - GOV.UK](#).

Concluding a case on the papers post-MCA under rule 21

- 3.33 Where a case has been directed to an oral hearing at the MCA stage, the panel chair or a duty member may consider that an oral hearing may no longer be necessary, and it might be possible to conclude the case on the papers under rule 21.³²

³¹ The Board Chair can delegate their authority to a small number of designated judicial members.

³² If a panel chair has been appointed to the case, the panel chair will make the decision on whether the case can be concluded on the papers; if a panel chair has not yet been appointed, the decision will be made by a duty member.

- 3.34 This does not set aside the MCA direction but enables a panel chair or duty member to consider whether an oral hearing is still required. This might be the case where there have been significant developments since the MCA stage, such as a change in legislation, new or unresolved criminal matters such as outstanding charges or ongoing investigations, adverse events in custody, representations offering new information, or submission of further evidence.
- 3.35 Such developments do not necessarily support concluding the case on the papers; depending on their nature and the issues they raise, they may make an oral hearing more important. For example, where adverse events in custody are disputed, an oral hearing may be required so that the relevant evidence can be tested and the prisoner has a fair opportunity to respond.
- 3.36 When deciding whether to conclude a case on the papers, the panel chair or duty member will need to bear in mind what is fair to the prisoner, including the *Osborn, Booth & Reilly*³³ (OBR) principles (please see the MCA guidance for more information) which apply at the various stages of a review where the panel are considering whether or not to conclude on the papers without an oral hearing – not the likelihood of release.
- 3.37 **Rule 21 procedures cannot apply to cases where oral evidence has been taken: in these cases, the decision must be a *panel* decision (including a majority decision if necessary) as it is a decision following an oral hearing under rule 25.**
- 3.38 Under rule 21, an oral hearing may no longer be necessary:
- In the interests of justice;
 - To effectively manage the case; or
 - For other reasons as deemed appropriate by the panel chair/duty member including further evidence submitted.
- 3.39 Either party can apply for the case to be concluded on the papers. The Board can also initiate the process.
- 3.40 The following questions may be helpful to consider whether a hearing is still required (this list is not exhaustive):
- Is the decision clear and obvious from the papers?
 - Is the prisoner serving a concurrent or consecutive sentence that would preclude release in any event?
 - Is the prisoner approaching the sentence expiry date (SED), non-parole date (NPD) or conditional release date (CRD)?
 - If so, is it likely that an oral hearing can be arranged before the SED, NPD or CRD?
 - Is there an outstanding criminal charge and/or investigation? If so, will it be concluded soon (for example, within eight weeks), or is it likely to cause a significant delay to the parole proceedings?
 - Is there an issue that is in dispute, or evidence that needs to be tested and probed by questions or argument? For example, a psychological risk assessment may need to be tested

³³ *Osborn & others v Parole Board* [2013] UKSC 61.

- Is the prisoner vulnerable? For example, they may have physical or mental health issues, lack mental capacity, be under 21 years of age at the point of referral
- Is the prisoner unrepresented?
- Is it a complex, high profile, power to detain (PTD), or a terrorism/terrorism-connected case? NB all terrorism or terrorism-connected cases must be referred to a member of the TACT team.
- Has a previous concern or outstanding issue been satisfactorily resolved indicating that a decision can now be made without the need for oral evidence?

3.41 Even in cases where the decision may seem clear, fairness to the prisoner may still require an oral hearing. In *Hanson*,³⁴ the Court determined that it is important the panel consider the following four over-arching factors when deciding how to proceed:

- a) What is at stake for the individual?** This may be an individual's liberty where they are in prison or very restrictive conditions if they are on licence. The panel should therefore consider what the practical impact on the individual would be if they remain in prison or a licence continues.
- b) Would hearing from the individual assist?** Fairness may require participation where an individual has something relevant to contribute. The panel should therefore consider whether hearing directly from the individual would materially assist the assessment.
- c) Is there an important factual dispute?** Disputed facts may require oral evidence. The panel should consider whether there are disputed factual matters that cannot fairly be resolved on paper.
- d) Is there a disagreement between professional assessments and the panel's provisional view?** The panel should expressly consider whether an oral hearing is required before rejecting professional evidence.

3.42 The following additional points should be considered:

- The prisoner will be on parole hold during the process,³⁵ so if there are likely to be extensive delays (such as, for example, waiting for a trial date for an outstanding charge), it may be better to make a decision where there is enough information to do so. If the prisoner faces outstanding charges that are unable to be concluded within 8 weeks, it may be necessary to conclude as opposed to adjourn or defer.
- Panels should avoid the artificial outcome of directing an oral hearing when one cannot realistically take place. In such circumstances, the choice may be between making a decision on the available papers or there being no Parole Board decision at all. What is procedurally fair must be considered in that context. The Parole Board is obliged by law

³⁴ *R (Hanson) v Parole Board for England and Wales* [2026] EWHC 1723 (Admin).

³⁵ Some prisons may decide to place a prisoner on 'parole hold' once they enter their parole window to restrict their transfer to another prison and avoid disruption to the parole review. However, transfers during this time can occur in line with the Progressive Transfers for Indeterminate Sentence Prisoners Policy Framework and the Generic Parole Process Policy Framework.

to make a decision, and fairness does not require it deliberately to fail to discharge that statutory duty.

- If the prisoner is not likely to have time for an oral hearing before automatic release, when their referral will lapse, a paper decision is better than no decision at all as it will either: (1) put in place a set of considered licence conditions to manage risk in the community, or (2) provide a thorough risk assessment that may inform the eventual licence that HMPPS will release the prisoner on into the community.
- The question of whether fairness requires an oral hearing is not the same as the question of whether they are likely to be released.
- In recall cases, the prisoner's liberty has been further deprived.
- In cases where a prisoner is significantly post-tariff, the panel will need to apply a higher level of 'anxious scrutiny' to the facts and issues of their case
- The prisoner has a legitimate interest in participating in the parole process, and an oral hearing assists them in doing so. Panels should consider the inherent value of the prisoner participating in a hearing, particularly where the prisoner is post-tariff and/or where new material, disputed factual evidence, progress, change, development or insight may need to be explored. Insight is best examined at an oral hearing, where the panel can see and assess the prisoner and fully exercise its experience and expertise.³⁶
- In cases where there is a realistic prospect of release, members must make sure they have enough information to properly address the issues and apply the CPPT.

3.43 None of the above points may mandate an oral hearing but they are relevant considerations.

3.44 If the panel chair decides to conclude on the papers under rule 21, the written decision should address their consideration of the OBR principles. The Member Case Assessment Guidance contains information on the OBR principles and includes standard wording that the panel may wish to use, in addition to their individualised assessment of the OBR principles, when making their decision.

The process for concluding a case on the papers under rule 21

3.45 Concluding a case on the papers under rule 21 follows **three procedural stages that must be followed**:

- **First stage:** Consideration is given as to whether a case might be able to be concluded on the papers
- **Second stage:** The panel chair or duty member makes the decision about whether it can be concluded on the papers, or whether it must proceed to oral hearing
- **Third stage:** Where it is decided that the case can be concluded on the papers, an appointed panel then makes the substantive decision about release/open conditions

³⁶ [Somers v Parole Board \[2023\] EWHC 1160 \(Admin\)](#)

First Stage

- 3.46 Consideration is given as to whether a case might be able to be concluded on the papers. This can happen either following an application from either of the parties, or where the Board initiates the process. This falls to the panel chair or duty member.
- 3.47 Under rule 21(2), the Board must notify the parties where it is considering concluding the case on the papers, and its reasons for doing so, as soon as practicable. In line with the rules, where one of the parties has made the application and representations have already been received, under rule 21(2), the panel must still state their intention to conclude on the papers and then should allow sufficient time for further representations to be submitted regarding the subsequent decision.
- 3.48 The parties will need 14 days to make representations about:
- (i) The reasons provided by the Parole Board for the proposed direction
 - (ii) The contents of any further evidence
- And
- (iii) Whether they agree to the case being decided by a panel on the papers
- 3.49 The panel can also ask for representations about the substantive decision about release or open conditions.
- 3.50 The 14-day time frame can be altered using rule 9.

Second Stage

- 3.51 Once the notification has been given and representations have been received, or after 14 days, the panel chair or duty member will need to make a decision about whether to conclude on the papers under rule 21. In reaching a conclusion, the panel chair or duty member should consider the necessity for and complexity of any direction, considering the amount of time remaining until the hearing.
- 3.52 The panel chair or duty member may decide:
- That the case should not be concluded on the papers (in which case the panel will direct that it continues to an oral hearing), or
 - That the case can be concluded on the papers (in which case the panel will move to the third stage)
- 3.53 If a paper decision appears fair and feasible, in order to prepare for the third stage, the panel chair or duty member will need to decide the composition of the panel to make the substantive decision about release and/or recommendation about suitability for open conditions. The options are:
- A panel comprising the panel chair or duty member alone (where the panel chair or duty member does not need to hold a single-member chair accreditation because an oral hearing will not be taking place)
- Or
- The panel members already assigned to the case
- Or

- A newly appointed panel to decide the case on the papers³⁷
- 3.54 The last option should only be used in limited circumstances, for example, unavailability of the panel, and reasons will need to be given as to why the current panel chair, a duty member, or the assigned panel cannot decide the case on the papers. Such a decision would lead to a deferral with a direction for the case to be concluded on the papers. The panel chair and previously assigned co-panellists, or the duty member, would no longer be assigned to the case.
- 3.55 When making a decision about the composition of the panel, the same considerations as set out at paragraph 3.17 above should be given.
- 3.56 Where a panel has already been appointed, it is good practice for the panel chair to consult with co-panellists, where possible, about the panel composition. Co-panellists, in preparing for the case, may have advice to offer the panel chair. As a minimum, it is good practice for a panel chair to inform co-panellists by email about all key developments at each stage. In addition, the panel chair may wish to consult with a specialist member if there is an issue or question relating to their area of expertise (if the panel does not include a specialist member, there is a list of specialist members on SharePoint who can be approached for a brief consultation – the list can be found here).
- 3.57 Where a panel has already been appointed and once a decision has been made by the panel chair to conclude on the papers and on the panel composition, the panel chair must inform the co-panellists and the case manager who will update both parties and witnesses. Any changes to panel logistics need to be set out by the panel chair with clear reasons in PCDs.

Third Stage

- 3.58 Where a decision has been made to conclude the case on the papers (under stage two), the substantive decision about release and/or recommendation for open conditions is made (stage three).
- 3.59 The panel allocated to make the decision must make the substantive decision about release and/or recommendation about suitability for open conditions under rule 21(7), 21(7A) and 21(10).
- 3.60 The substantive decision should be recorded on the paper decision template. It must be issued to both parties within 14 days of the date of the substantive decision.³⁸ To ensure that it is issued on time, the panel chair should send the decision to the Parole Board case manager within 10 days of the decision-making. The decision should note whether the panel chair concluded the case alone and, if not, should note the names of the panel members who participated in the decision-making.
- 3.61 Any substantive decision made following a direction that the case be concluded on the papers under rule 21 is provisional only if it is eligible for

³⁷ Appointed by the Secretariat under rule 5.

³⁸ This policy has been agreed by the Parole Board's Management Committee and is in response to the Parole Board Rules (as amended) 2019 having removed the time limit.

reconsideration. If so, it becomes final if no application for reconsideration is received within the 21-day window. If it is not eligible, the decision is final.

Proceeding in the prisoner's absence

- 3.62 Rule 23 states that a prisoner must notify the Parole Board and the Secretary of State if they do not want a panel at an oral hearing to consider their case (23(1)(a)) or do not want to attend the hearing which has been listed (23(1)(b)). Rule 24(1A) recognises that attendance is not a requirement.
- 3.63 Under rule 24(1A), a hearing may take place in the absence of the prisoner, or the prisoner and the prisoner's representative, where the panel chair considers it is in the interests of justice to do so. At such a hearing, the panel will be able to question those witnesses who are present. They may also be able to hear submissions on the prisoner's behalf if their representative is present. But they will not be able to ask questions of the prisoner, hear representations from an unrepresented prisoner, or give the prisoner the final word.
- 3.64 Proceeding in the absence of the prisoner and/or their representative is solely at the panel's discretion, if they consider it would be in the interests of justice to proceed this way. It is the panel's decision, not the prisoner's.
- 3.65 The principle of fairness is imperative in every case. The panel will need to consider what evidence and submissions they can deal with at the hearing in the absence of the prisoner, or their representative. They will need to be sure that the prisoner has been given a reasonable opportunity to participate, even if they have chosen not to take it. They may also wish to consider if there are any written representations in the dossier that can be taken into account. It is important to ensure that the prisoner is clear on the reason for the parole hearing and understands that the hearing may take place without them and what may be discussed in the hearing. The hearing should run as normal; however, as the prisoner will not be present, they will not be able to ask questions of witnesses and will not have the final word.

Administrative cancellation of oral hearings already listed

- 3.66 This is an administrative decision carried out by the Parole Board case manager on behalf of the Secretariat. There are only very limited circumstances in which the Secretariat can cancel a scheduled hearing, such as where no panel can be provided because vacancies remain unfilled.
- 3.67 Where a hearing cannot proceed for other reasons, the panel chair should issue directions to support an effective reconvened oral hearing, rather than the case being administratively cancelled. If the panel chair does not wish to retain the case, they may defer it to a new panel while still issuing any necessary directions.

Case management conferences

- 3.68 Case management conferences (CMC) are convened under rule 7.³⁹
- 3.69 Whilst CMCs are typically held by the panel or panel chair, the Parole Board (Amendment) Rules 2025 permit the Secretariat to list and hold a CMC **in respect of delegated case management issues only**. This power does not apply to CMCs listed by and for panels and is currently being piloted.
- 3.70 Either party to the proceedings may request a CMC by submitting a SHRF to the Parole Board case manager. If the panel chair is the one to initiate, they should state in their directions to parties the reasoning behind their decision. It is good practice to involve the parties at the earliest opportunity. Both parties will be given the opportunity to submit representations to be considered by the panel. Representations must be submitted within 7 days of being informed of the request to avoid delay. The final decision on whether to hold a CMC rests with the panel chair.
- 3.71 Notification of attendance at a CMC is via formal directions, setting out requirements and reasons. No-one beyond those directed should be in attendance unless agreement has been given in advance by the panel chair.
- 3.72 The Parole Board case manager will liaise with the participants to find a mutually convenient date, time and medium. The Parole Board must provide at least 14 calendar days' notice of the date of the CMC (although this timescale can be varied under rule 9 if appropriate).
- 3.73 CMCs are typically private, as specified in rule 15(3), and may be conducted via teleconference, video-link or other virtual methods. Public CMCs require approval from the Chair of the Parole Board and must be in the interests of justice. Generally, procedural or preparatory matters are not handled publicly and so this will be very rare.
- 3.74 CMCs can vary in length. Once the purpose of the CMC has been determined, the panel chair should estimate the time that the proceedings will take. This should be set out in the directions so that it can be added to the timetable. Panel chairs are advised to state that the proposed duration is an estimate so that attendees understand that the timing may vary.
- 3.75 Attendees can take part remotely from any appropriate private location where background noise or distractions are minimised, using a line which is secure and has a stable and reliable connection.
- 3.76 Once a date has been agreed, a timetable will be issued by the case manager, including either the MS Teams invite details or the conference dial-in number and access code if taking place using CVP.

Purpose of a Case Management Conference

- 3.77 A CMC may be useful to:
- Take a light-touch approach to resolving issues that may prevent the review progressing or being completed

³⁹ The Parole Board (Amendment) Rules 2024 reframed rule 7 to remove directions hearings from the Rules. Members should not make a direction for a directions hearing, and should direct a CMC instead.

- Address shortfalls in information, non-compliance with directions, direction issues, case developments, and concerns about a report writer (without taking evidence)
- Resolve logistical issues for the oral hearing, including witnesses, interpreters or other communication specialists
- Identify any adjustments needed for vulnerable participants
- Resolve queries about witness appearance or delegated attendance that cannot otherwise be resolved
- Establish the involvement of agency representatives, such as subject experts or social care services
- Explore requests to defer or adjourn where the reasons are unclear
- Confirm developments in outstanding court proceedings or additional charges. If the prisoner faces outstanding charges that are unable to be concluded within 8 weeks, it may be necessary to conclude as opposed to adjourn or defer.
- Clarify a specific point following an oral hearing without requiring a formal adjournment
- Unpick complex problems so the subsequent oral hearing can proceed effectively
- Enable the panel chair to review progress, check compliance with directions, identify and direct material needed to progress the case, and discuss and direct additional reports and witness attendance
- Invite and consult a specialist Parole Board member on the nature of an expert report and its implications
- Focus on a single issue requiring relevant participants to work together on a solution, including agreeing responsibilities, arrangements or enquiries, or managing a sequence of interdependent tasks
- Discuss cases involving multi-agency input, including mental health issues, release to specialised funded accommodation, or release requiring a wider care package
- Allow attendees to suggest ways forward, including possible directions and/or engagement with third-party agencies, to help ensure an effective review can proceed.
- Enable legal representatives to comment on any developments in the case, and consider whether they need to take instructions from their clients

3.78 At a CMC the attendees may discuss the nature of the likely evidence and its implications for a future oral hearing, but not the detailed content of that evidence. Evidence cannot be taken.

Attendees

3.79 The panel chair can sit alone or with co-panellists, if required. A specialist Parole Board member⁴⁰ may help in considering the nature of an expert report and its implications.

3.80 Participants in attendance may include the prisoner and their representative, officials including the COM and POM, and Secretary of State Representative.

⁴⁰ The specialist member does not need to be part of the panel, a specialist member can be consulted in an advisory capacity if required.

- 3.81 Participants may be directed to attend as necessary to discuss directions, not all witnesses will necessarily be required.
- 3.82 The prisoner should be offered the opportunity to attend but it is not essential, even if they are not represented. In some circumstances, one of the parties may not be present by agreement in advance.
- 3.83 The final decision as to who can attend rests with the panel chair; they will confirm to the attendees who is required.

Recording of proceedings⁴¹

- 3.84 The CMC must be recorded digitally. The panel chair should ensure all participants are aware that the recording is taking place and should follow the procedures as outlined in paras 5.9-5.13.

Directions

- 3.85 The actions agreed at a CMC will usually be noted by way of directions and ordinarily issued to the parties no later than 14 days following the CMC.
- 3.86 Directions will outline who attended and their roles and provide a note of the discussion, as well as key outcomes and actions with deadlines. In some cases, where the issue was simple, formal directions may not be needed as long as actions were verbally agreed and there is no need to notify any other party.

4 Practicalities on the Day of an Oral Hearing

Hearings held remotely and participation by telephone and video

- 4.1 Members should refer to the Remote Hearing Quick Reference Guide, alongside this guidance which captures best practice points when holding a remote hearing.
- 4.2 The Parole Board has several video meeting rooms in the Cloud Video Platform (CVP), the Ministry of Justice's approved system. Most oral hearings are held remotely via this video system, which can also accommodate attendance by telephone. Telephone hearings are currently held in MS Teams.
- 4.3 Panels should try to select a neutral background for video appearances in order to limit distractions and create a professional environment. Nothing should be on view that could identify a location or third party (such as photographs or memorabilia). Panels should ensure that they are alone in the room when undertaking the hearing and that the proceedings cannot be overheard. Appropriate dress is professional attire. For video hearings, Members should ensure their face is aligned within the box with the label not obscuring their face.

⁴¹ More information on digital recording can be found in the Digital recording of Parole Proceedings Guidance.

- 4.4 Remote hearings have similar characteristics and the same procedural rules as hearings in person. However, panels should be alert to potential problems in using video or telephone, such as security issues, time-delays or talking over each other. For the sake of clarity, courtesy and fairness in proceedings, the panel chair should intervene if such difficulties arise.
- 4.5 If connection cannot be established or is lost during a hearing, the panel chair or one of the panel should ask for assistance from the hearing support team at the Parole Board.
- 4.6 If connection is lost by one participant, or telephone or video becomes degraded, the panel chair should advise all participants of the problem and should recommend that the participant tries to re-establish connections. This may necessitate the CVP room being unlocked so that the participant can re-enter the virtual room. Potential technical problems underline why the panel chair should continually monitor the active participation by all contributors to the hearing and should regularly check whether participants can hear everyone else.

Face-to-Face hearings in person

Access to prisons

- 4.7 A security pass and Parole Board laptop should be taken to a hearing in a prison. The laptop should hold downloaded dossiers, electronic versions of member guidance, the member's sitting dates and availability, and contact lists. Panel members might also take to the hearing a personal diary, case notes, prompt sheets and other relevant materials in electronic or paper format.
- 4.8 A member may take an authorised laptop into a prison, provided it is accompanied by the relevant access document titled *Parole Board Members Access to Establishments*.⁴² Failure to produce this document may result in considerable delay in clearing gate security.
- 4.9 Panel members should arrive at the prison no later than one hour before the hearing is due to start. This allows sufficient time to access the prison and clear security, be escorted to the hearing room and engage in pre-hearing discussions.
- 4.10 On entering the prison, panel members will be subject to prison security checks, which may include body and bag scanning and pat-down searches, depending on the security category and local procedures of the prison. Parole Board members are not exempt from security searches. They are subject to Prison Rules and the criminal law regarding unauthorised articles.⁴³

⁴² Under this Memorandum of Understanding, Parole Board members are provided with an access document, which details their name and relevant serial numbers for their recording devices. Members are required to present their prison access document upon request from security.

⁴³ Please refer to the MAPP Guidance for more information on Access to Prisons. A full list of prohibited items can be found [here](#).

- 4.11 If a member faces any issues with regard to their entry into the prison, concerns should be escalated to the Director of Operations at the Parole Board, through the Parole Board case manager.

The hearing room and safety

- 4.12 Panel members can expect to be escorted to the hearing room within a reasonable time on arrival at the prison.
- 4.13 The hearing room must be safe and suitable for a private hearing under rule 15(3). The prisoner should be provided with a separate room to hold confidential consultations with their representative. For remote hearings, the prison should facilitate confidential consultations between the prisoner and their representative (usually by video conferencing or telephone).⁴⁴
- 4.14 The prison governor has overall responsibility to ensure the health and safety of everyone in the establishment. The [HMPPS Parole Board Oral Hearing Administration & Attendance Policy Framework](#) sets out the requirements prisons must comply with for staging oral hearings. The governor should undertake a formal risk assessment concerning the safety of participants in the hearing where concerns have been raised. Where necessary, appropriate practical measures should be put in place. The HMPPS Policy Framework states:

"It is the legal and statutory responsibility of the Governing Governor to take all reasonable steps to ensure the safety of all staff, visitors, and prisoners. However, the presence of a prison officer is not considered necessary in Parole Board oral hearings unless there are particular concerns about a prisoner. Where a Governor's risk assessment indicates there is a need for additional security measures during the hearing, the Governor (or an appropriate delegate) must advise PPCS in advance of the hearing in a timely manner. PPCS can then raise any issues with the Parole Board ahead of the actual hearing."

- 4.15 The panel chair should be alert to the safety of those present during the hearing. Before the hearing, any security concerns identified or implied in the dossier, SHRFs or representations should be raised with the Parole Board case manager by the panel chair. The case manager will, in turn, contact the prison to confirm that a risk assessment has been or will be undertaken. If it is unclear whether a formal risk assessment has been conducted by the prison in response to concerns identified, the panel chair may check with the Parole Board case manager or make directions for one to be conducted.
- 4.16 Whilst violence by prisoners in oral hearings is rare, members should be alert to their own safety and that of others during the hearing, even if no security concerns have been raised before or indicated in the dossier.
- 4.17 On the day, concerns about a prisoner's possible negative behaviour should be raised with prison staff. A suitable member of staff might be assigned as an observer in the hearing room or stay within distance outside. When there

⁴⁴ Whilst it is the prison's responsibility to facilitate these discussions, in some cases, the panel may wish to leave the Parole Board's virtual room so that the prisoner and their representative can have a consultation in there.

are concerns about safety, the panel chair should escalate matters through the Parole Board case manager if not resolved locally. Exceptionally, where considered necessary, a panel chair may request that a prisoner is searched before entering the hearing room. Where it is not possible to resolve outstanding concerns, the panel chair may adjourn the hearing to a future date using remote arrangements such as a telephone or video hearing.

- 4.18 The [HMPPS Parole Board Oral Hearing Administration & Attendance Policy Framework](#) sets out essential criteria that rooms provided for oral hearings must meet, including that the room:

"...must be equipped with an easily accessible alarm so staff can be alerted in the event of an emergency and Parole Board members must not be locked into any area of the prison without physical access to a member of staff".

- 4.19 Some of the practical steps that can be taken to ensure the safety of those attending a hearing are:

- Where concerns arise about recent or emerging negative behaviour, ensure appropriate risk assessment, security measures and updates are in place
- Ask the case manager to find out key practical safety arrangements in advance, including the room, alarm arrangements and staff availability
- On the day, ensure panel members can summon assistance quickly and that any necessary case-specific safety adjustments have been considered
- Where appropriate, make enquiries about the prisoner's current presentation and welfare before the hearing.

- 4.20 The Member Administrative Policies and Processes (MAPP) guidance contains additional information relevant to member safety.

- 4.21 It is important that the hearing room is appropriate and is configured with health and safety in mind.

- 4.22 The layout of the hearing room should allow the prisoner to feel central to the proceedings and to play a full and active part in the hearing. It is common practice for the prisoner to be seated directly opposite the panel and beside their representative. As a party to the hearing, a Secretary of State Representative, if in attendance, should also be prominently positioned but separate from the prisoner and their representative.

- 4.23 Interpreters, signers, or other communication specialists should be seated near to the prisoner so that they can interact easily. The most effective position may not be directly beside the prisoner, especially for signers. The panel's questions and body language should be directed towards the prisoner even when an intermediary is facilitating interactions.

- 4.24 Witnesses should be seated in the hearing room but, depending on circumstances and available space, may be set back slightly from proceedings until called forward to give evidence. Any observer should be seated to be as unobtrusive to proceedings as possible. The panel chair should review the number and positioning of chairs before the hearing commences. It is

common practice to have water and beakers available and located conveniently for all participants.

- 4.25 The arrangements for a victim reading a VPS in person to the panel (accompanied by the HMPPS victim representative) will need sensitive consideration. Guidance is available for handling these arrangements in the Guidance on Victims.

Contact with prison staff

- 4.26 Panels should remember the need for actual and perceived independence and fairness when interacting with prison staff. Panels are the public face of the Parole Board. They must avoid discussing case details or information about prisoners inappropriately with prison staff and must avoid oral evidence being provided outside the hearing. An exception may be asking staff discreetly, before the hearing, about the prisoner's current welfare and demeanour. A prisoner's representative may also request a pre-hearing meeting with the panel where similar enquiries could be raised with discretion.
- 4.27 Panel chairs should be particularly alert to establishment staff or any participants commenting about the forthcoming hearing. Should interaction stray from practical matters to comments about the prisoner or to apparent evidence being discussed, the panel chair should halt the conversation with an explanation. Information that may have a bearing on the formal process of evidence-taking should only be conducted in the hearing itself.

Contact with parties and witnesses in advance of the hearing

- 4.28 To ensure that the parties to the oral hearing process are dealt with (and are seen to be dealt with) fairly and effectively, all panels must act in a manner that demonstrates independence and impartiality. On the day, this means that panels should ensure that they do not intentionally or inadvertently take evidence from, or inappropriately talk privately with, the parties in advance of the formal hearing. It is also important to avoid any perception that this may have occurred.
- 4.29 Aside from material which is subject to non-disclosure under rule 17, both parties must have access to the same information. Both the parties and witnesses taking part in the hearing should have access to the up-to-date current dossier.⁴⁵ Please see paragraph 4.46 below on occasions when information is presented to a panel on the day of a hearing.
- 4.30 Evidence from a witness on behalf of the Secretary of State will need to be received through PPCS to ensure that it will not be the subject of non-disclosure. The prisoner and their representative will need time to consider the evidence and may make representations.

Pre-hearing discussion with the parties

- 4.31 In most cases, the most appropriate format for pre-hearing discussions with the parties would be within a CMC. However, in some cases, the panel may

⁴⁵ In some instances information or reports may be withheld from witnesses or other hearing attendees under rule 6(3)(f).

invite either of the parties to meet with them before the formal hearing on the day. They may seek to clarify matters that will be essential to panel planning or the handling of the proceedings. For example, finding out the likely expectations of the prisoner concerning the outcomes of the hearing, checking availability of significant material or the extent of the dossier length, and identifying any preliminary issues. **The panel chair must ensure that no actual evidence is taken from either party outside the formal proceedings and may intervene should either party broach matters that must be heard in front of the prisoner and other participants.**

- 4.32 If it is necessary to consult with one party about pre-hearing matters or applications, the other party should be informed in advance and given an opportunity to attend a pre-hearing consultation. If a representative attends a pre-hearing consultation without the prisoner, the panel should seek confirmation that the prisoner has been offered and has declined the opportunity to attend but has had the opportunity to be properly consulted by the representative. If a Secretary of State Representative is not in attendance, the Secretary of State can be represented by one of their witnesses, for example a POM or COM.

Missing participants

- 4.33 If a co-panellist or any participant cannot attend on the day of the hearing, or they face significant delay in joining the hearing, the panel chair must decide (in consultation with any co-panellist present) whether it would be appropriate for the hearing to go ahead in that person's absence. The overriding principle must be fairness. The proposal to proceed without a co-panellist or witness must be canvassed with both parties. If necessary, the panel chair can contact the Legal & Policy hub for advice.
- 4.34 Co-panellists who are unable to attend the hearing must notify the panel chair and Parole Board case manager as a matter of urgency. The case manager can inform the prison. In the case of a three-member panel, the hearing should only proceed with two members if this is appropriate for the case and the parties agree with this arrangement. Similarly, a two-member panel could go ahead with just the panel chair if appropriate (but only if the panel chair holds the accreditation to sit as a single panel member). Clear reasons must be given in the written decision where the panel composition has been amended.
- 4.35 Similar principles and cautions apply if connection is lost during a telephone or video hearing. If attempts to reconnect have failed, or it is not possible for a witness to transfer from video to telephone contact, the panel chair should consult with both parties and determine whether to proceed without that participant. Care should be taken to consider the completeness of the evidence already taken and any lack of opportunity that the parties may encounter in testing evidence that has already been heard.
- 4.36 Panel chairs should be particularly alert to specialist Parole Board members or expert witnesses being unable to join the hearing. In either of these circumstances, the case may hinge on the applicability of the specialist's expertise.

- 4.37 It is unlikely that a hearing can proceed fairly if the prisoner's representative is unexpectedly absent. Another situation that might raise questions about fairness is the absence of one witness when report writers have made contradictory assessments about risk or risk management plans. In addition, the COM might be regarded as an essential witness when there is a realistic prospect of release.
- 4.38 If the panel chair is absent or significantly delayed on the day, the hearing will not proceed unless one of the co-panellists has suitable accreditation and it is appropriate for them to assume the role of panel chair. Advice can be sought from the Legal & Policy hub.
- 4.39 If the hearing cannot proceed, an explanation should be given to all participants (some of whom may have travelled to the establishment). Efforts should be made to ascertain a re-convene date with those participants present to prevent delays in re-listing. The formality of adjourning or deferring the hearing should be set out later in directions using the appropriate template.

Pre-hearing panel discussion

- 4.40 Panels must prepare for pre-hearing discussions in advance of the day. They should come equipped with an outline of the case, notes, and prompt-sheets as necessary, with a clear view of the issues and areas likely to require evidence-gathering and examination. They should also have their Parole Board laptops with them if attending the prison in person in order to access any necessary key information during discussions, however, they should bear in mind that they may not have internet access so may not be able to access things such as guidance on SharePoint or emails.
- 4.41 The pre-hearing discussion is held privately, without the parties, witnesses or most observers present. Only Parole Board members undertaking training, practice observers and Parole Board-sponsored officers or researchers may attend as observers. This is only with the agreement of the panel chair, irrespective of whether the panel convenes in person or remotely. The pre-hearing discussion should not be digitally recorded unless for training or quality development programme (QDP) purposes.⁴⁶
- 4.42 It may be helpful for the panel chair to open discussions by briefly summarising the context in which the panel decision is to be made. Without offering personal views at this stage, a summary might include the terms of the Secretary of State's referral; the sentence type and key important dates, as well as a reminder that the codified public protection test⁴⁷ has no temporal element.⁴⁸ A concise reminder of the codified public protection test for directing release and/or the criteria for recommending suitability for open conditions may also be given.

⁴⁶ Pre-hearing discussions that have been digitally recorded for training or QDP purposes should be deleted as soon as they are no longer required for that purpose.

⁴⁷ Please refer to the Types of Cases Guidance for more information.

⁴⁸ The Courts have determined that the statutory test for release has no temporal element - Johnson EWHC 1282 (Admin) and Dich and Murphy [2023] EWHC 945 (Admin).

- 4.43 The panel should discuss relevant aspects of risk, including areas where further information is needed or probing by way of questioning. It is important that all members of the panel participate and are given the opportunity to be heard. It is best practice for the panel chair to invite contributions from co-panellists before providing their personal views. Careful consideration must be given to how the panel will handle hearsay or third-party evidence and allegations⁴⁹ of behaviour related to risk or wider offending.
- 4.44 The panel should also consider and decide together the order in which evidence will be taken from witnesses and identify the panel member responsible for leading particular aspects of questioning. The aim is to obtain the best evidence as fairly and effectively as possible. For example, a psychologist witness who has not met with the prisoner for some time may benefit from hearing the prisoner's evidence first; or there may be merit in a co-panellist with specific concerns or expertise leading the questioning of a particular witness. All panel members should have the opportunity to question a witness, either in a leading or follow-up role.
- 4.45 An effective pre-hearing discussion will:
- Examine directions, issues and concerns that need resolution ahead of the hearing and identify risk-related matters that need exploration via oral evidence
 - Consider sources of bias, disputed facts, and the potential of having to attempt to make a finding of fact⁵⁰
 - Confirm the codified public protection test⁵¹ and/or the criteria to recommend suitability for open conditions, the options available to the panel and what information is required to consider risk indefinitely
 - Determine which witness might provide necessary risk-related information and who should lead on questioning
 - Agree areas of questioning for each witness, ensuring that only relevant and necessary questions are asked, and that these address the areas of risk that the panel has identified. Questioning should elicit evidence that clarifies issues, fills gaps and tests any conflicts in the evidence
 - Consider any special needs of the prisoner and other participants, and the benefits of scheduling short breaks (and perhaps planning a lunchbreak) during the hearing
 - Agree logistical aspects as necessary, for example the arrangement for a victim to read their statement, or the presence of an observer

"On the day" receipt of late papers

- 4.46 Any evidence that a party wishes to rely on at an oral hearing must be served on the Parole Board and other party at least 14 days before the date of the hearing (under rule 18(2)). If a party wishes to present evidence which has not been served at least 14 days before the date of the hearing, the party

⁴⁹ Panels must follow the principles set out in the judgment in *Pearce* when considering allegations. Please see the *Guidance on Allegations* for more information.

⁵⁰ Panels must follow the guidance on finding of fact. Please see the *Guidance on Allegations* for more information.

⁵¹ Please refer to the *Types of Cases Guidance* for more information.

must serve the material on the Parole Board and the other party together with an application to the panel chair for permission to present the evidence and give reasons for the late service (under rule 18(3)).

- 4.47 If evidence is served less than 14 days before the hearing, and possibly on the day of the hearing, an application must be made in line with rule 18(3) by the party who wishes to present the evidence. If the panel chair allows the evidence to be presented, the panel chair will need to ensure that the panel and the other party have sufficient time to consider the evidence.
- 4.48 Exceptionally, a panel chair may accept evidence presented on the day. If the newly presented material appears to be essential to the assessment of risk, or if refusal could jeopardise the integrity of decision-making or otherwise trigger an adjournment on the day, a panel chair may accept new evidence presented at the hearing. This should be regarded as exceptional. The panel chair has discretion to accept material where fairness has been duly considered. In exercising this discretion, the panel chair must bear in mind that information should first come through PPCS to check that information can be disclosed to all parties.
- 4.49 Where the evidence is served on the day by the prisoner or their representative on behalf of the prisoner, a copy will need to be provided to PPCS. It is the responsibility of HMPPS witnesses to provide the same material to PPCS who will upload it to the dossier. If the information relates to a third-party direction, it is the responsibility of the Third-Party Directions Team at the Parole Board, and they will ensure that this is uploaded to the dossier. Witnesses and the panel will need time to consider the new evidence which may require a break of the proceedings.
- 4.50 For advice on situations where non-disclosure material or applications are served on the day of the hearing, please see the Non-Disclosure Applications Guidance.

"On the day" applications to adjourn or defer

- 4.51 Applications made on the day of the hearing for an adjournment or deferral are subject to the same considerations as those made in advance. Panels must ensure that principles of fairness are applied.
- 4.52 On-the-day adjournments and deferrals have a significant impact on the individuals involved in the process and on the parole and wider criminal justice system in terms of costs, wasted resources and lost hearing time.
- 4.53 Witnesses to the hearing are not entitled to make formal applications for adjournment or deferral, although their reports or testimony may make reference to the benefits of delaying a parole decision. The *Carltona* principle applies:⁵² officials speaking for PPCS as one of the parties must be suitably senior and experienced to act on behalf of the Secretary of State. It follows that a COM or POM cannot authorise withdrawal of information or propose adjournment unless formally empowered to do so prior to the hearing. The

⁵² This principle permits civil servants to act as the Secretary of State under suitable circumstances, as recognised by the courts in *Carltona v Commissioner of Works* [1943] 2 All ER 560.

panel chair should take a short break in the proceedings and invite the official to contact PPCS to confirm suitable authorities.

- 4.54 Please refer to the Guidance on Adjournments and Deferrals.
- 4.55 Where it is necessary to adjourn or defer a case on the day, there may be opportunity and benefit in converting the scheduled oral hearing into a CMC with the agreement of the parties present.
- 4.56 Advice about CMCs is available at paragraphs 3.68-3.86 above.

Prisoners who are not represented

- 4.57 Panels must pay particular regard to the principle of fairness when faced with a prisoner who is unrepresented on the day, by choice or circumstance. The panel chair must be satisfied as to the prisoner's abilities and competence to consider and examine the evidence, to properly question witnesses and to adequately test evidence by doing so, and to make final submissions. In short, panels must be satisfied that the prisoner has the competence to conduct the proceedings. The panel chair must also consider whether the prisoner has had adequate access to the dossier and time to review it, has the dossier with them and can refer to specified reports as necessary. They should also consider whether any assistance is likely to be required to enable the prisoner to properly represent themselves during the hearing. Please refer to Guidance on Representation for further information.

5 The Hearing

The roles of panel chair⁵³ and co-panellists

- 5.1 Rule 24 determines the conduct of oral hearing procedures. Separate advice about staging CMCs is available above.
- 5.2 The panel chair has responsibility for ensuring arrangements are in place for a safe and fair hearing. This starts at the PCD stage and continues on the day of the oral hearing by:
- Deciding with co-panellists how the business of the hearing should be organised to ensure fairness and effectiveness
 - Opening and closing the hearing
 - Maintaining progress during the hearing
 - Ensuring relevant questions are asked of the parties and witnesses
 - Contributing to panel decision-making
 - Ensuring that the recording equipment is working, so that an official record of the hearing can be made
 - Agreeing attendance of observers and victims and method of attendance (remote, in person)
 - Checking the prison has taken all necessary precautions for the safety and wellbeing of all those who are attending in person

⁵³ More detail can be found at 2.11.

- 5.3 The panel chair and co-panellists must be well prepared to discuss the case and examine its issues on the day. Co-panellists are responsible for asking appropriate questions of the parties and witnesses; assisting the panel chair in maintaining progress during the hearing; contributing to panel decision-making; and keeping additional notes of the hearing.⁵⁴

Opening the hearing

- 5.4 When the panel are ready to start a remote hearing, the panel chair should admit and verify participants and lock the virtual room prior to starting. For hybrid hearings, the panel chair should admit remote attendees before inviting in-person attendees into the room. For face-to-face hearings, the parties and witnesses should be invited into the room when the panel are ready to start the hearing. They should enter at the same time to mitigate any risk of perceived unfairness. However, as mentioned above, in some situations the panel chair may wish to speak to one of the parties ahead of the hearing, or greet a victim or observer, and put an attendee at ease. If minded to take such action, it is important that both parties are informed to ensure transparency.
- 5.5 Once participants are all in the room in a remote hearing or have been directed to their appropriate places in the case of face-to-face hearings, the panel chair should open the proceedings. The opening is likely to be the first opportunity for participants to hear from the panel. The introductory stage should, therefore, aim to settle the prisoner and set an appropriate tone for the hearing. The prisoner must be the primary focus and must have explanations and clarifications directed towards them. The introductory stage of a remote hearing will likely include checking everyone can hear and/or see the attendees (unless a live stream is being facilitated where all attendees will not be able to be seen).
- 5.6 Rule 24(2)(a) directs the panel to avoid over-formality during the hearing. The panel chair is expected to maintain effective control through a balance of formality and informality.
- 5.7 Rule 24(1) requires the panel chair to explain at the beginning of the hearing the order of proceedings planned by the panel. The panel chair should ensure the following points at the start of the oral hearing:
- Statement that the proceedings are being held in private; or that the hearing is being live streamed as a public hearing
 - Confirmation that the proceedings are being digitally audio recorded⁵⁵
 - Introduction of the panel members, including the role of any specialist member
 - Introduction of the parties and witnesses involved in the hearing
 - Confirmation that the prisoner knows about any observers and that these people have no role in the hearing or the panel decision-making
 - Introduce observers attending remotely reminding those that the hearing must be held in private

⁵⁴ Please refer to MAPP for information on retaining notes.

⁵⁵ If this causes anxiety, the panel can reassure them by saying that it will be kept private, confidential, and that only the Board Chair can authorise its disclosure.

- Summary of the options open to the panel in the Secretary of State's referral
- Restatement of the codified public protection test⁵⁶ and/or the criteria to recommend transfer to open conditions, as appropriate
- Confirmation of the dossier length and any additional material in order to ensure parties and other participants have the same written evidence
- The proposed order in which oral evidence is expected to be taken
- Ask the prisoner whether they choose to answer questions, reminding them that they cannot be compelled to do so, but that the panel will make their decision based on the evidence they have read and heard
- Confirmation of opportunities to request a break during the hearing

5.8 In addition, the panel chair may comment on:

- Parole Board independence from the Ministry of Justice, HMPPS, the courts and any other agency
- The need to avoid over-formality in proceedings but at the same time a requirement for an orderly process by having only one person speaking at a time
- That it has been agreed the case is suitable to be heard remotely, where relevant
- The necessity of the panel having working laptops to access the dossier (which will be identical to the prisoner's printout)
- The fact that panel members may look away from the camera at points during a video hearing in order to consult the dossier or make notes
- The prisoner's opportunity to have the last word in person or through their representative
- Any participation by the victim, for example, setting out for the record that a reading of a VPS took place before the hearing
- Availability of water for the prisoner and other participants, particularly at a face-to-face hearing
- Advisability of the prisoner having pen and paper to jot down notes during evidence-giving (though this may require sensitivity should the prisoner prove to have limited literacy, if English is not their first language or they have a disability that restricts ability to take notes)

5.9 As proceedings should be digitally audio-recorded, when a hearing is conducted remotely, the panel chair should invite participants (including the prisoner) to introduce themselves, so that all participants can later identify who is speaking and that their voices can be identified in the digital record. In such hearings, the panel chair should also remind participants of the limitations and necessary disciplines of using video or telephone as visual cues will be partial or absent.

5.10 The Parole Board acts as a court and conducts proceedings in accordance with the principle of open justice (which applies even in private proceedings). Like any court, the representatives appear before it as themselves, the panel appear under their own names and so do the witnesses. Any derogation from the principle of open justice will need to be properly justified and requires something more substantial than uneasiness or speculation. In most

⁵⁶ Please refer to the *Types of Cases Guidance* for detailed guidance.

hearings, this information will be shared with those attending and observing but will not be shared any further. In order to depart from this standard practice, there must be evidence of a specific risk posed to the panel member(s) or witnesses by the prisoner to justify not displaying their full names. In exceptional circumstances, such as where members have significant safety concerns about recording their name on directions or decisions, they should contact the Legal & Policy hub outlining the reasons why they feel they cannot add their name. These will be considered on a case-by-case basis.

- 5.11 At the onset of a remote hearing, checks should be made that everyone can hear everyone else clearly. Similar checks should be made intermittently by the panel chair throughout the hearing. The panel chair may choose to advise participants of arrangements to be made if any technical problems occur later; connections may need to be re-dialled, or video replaced by a telephone hearing with the agreement of both parties at the time.
- 5.12 Rule 15 requires hearings to be held in private unless the Chair of the Board has determined that it is in the interests of justice for the oral hearing to be held in public. With regards to hearings taking place remotely (via telephone or video), it may be difficult to maintain privacy of proceedings. The panel chair should inform all participants at the start of the hearing:

"Under the Parole Board Rules 2019 (as amended), these proceedings are to remain private and the names of the people taking part in it must not be disclosed. What this means is that you must not talk about anything you hear today with other people, and you must not pass on any names that you learn during this hearing. You should be aware that this is forbidden by law and action may be taken against anyone who does not comply with this, so please make sure that you do not pass on any information or names outside of these proceedings."

- 5.13 During and following the opening of the hearing, it is good practice to check that the prisoner has understood what has been said and whether there are any procedural questions at the outset.

Prisoners with vulnerabilities

- 5.14 When preparing for and conducting an oral hearing for a prisoner with vulnerabilities (for example a child, young adult, or where there are mental health/mental capacity concerns or neurodivergent needs), panels should be:
 - Taking account of specific needs and circumstances, ensuring that the prisoner can take as full a part as possible in the hearing
 - Checking with staff and/or the representative that efforts have been made in advance to prepare the prisoner by explaining the purpose and procedures of the hearing and explaining the roles of the panel and all participants
 - Suggesting that officials show the prisoner and representative (if attending the prison) the room in advance of the hearing and that they explain who will be attending and their roles, and who will be there in person or joining via remote means. This should also include if the

victim or a third-party will be attending in some way to read a VPS while the prisoner is present

- Describing during the hearing introduction how things will happen, explaining that the prisoner may not like or agree with views which are given but that they or their representative (where appointed) can challenge evidence and that the panel makes its own mind up based on all the evidence, including the views of the prisoner
- Considering whether any reasonable adjustments to support the prisoner's participation are required. These could include extra breaks, simplified documents, and the use of clear and simple or plain language
- Using first names when addressing the prisoner if that has been checked as a preferred option

5.15 The Board advocates taking a trauma informed approach at oral hearings. Being trauma-informed and responsive will maximise the chance that the prisoner will be able to engage with the hearing in a meaningful way. This should assist strengthening the confidence of panels in their decision making, as all reasonable steps will have been taken to support the prisoner to participate constructively and fairly throughout. The impact of the panel taking a trauma-informed approach is that ultimately it increases the fairness of the process and of the hearing for the prisoner. Given that panels may not know whether a prisoner has experienced trauma or not, it has been suggested that the starting point is to treat all prisoners as though they have potentially been traumatised (a universal approach). This can be achieved by requiring only small changes to practice on the part of panels. This could have a significantly positive impact for the prisoner's experience of their parole review, ability to provide their best evidence at an oral hearing, and for procedural fairness of the review. Taking a trauma-informed approach with prisoners during their parole review is not the same as absolving them of their responsibilities as perpetrators of crimes (which is not within the role and function of the panel). Taking a trauma-informed approach with prisoners involves understanding the ways in which past traumatic experiences may have contributed to shaping the person they are today, including their offending behaviour and their custodial behaviour. More information can be found in the Trauma Informed Practice Guidance.

5.16 Please refer to the Vulnerable Prisoners SharePoint page, Guidance on Children, Guidance on Young Adults, Guidance on Mental Health and Restricted Patients, Guidance on Mental Capacity and Litigation Friends and Guidance on Neurodiversity for more detailed information about specific arrangements and considerations.

Prisoner expectations of the parole review

5.17 At the outset of the hearing, the panel chair may ask whether the prisoner's representative has any preliminary formal applications to be determined. At this stage, the prisoner's expectations about gaining release or progression might be canvassed. This is commonly mistaken to be an "application" to the panel for release or transfer to open prison. In fact, only the terms of the Secretary of State's referral define the panel's task.

- 5.18 The panel will need to be aware of the extent of the formal referral and its options and restrictions. Each of its elements must be determined on the basis of evidence and risk assessment, whatever the prisoner's preferences. **The panel must always first assess suitability for release where this is an option, before considering suitability for open conditions, where this is part of the referral, if the codified public protection test is not met.**

Effective questioning

- 5.19 Rule 24(2)(b) outlines that the panel may ask questions to satisfy itself about the level of the prisoner's risk and its manageability. A pre-hearing panel discussion is essential to establish the way the hearing will run, including the order of questioning each witness and who should question them. The order of questioning witnesses should be outlined during the opening of the hearing.
- 5.20 **The panel chair should ensure that all questioning is fair, inquisitorial, and related to risk. All witnesses, regardless of their role, must be treated with respect and courtesy.** The panel's questions should be focussed on probing the reliability of evidence presented at the hearing or in the dossier, on filling any gaps and resolving any conflicts of evidence. Departure from these principles should be curtailed by the panel chair.
- 5.21 So long as there is no bias or undue influence, the panel is entitled to ask such questions as are necessary to properly assess risk. Questions about sensitive or personal matters should not be avoided and a line of questioning can be pursued with a reluctant or evasive witness. However, panels are seeking to elicit best evidence and should vary their approach to achieve this. Because the process is inquisitorial, and not adversarial, the panel should avoid, without good cause:
- Rehearsing previously clarified information unnecessarily
 - Confirming facts that have already been established, ignoring barriers to communication, or repeating a colleague's question
 - Putting words into the witness's mouth or posing questions that are speculative or based unfairly on an underlying premise or presumption
 - Putting a statement or presumption to a witness and asking them to rebut it (as this indicates the panel members have a perceived presumption and may lead to perceived unfairness)
 - Unfairly or persistently challenging the basis for a witness's risk assessment or findings when the purpose of evidence-gathering is to neutrally generate oral information that can be evaluated by the panel later. Panels are entitled to probe the basis of a witness's evidence where this is necessary to understand whether relevant risk information has been taken into account and to properly assess risk but should avoid doing so in a way that becomes adversarial
 - Posing overly hypothetical questions which are fruitless and may risk generating the reply that the witness (especially the prisoner) supposes the panellist wants to hear

- 5.22 Questioning should follow the 20 principles of questioning, as per the Questioning Vulnerable Prisoners mandatory training.⁵⁷ Questions should be concise, open, and direct. There should be no leading, 'tag' or compound questions. Questions should follow a chronology or other structure, and each new topic should be signposted. Panels should not repeat the same question unnecessarily, or make a statement posed as a question. However, where it becomes clear that the question was not understood, it may be appropriate to phrase the question in a different way so that the point is clear and the panel can obtain the evidence it needs. Whilst it can be helpful to prepare some questions in advance, and certainly it is important to plan questioning, it is vital to respond appropriately to what the witness says and how they behave. Rather than having prepared a full script, it is more effective to have identified key areas for questioning and drafted some relevant questions for each topic.
- 5.23 Consideration may be given to the potential benefits of the prisoner's representative opening the questioning of the prisoner and/or any witnesses instructed by that party. While it is more common for the panel to open the questioning with any witness, this is not a requirement. One panel member will normally begin asking questions, to be followed as necessary by co-panellists before the prisoner or representative asks their questions. Nevertheless, it may sometimes be appropriate for panel members to take turns in questioning and/or to return briefly to questioning the prisoner or a witness after another person's questions.
- 5.24 A suggested order of questioning in hearings where a Secretary of State Representative is present is set out below. **This is not intended to be prescriptive, as it is for the panel to determine the approach:**
- 1) The Secretary of State Representative
 - 2) The prisoner's representative
 - 3) Each panel member in turn
 - 4) The Secretary of State Representative (where there is one)
- 5.25 Once all the Secretary of State's witnesses have been heard, the prisoner's representative may be invited to call their witnesses. Normally the prisoner will be invited to give evidence first. The order of questioning can then follow the same structure, but with the prisoner's representative and the Secretary of State Representative changing places. The panel should remain flexible about the order of witnesses. For example, it may help for a specialist witness to hear the prisoner's evidence before giving their own, or for the prisoner to hear and understand professional evidence before giving their own evidence.
- 5.26 It may also, on occasion, be necessary to recall a witness to give further evidence, and this possibility should be considered before releasing witnesses after they have given their own evidence. Where the panel question a witness after the prisoner or their representative has done so, the prisoner or their representative should be offered the last opportunity to re-question the witness. This includes the representative following up any add-on questions.

⁵⁷ This can be found on the Member Learning & Development SharePoint page.

- 5.27 Panel members should not ask questions for the sake of asking questions. It is acceptable for a panel member to say that they do not have any additional questions to ask a particular witness. The panel chair, coming last in a panel of two or three members, should only ask relevant, risk-related questions and clarify any apparent gaps or anomalies in the emerging evidence, if this is necessary.
- 5.28 It is essential that the panel and both parties to the proceedings are given the opportunity to play a full part, in line with rule 24(3). This states parties are entitled to take part in the proceedings, hear each other's witnesses and representations, call a witness in accordance with rule 13, and put questions to each other and to any witness appearing before the panel.
- 5.29 For prisoners with vulnerabilities (for example children, young adults, or with mental health/mental capacity concerns), the panel should consider:
- Where appropriate, starting with the prisoner's evidence to assist in settling them; in extreme cases allowing written evidence to be submitted as a starting point
 - Asking straightforward questions, in short quantities and in a logical manner
 - Preparing the prisoner for each stage of the examination before breaking down questions into smaller sections
 - Adjusting vocabulary and the manner in which information is conveyed by using plain language, avoiding jargon and legal terminology, and adopting the prisoner's own phraseology where appropriate
 - Invite the representative to advise if there are any further matters the panel should take into account when ensuring the restricted patient/prisoner can give their "best" evidence, or if unrepresented the POM
 - Checking that the panel has understood what the prisoner is saying correctly by explaining what they understand the prisoner to have said clearly
 - Giving the representative or other person supporting the prisoner time to intervene if they are becoming distressed or agitated
 - In some cases, it may be helpful to hear from the prisoner then allow them to leave the hearing (if they wish to do so)
 - Regularly checking that the prisoner is following proceedings, by asking questions that invite understanding rather than simply asking if the point has been understood
 - Scheduling in regular breaks in the remote hearing and check in with a support worker if present (bearing in mind concentration levels are likely to be shorter in remote hearings)
 - Slowing the pace if necessary, in the light of feedback, allowing the prisoner to digest the question or request and have time to think about a response
 - Allowing the prisoner to present evidence in creative ways if understanding or communication presents difficulties. Use diagrams and drawings, presenting pre-recorded material, acting out an incident, or describing parallel situations that can be interrogated by extension. There might be other creative options that enable the panel to elicit best evidence whilst ensuring fairness of the proceedings

- Asking at the end of the hearing if everyone is clear on what has taken place
 - Inviting the representative to submit a written closing statement, if appropriate
- 5.30 Additional advice about composing questions for prisoners who may need support can be found on the [Advocate's Gateway website](#).
- 5.31 Research undertaken by Sheffield Hallam University has been published which looked at how questioning varied depending on the mode of proceedings i.e. either in person or remote. A summary of the findings may be of interest for panels to read.⁵⁸

Rules of evidence (hearsay evidence)

- 5.32 Under rule 18(2), written evidence should be submitted at least 14 days before the date of the oral hearing. An application should be presented to the panel for submission of new material served less than 14 days before the hearing, with an explanation concerning its late service.
- 5.33 The Parole Board is not bound by rules of evidence that apply in criminal proceedings. Rule 24(6) states that a panel may produce or receive in evidence any document or information, whether or not it would be admissible in a court of law. This has particular application when considering hearsay evidence.⁵⁹ The interpretation of this rule will be for the panel chair, but the guiding principle must be fairness in obtaining relevant evidence in support of risk assessment. However under rule 24(7), a person cannot be compelled to give evidence or produce any document which they could not be compelled to give or produce on the trial of an action.
- 5.34 The courts have confirmed that the Parole Board may entertain hearsay evidence. However, the weight given to such evidence must be proportionate to its reliability. It is important to consider the provenance of such information, particularly where issues of non-disclosure are also involved (please see the Non-Disclosure Applications Guidance) or where an allegation has been made against the prisoner (please refer to Guidance on Allegations for further information).

Breaks

- 5.35 During the hearing, it may be necessary to take one or more short breaks. Breaks can help refocus the participants and/or the panel; allow a comfort break; let a distressed individual resetttle; allow a prisoner to take advice or give instruction to their representative; or enable the panel to reflect on the evidence given so far and the need for and nature of further questions. Where appropriate a break for lunch or refreshment should be included, timings should be discussed at the hearing if they have not been agreed at a CMC.
- 5.36 In remote hearings it might be difficult for representatives to consult in private with the prisoner during the hearing. Panel chairs might want to acknowledge this at the beginning of the remote hearing and make necessary

⁵⁸ A comparative study of the language used in remote and in-person parole hearings: summary

⁵⁹ For example, second-hand or unverified evidence.

practical arrangements. The panel should consider offering the representative the opportunity to speak to the prisoner in private before they make their final submissions.

- 5.37 The Parole Board has a duty under the Equality Act 2010 to make reasonable adjustments, including when making arrangements for oral hearings. There may be participants for whom reasonable adjustments, including frequent breaks, are essential from the viewpoint of fairness and courtesy, and to ensure that participants can provide their best evidence. Prisoners with a disability will be at a substantial disadvantage (as well as any attendee with a disability) if reasonable adjustments are not in place. Proceedings should not unfairly disadvantage any attendee. Panels may find *Appendix B of the Equal Treatment Bench Book*⁶⁰ useful when considering which adjustments may be appropriate to allow effective participation of the prisoner during the hearing. Please see the Guidance on Protected Characteristics for further information.
- 5.38 The panel chair should resume the hearing with a reminder where the interruption occurred. The digital recording must be paused or stopped as the break takes effect and resumed or restarted immediately after participants re-enter the hearing room or remote hearing.⁶¹ The panel chair should record the start and end times of any breaks, either verbally as part of the digital recording or by noting down the details.
- 5.39 For hearings running over lunchtime, a lunch break should be taken. There may be people at the hearing who have health conditions that necessitate regular meals, snacks, or drinks. Some may have travelled a considerable distance to the hearing. The panel chair should not proceed through lunchtime.
- 5.40 Continuing the first of two cases on the day by shortening or ignoring a lunchbreak may enable both hearings to be completed, but this may prove a false economy if participants begin to perform below par or should complications affect the hearing later in the day. The panel chair has a duty to monitor progress and determine whether to cut short and adjourn the first hearing in order to start the second as scheduled, or risk deferring or otherwise not completing the second case on that day. Co-panellists have a role in raising these issues and helping the panel chair reach decisions.
- 5.41 Once a hearing date is set, prisons must ensure the hearing room remains available to the Parole Board for the whole working day (e.g. 9:30 to 17:30 during Monday to Friday).⁶² However, Panels need to be vigilant about the need for the attendees to have comfort breaks during lengthy hearings and/or where any participant has personal circumstances that need to be considered. Breaks should be scheduled for lunchtime, and breaks allowed as necessary. Face-to-face hearings will not start before 10.30am to allow time for the panel and witnesses to travel to the prison and gain entry to the prison and hearing room.

⁶⁰ [Equal Treatment Bench Book - Courts and Tribunals Judiciary](#).

⁶¹ Panels are advised to pause and resume the recording if it is a break (for example up to 10 minutes) or stop and re-start the recording for longer adjournments (over 10 minutes).

⁶² As set out in the [Parole Board Oral Hearing Administration and Attendance Policy Framework](#).

- 5.42 If the hearing is going to take longer than expected, all participants should be consulted. Hearings should not continue beyond 17:30, as some attendees may have caring responsibilities or prisoners may miss set mealtimes or medication slots if a hearing continues beyond this.

Conduct, interruptions, and interjections

- 5.43 The panel chair is responsible for maintaining the progress of the hearing. Rule 24(4) gives the panel chair power to ask anyone behaving disruptively to leave the hearing. The panel chair can invite that person to return to the hearing if they are able to moderate their behaviour.
- 5.44 The Prisoner and witnesses should be discouraged at the outset from interrupting evidence being given by others. The prisoner may have questions or points of clarification to put to witnesses or the panel, but this can be allowed when it is their turn to put questions to the witness or make final submissions. The prisoner may be encouraged to make notes about issues arising during others' evidence. Observers are not permitted to contribute to the proceedings and can be removed from the hearing should they become disruptive or a distraction.
- 5.45 In some situations, the panel chair might interject to challenge the nature or style of questioning by a participant (including a co-panellist if necessary). Examples include questioning becoming adversarial or accusatory, unnecessarily distressing a witness, having no evident relevance to risk assessment, or turning into evidence-giving or opinion rather than genuine enquiry. However, care should be taken as interjections might be seen as affecting perceptions of fairness.
- 5.46 The panel chair should generally refrain from interjecting to ask questions when a co-panellist is leading the questioning of a witness unless a simple point of clarification is needed for the record. Frequent or intrusive interjection may affect rapport with witnesses and the flow of the hearing.
- 5.47 Witnesses should be asked to direct all their comments to the panel. **Side-conversations with other participants (including checking a fact with the prisoner or answering an interruption) should be strongly discouraged by the panel chair.**

Witness Issues

- 5.48 Where it becomes apparent that a witness is struggling or unable to give evidence due to personal distress, in the first instance panels may wish to explore whether there is anything that they can do to alleviate the immediate distress to a point where the witness will be able to give evidence. This may include taking a break or moving the witness to a later position in the order of witnesses, providing them with adequate time to recover.
- 5.49 If this is not possible, the panel should consider whether they need to hear evidence from that witness at all. If they do not, they can discharge the witness and continue with the hearing. If the evidence of the witness is necessary, the panel may consider discharging the witness but taking all the

other evidence that they can from other witnesses before adjourning part heard.

- 5.50 Panels may seek representations or may not feel it is necessary dependent upon the circumstances.
- 5.51 Panels should avoid adjourning for the sole reason that a witness is unable to give evidence because they are unprepared, unfamiliar with the case, or lack competence. Instead, panels should take what evidence they can and explain in the written decision why the evidence was of limited value and why they chose to place less weight upon it. Panels may wish to raise concerns with the Secretariat if they consider it may be appropriate to make a formal complaint or, *in extremis*, refer a matter to a professional regulator.
- 5.52 Clear reasons must be given in the written decision for any changes that occur (for example standing down a witness on the day).

Indications that the prisoner is acting uncharacteristically

- 5.53 Occasionally, during the course of a remote hearing, a witness may notice that the prisoner is not presenting themselves as they normally would. Under such circumstances, a psychologist or the COM/POM who knows the prisoner well may request a break. If the panel chair allows a break, the concerned witness can air their observations, but the other party (including the representative) must always be present during the conversation. Equally, concerns about the prisoner's ability to engage fully with the proceedings can be raised in this way. This would be particularly valuable during a remote hearing where the panel may not have the full range of behavioural cues to guide them.
- 5.54 It is at the panel chair's discretion how the matter is resolved when the hearing resumes; the panel chair may wish to take advice from co-panellists in private. What is essential is that the prisoner's representative should have been party to the conversation and that developments should be aired subsequently in the resumed hearing to ensure transparency. Advice on allowing breaks in the hearing is set out above.

Keeping an official record of the hearing

- 5.55 It is essential that oral hearings are digitally audio recorded to ensure that the Parole Board is compliant with its legal obligations in the case of *McIntyre*,⁶³ which ruled that:
- It is the responsibility of the Parole Board to ensure that a proper record is made of each hearing and in particular the oral evidence given
 - The record of proceedings and evidence before the panel may be required to assist the court in any judicial review proceedings
- 5.56 A proper record can also be essential if the evidence given is relied on at a further hearing and in any reconsideration application.

⁶³ *R (McIntyre) v Parole Board* [2013] EWHC 1969 (Admin).

- 5.57 A digital audio-recording constitutes the official record of the oral hearing. The recording should commence at the outset of the oral hearing and conclude when the oral hearing ends. Recording must be paused as soon as a break takes effect and must be resumed immediately after participants re-enter the hearing room, or when the remote hearing resumes. There should be no recording of pre- and post-hearing discussions between the panel (unless for training or QDP purposes),⁶⁴ nor during the reading of a VPS.
- 5.58 The panel chair is responsible for making and preserving the recording in digital format. Audio-recordings must be stored safely and kept indefinitely. Either party may apply to the Parole Board for transcripts, but not the digital recording itself.⁶⁵ Applications must be made to the Parole Board's Litigation Team within three months of the decision being issued. For more information, please refer to the Guidance on Digital Recording of Parole Hearings.
- 5.59 Technical advice on making a digital recording (EaseUs user guide) and instructions on storing the files (audio recordings repository set up guide) can be found on the IT SharePoint page.
- 5.60 The Parole Board hearings support team may be approached for help. Where technical problems occur with the digital recording system, the panel chair may direct queries to the Parole Board IT support team.
- 5.61 Where a digital recording cannot be undertaken, or is not available for some reason, the handwritten notes of the panel chair will stand as the official record of the proceedings. Further information can be found in MAPP.

Time management

- 5.62 The panel chair must ensure that the hearing progresses and keeps to expected time. Co-panellists also have a responsibility to maintain timings as previously agreed. Delays in commencing the hearing or over-running the expected hearing length can impact on participants and on any subsequent hearings during the day. Where, despite every effort to avoid it there is the possibility of over-running, the panel chair should consider as soon as possible whether there is a risk that the second case cannot be heard and whether to foreshorten the first hearing by adjourning. Where a review has already been deferred or adjourned, it may be unfair to delay the process even further. Other circumstances must also be considered, including witnesses travelling a considerable distance to the hearing, having constraints such as caring duties, experiencing health problems, release plans being time critical or otherwise waiting unnecessarily for a hearing.
- 5.63 The panel chair should ensure that any delays to hearings and the causes of these are fully communicated to the waiting parties and witnesses as soon as practicable. They should be advised about revised timings.

⁶⁴ Pre- and post-hearing discussions that have been digitally recorded for training or QDP purposes should be deleted as soon as they are no longer required for that purpose.

⁶⁵ Where a witness misses any of the hearing, it is not possible for the Board to provide them the recording of the part they missed.

- 5.64 The panel chair should keep a note of the timings of each hearing as part of the official record of the proceedings. This may be done verbally as part of the digital audio-recording or by noting down the start and end times of any breaks.

Closing submissions

- 5.65 If present at the hearing, the Secretary of State Representative must be given the opportunity to make closing submissions. Written submissions may also be available to the panel.
- 5.66 After all the evidence has been taken, the prisoner and their representative must also be afforded the opportunity to address the panel with a summary of evidence and closing submissions in accordance with rule 24(9). **It is required to allow the prisoner and/or their representative to have the final word. Sufficient time at the end of the hearing must be allowed for this.**
- 5.67 The panel may be asked by the representative to consider accepting written submissions following the hearing. This may only be necessary where the case is complex, the representative wishes to address a range of issues, or time is limited. If such a request is made, it is for the panel chair to decide the suitability and determine whether oral submissions are preferred. Should the panel chair agree, a deadline is to be set for submission so that the panel decision is not unduly delayed.
- 5.68 Directing substantive additional information or written representations may require an adjournment and the issue of a formal adjournment notice. The panel should confer privately as to the requirements but may canvass the representative or witnesses concerning possible contributions. Under these circumstances, the panel should agree a date and time for reconvening (known as the adjournment review date) to consider the case after the directed information/closing submissions have been received.
- 5.69 The statutory requirement that a panel decision is issued to the parties within 14 days⁶⁶ of the hearing will restart from the panel's adjournment review date.
- 5.70 However, should the information/closing submissions be submitted early, due to the Board's requirement to conduct a speedy review, the panel should endeavour to issue the decision as soon as possible, as the adjournment will cease at this point.

Concluding the hearing

- 5.71 At the end of the evidence-taking, the panel chair should conclude proceedings and:
- Advise the parties of the next steps, including panel decision-making and the 14-day timescale for issuing the decision to the parties

⁶⁶ To ensure that the decision can be issued on time, the panel chair should send it to the Parole Board case manager within 10 days of the oral hearing (or the submission of new material).

- Where relevant, remind the parties of the reconsideration and setting aside procedures and timescales.⁶⁷ Please see the Guidance on Reconsideration Mechanism and Setting Aside a Decision for more information

- 5.72 Where it is possible and safe to do so, the panel chair may ask participants to wait briefly (outside the hearing room or by withdrawing from the remote hearing for a set time) while the panel checks it has all the material needed to reach its decision. Alternatively, in the case of an adjournment, future requirements and practical arrangements can be confirmed. Thereafter, participants can be stood down from the hearing.
- 5.73 Panel chairs should ensure that the decision is not announced at the hearing. A panel can change a decision up to the point of issue. By announcing the decision at the hearing, it can be said that we have issued it. As well as restricting the panel, this would mean that the clock begins to run on reconsideration. It would be premature to raise expectations at a hearing about release or progression which could result in disappointment and may raise expectations for other prisoners or may result in assumptions if the panel does not disclose it on the day. Announcing the decision at the hearing would mean that the panel could no longer change their minds. Implying the decision at the hearing, or announcing an intention subject to caveats, can cause a reputational risk for the Parole Board if the panel were to change its mind. Additionally, when release is directed, release plans cannot be put into place and activated until the decision becomes final and the formal notification is received.
- 5.74 On occasion, further information may be received after the hearing but before the decision is issued (such as information about adverse developments). This gives further weight to the importance of not announcing or implying the hearing's outcome on the day. Advice about further information and the panel's decision is given at 6.23 below.⁶⁸
- 5.75 Where the panel considers that the immediate welfare of the prisoner is so precarious that awaiting the decision could be detrimental in terms of health and safety, please seek advice from the Legal & Policy hub.

6 After the Hearing

Post-hearing panel discussion

- 6.1 The panel must engage in full post-hearing discussions following evidence-taking, final submissions and conclusion of the hearing. The discussions are held privately, without the parties, witnesses or most observers present. Only Parole Board members undertaking training, practice observers and Parole

⁶⁷ Decisions are eligible for reconsideration only where the prisoner is serving an indeterminate sentence; an extended sentence; or a determinate sentence subject to initial release by the Board under Chapter 6, Part 12 of the Criminal Justice Act 2003 (Rule 28(2) of the 2019 Rules (as amended)). The time limit for filing an application for reconsideration is 21 days after the decision under challenge has been sent to the parties. All release decisions that meet the criteria can also be set aside up until release. Please see the Setting Aside guidance for further information.

⁶⁸ As informed by *Dickens v Parole Board & Secretary of State for Justice* [2021] EWHC 1166 (Admin).

Board-sponsored officers or researchers may attend as observers. This is only with the agreement of the panel chair, irrespective of whether the panel convenes in person or remotely. The post-hearing discussion should not be digitally recorded unless for training or quality development programme (QDP) purposes.⁶⁹

- 6.2 Following the Decision-Making Framework, the panel should discuss relevant aspects of the evidence and come to a decision based on the options made available to them in the Secretary of State's referral. Discussions should result in agreed reasons for a decision and any licence conditions that are required. Consideration of release must precede consideration of a recommendation for open conditions when both are options in the referral letter. For recall cases, if it is the first review since the prisoner's return to custody, the panel should discuss and record in the decision the appropriateness of the recall, on the basis of the material available at the time of the panel's hearing (in line with the caselaw of *Calder*⁷⁰). Please see Types of Cases Guidance for more information on the codified public protection test, criteria for open conditions and the caselaw of *Calder*.
- 6.3 A thorough post-hearing discussion will ensure relevant issues have been explored, evidence has been properly weighed, all panel members have expressed a view, and the resulting panel decision is analysed and evidenced. It is best practice for the panel chair to invite contributions from co-panellists before expressing a personal view. It is important that all members of the panel are given the opportunity to participate and be heard.
- 6.4 An effective post-hearing discussion might include:
- Weighing oral evidence from the prisoner and other witnesses to determine which evidence is preferred and why
 - Making findings of fact on allegations relevant to risk, where there is sufficient evidence to do so⁷¹
 - Examining whether an adjournment is needed for submission of additional written evidence or representations and framing the contents of an adjournment notice
 - Considering sources of bias
 - Analysing critical risk factors and the panel's own assessment of serious risk of harm
 - Analysing relevant protective factors
 - Considering manageability of risk, possible signs of increased risk and levels of likely compliance or the impact of possible non-compliance
 - Assessing the robustness of the risk management plan
 - Agreeing additional licence conditions, and where these may be refused or agreed with variations, or sources of support and monitoring
 - Reaching firm decisions that balance risk, the public protection test and risk management within the period of risk
 - Establishing key points for the decision and wording of particular issues or necessary signposting

⁶⁹ Pre-hearing discussions that have been digitally recorded for training or QDP purposes should be deleted as soon as they are no longer required for that purpose.

⁷⁰ *R (Calder) v Secretary of State for Justice* [2015] EWCA Civ 1050.

⁷¹ Panels must follow the principles set out in the judgment in *Pearce* when considering allegations. Please see the *Guidance on Allegations* for more information.

- 6.5 It is good practice for the panel chair to keep a note of the post-hearing discussion to ensure that the issues raised by co-panellists, and the full reasons, are properly reflected in the decision. This is an *aide-memoire* to help the panel chair recollect significant points of evidence and arguments when drafting and is not disclosable as part of the formal record as the formal proceedings have ended.

Panel decision-making

- 6.6 In coming to its decision, a panel should follow the Decision-Making Framework. The Top Ten Decision Writing Tips include helpful prompts that will assist the panel with its decision making. Where the referral from the Secretary of State includes consideration of release and of suitability for open conditions, the panel must first consider whether the codified public protection test is met and, if release is not directed, to then consider suitability for open conditions.
- 6.7 The codified public protection test for release and the criteria to recommend the transfer to an open prison is contained in the Types of Cases Guidance.
- 6.8 As outlined above, the panel should discuss the case and weigh crucial evidence in detail after the hearing with the aim of coming to an agreement. In making decisions, all members have equal status, and no panel member has a casting vote. Panel members should take an active part in deliberations, demonstrate sound judgement in a structured decision-making process and utilise specialist advice as necessary to deliver a prompt decision. All panel members must have been present at the hearing and privy to deliberations to be part of the decision-making process.
- 6.9 If there are difficulties in coming to a unanimous decision, the panel should thoroughly and fairly debate the evidence, the codified public protection test⁷² and alternatives again. One of the panel members could facilitate a discussion about a specific point on which agreement cannot be reached or on which opinion differs. If necessary, the panel can reconvene within a day or two, having reflected on the evidence and the varying views. If full agreement is still not possible, the case may be concluded with a majority decision. No explicit reference to a majority decision must be made in the written decision but the decision can be described as finely balanced. The decision should reflect even-handedly the panel's assessment of the evidence for and against the decision.
- 6.10 A case cannot be concluded with a split decision by a two-member panel. For this reason, the need for a three-member panel might be foreseen and directed at the MCA stage. That is, when the MCA panel considers that the decision may be so finely balanced that a split decision from a two-member panel is highly possible.
- 6.11 If a two-member panel is finding it hard to reach an agreement, they should carefully consider whether further written or oral evidence may assist them, and if so, whether to adjourn to enable this to be obtained. If an agreement cannot be reached after a thorough review of the evidence and the codified

⁷² Please refer to the Types of Cases Guidance for detailed guidance.

public protection test, the panel will need to be dissolved under rule 26(2), and the panel chair will need to formally defer the case so that a new panel can be convened to hear the case. The panel chair will need to issue a deferral notice explaining that the panel has not been able to reach a conclusion and that the case will be re-listed for a new panel. In the event of a split decision, the case should be prioritised for a new listing date. The panel chair may issue directions for further information and witnesses which they believe will assist the next panel. In doing so, they should be careful not to give an indication of their own assessment such that it might fetter the assessment of a future panel. No record of the evidence heard, or any assessment or analysis of risks, can be included in such a deferral notice. It is good practice to include a third member in the logistics for the new panel to avoid risk of another split decision.

- 6.12 Wherever possible on the day, panels should reflect on the hearing and its procedures, and on the processes of panel debate and decision-making. As part of reflective learning, panels should consider the success of constituent elements of the day and what they might do differently in future. This review may be initiated by the panel chair but can be introduced by any panel member. Where feedback is offered or sought concerning individual performance, colleagues should act and respond sensitively and constructively. They should offer factual instances of behaviour and critique its success by means of positive dialogue and discussion.

Post-hearing adjournment

- 6.13 Panels may decide, in the light of post-hearing discussions, that it is necessary to adjourn a review if further evidence or additional submissions (written and/or oral) are needed to reach a full and fair decision. In these circumstances, an adjournment notice must be issued on the PCD template with directions for the material to be submitted.
- 6.14 The panel should make every effort to consult with witnesses to set a likely date for compliance with directions as needed. If further evidence is likely to need testing, the panel should also aim to agree a date for the adjourned hearing to reconvene in consultation with witnesses. If it is not necessary to reconvene, the case can subsequently be decided on the papers. The panel chair will retain responsibility for the case and should work closely with the Parole Board case manager and co-panellists to ensure the case progresses towards the reconvened hearing or a final decision.
- 6.15 Under rule 25(6), the Parole Board must issue the decision within 14 days of the oral hearing. Where, despite all efforts, a decision cannot be provided to the parties within 14 days of the hearing (allowing that four of these days will be needed for the case manager to process and issue the decision), the panel chair must formally adjourn the case. An adjournment notice must be issued as soon as possible, using the appropriate template, to inform parties of a delay and to indicate when the decision will be made available. Adjournments solely to allow more time for decision writing beyond the 14-day period should be avoided wherever possible. Every effort should be made to issue the decision within 14 days of the hearing.

- 6.16 Please refer to the Guidance on Adjournments and Deferrals for more information.

Agreeing, preparing, and issuing the written decision

- 6.17 Under rule 25(6), the decision of the panel must be recorded in writing with reasons, and that record must be provided to the parties not more than 14 days after the end of the hearing. As this is a statutory requirement, the 14-day time period must be complied with.

- 6.18 When writing decisions, panel chairs should refer to:
- The Decision-Making Framework which sets out the structured approach to be used by members in making a parole decision
 - The Decision Writing Guidance which sets out the general principles and guidance on filling out the decision template and guidance on what each section of the decision should include
- And
- The Top 10 Decision Writing Tips

- 6.19 For any decision made following MCA assessment, the appropriate decision template must be used, as follows:

Paper decision template – for decisions made on the papers (under rule 21) up to the oral hearing date, on the template, the review type selected must be 'Post Member Case Assessment'

Oral hearing decision template – for decisions made from the hearing date onwards (this template can be used even if the hearing convened and was then adjourned or cancelled on the day)

The written decision must have the approval of all panel members. The panel chair must prepare a draft of the written decision that reflects the agreed views of the panel, and the outline settled before members dispersed on the day of the hearing (or subsequently agreed by email in the case of additional information being submitted and the hearing not being reconvened). The draft of the decision must be emailed to co-panellists for their comments. Drafting suggestions should be considered open-mindedly by the panel chair and amendments made as necessary before the decision is submitted to the Parole Board case manager. Given that a number of co-panellists do not routinely log on to their Parole board laptops every day, it may be helpful to send a text to alert co-panellists to the fact that the draft decision has been shared via email. Mobile phone details can be found on the Member contact spreadsheet in SharePoint.

- 6.20 If a panel chair is expected to be absent for a prolonged period, co-panellists should seek the advice from the Legal & Policy hub. The following options can then be explored:
- 1) A co-panellist who holds panel chair accreditation is asked to take on responsibility for writing the decision
 - 2) If none of the co-panellists hold chair accreditation, a co-panellist who has undertaken chair training and is on the pathway to accreditation is asked to write the decision

- 3) If the co-panellists have not undertaken chair training, a co-panellist who is MCA accredited is asked to write the decision
 - 4) If none of the above apply, a co-panellist is asked to write the decision with support from an experienced panel chair. The experienced panel chair would act as a mentor providing advice on the drafting of the decision; they must play no role in contributing to or influencing the decision-making of the panel
- 6.21 The panel member drafting the decision must have access to the recording of the hearing and should (where possible) have access to any notes made by the panel chair. The decision is that of the panel so the draft decision must have the approval of the other co-panellists.
- 6.22 If the co-panellists are not able or willing to take on responsibility for drafting the decision, the case will need to be deferred and a new panel appointed. If one of the co-panellists is available and suitably accredited to draft the deferral notice, this will usually be the quickest and most straightforward approach. If not, the matter will need to be referred to a duty member.

Further information received following the oral hearing

- 6.23 Occasionally, information is sent to the Parole Board after an oral hearing has concluded which indicates a change in circumstances, such as so-called "adverse developments". Examples may be evidence of failed drug tests or other significant negative custodial conduct, unforeseen criminal allegations or charges, or breakdown in critical release arrangements. These developments may have a bearing on the risk posed by the prisoner and therefore on continued suitability for release or transfer to open conditions.
- 6.24 In the event that further information is submitted before the decision has been issued to the parties, the case manager should ensure it has been uploaded to the dossier by the relevant person (PPCS or the Parole Board Third Party Directions Team) and then urgently inform the panel that there is new information in the dossier for the panel to consider.
- 6.25 At this time, the panel has a duty to consider any additional information that is submitted. The panel chair should lead the panel in determining the weight of the new information, its impact on the decision, and subsequent action that may be needed. The panel should look collectively at the information and assess whether it is relevant to risk and, if so, whether it changes their view. Representations from both parties must be sought formally during this process.
- 6.26 The panel may decide to direct the submission of further evidence and may determine that a further oral hearing is required. Under these circumstances, the panel chair must issue new directions with an explanation of developments that prompted the review. In deciding how to proceed, the panel should keep in mind the overriding principles of protection of the public and fairness to the prisoner.
- 6.27 After due consideration, whether or not a further oral hearing is required, the panel should agree the decision. This must reflect the further information, its assessment by the panel, and its relevance to risk.

- 6.28 In the event that further information is submitted after the decision has been issued, it may be possible for the decision to be set aside and for the panel to consider the new information. For more information on the set aside process and eligibility, please refer to the Setting Aside a Decision Guidance. If the further information relates to licence conditions, please refer to the Licence Conditions Guidance.

When the panel decision is made

- 6.29 Under the Rules, a decision is “made” at the point it is issued to the parties.
- 6.30 The only change that can be made to a written decision once it has been made (i.e., issued to the parties), is to correct any accidental slip or omission under rule 30(1).⁷³
- 6.31 Once a decision has been made, the decision remains provisional for 21 days if it is eligible for reconsideration, otherwise it becomes final. Please refer to the Guidance on the Reconsideration Mechanism for more information.
- 6.32 Once the decision is final, the Board becomes *functus officio*.⁷⁴

[END]

⁷³ Please note there is a time limit for using the slip rule (namely, 12 weeks after the decision has become final).

⁷⁴ *Functus Officio* Law and Legal Definition: *Functus Officio* is a Latin term meaning “having performed his or her office.” With regard to an officer or official body, it means without further authority or legal competence because the duties and functions of the original commission have been fully accomplished.