



Parole Commissioners
for Northern Ireland

THE PAROLE REVIEW PROCESS

**A step-by-step guide for prisoners serving an
Extended Custodial Sentence (ECS)**

NOTE: The advice given in this Guide may be changed if the Parole Commissioners feel that additional or amended information should be included for the benefit of prisoners.

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1. Introduction

This guide sets out information on how and when your case will be referred to the Parole Commissioners to consider your release from prison.

2. Your Sentence

An Extended Custodial Sentence is known as a public protection sentence and has been introduced to manage certain offenders who are deemed to pose a risk of serious harm to the public. These are offenders who have committed offences that are of either a sexual or violent nature.

When you were sentenced the judge will have explained what your sentence was and how it would work. It can be complicated and if you are not sure about anything, you should talk to your case manager or legal representative about it.

3. Extended Custodial Sentence (ECS)

If you have been given an ECS:-

- at court the judge will have stated the maximum period of time you must spend in prison (custodial term) and the time on licence (extension period);
- approximately 6 months prior to the halfway point of your custodial term your case must be referred to the Commissioners who will consider if you have reduced your risk of serious harm to the public enough to be released safely into the community at that stage;
- if the Commissioners do not direct the Department of Justice¹ to release you they may recommend a date for the next review which will be no later than 1 year from the date of decision unless there are circumstances which would justify a later review. If a later date is recommended, you will be informed of the reasons for this;
- you **must** be released at the end of the custodial term;
- when you are released you will be on a licence until the end of the extension period (see annex A and B for licence conditions);
- if you behave in a way that indicates that you pose an increased risk of causing serious harm to the public by, for example, breaking a licence condition or committing another offence, you may be recalled to prison.

¹ The Northern Ireland Prison Service acts on behalf of the Department of Justice

4. THE PAROLE PROCEDURES

4.1 Referral

The Prison Service, acting on behalf of the Department of Justice, starts the parole process by referring your case to the Commissioners for consideration approximately 6 months before the half way point of your custodial term.

4.2 Notice of referral

The Commissioners will write to you to let you know that your case has been referred to them by the Prison Service. The letter, known as the 'Notice of Referral', will list the dates by which certain things need to be done by the Prison Service and by you and/or your representative so that your case can be completed within the available time leading up to your parole eligibility date. It is very important that you and your representative keep a note of these dates and that you are clear about what you have to do. More information about appointing a representative can be found at 4.4.1 below.

4.3 Parole Process

The parole process can be broken down into 2 stages:

Stage 1 – single Commissioner

A single Commissioner will consider your case and either:

Provisionally direct release

If the single Commissioner provisionally directs your release a panel of three Commissioners will consider the provisional direction and the licence conditions recommended for your safe release. An oral hearing will be held, which you and your representative can attend, unless you, the Prison Service and the panel agree that a hearing does not have to be held. If all parties are in agreement that an oral hearing is not necessary, your case can be considered on the basis of the written evidence and representations provided. **You should note that despite the single Commissioner's provisional direction the panel may decide not to direct your release.**

Or: Provisionally direct that you are not released

If the single Commissioner provisionally directs that you should not be released then you can decide if you want your case to be considered by a panel of three

Commissioners. **You or your representative must make this application within two weeks of the date that you receive the provisional direction.** If you require a panel to consider your case, an oral hearing will be held, which you and your representative can attend, unless you, the Prison Service and the panel agree that a hearing does not have to be held. If all parties are in agreement that an oral hearing is not necessary, your case can be considered on the basis of the written evidence and representations provided.

Or: ***Direct that your case should be considered by a panel of three Commissioners***

The single Commissioner may direct that your case be considered by a panel of three Commissioners. An oral hearing will be held, which you and your representative can attend, unless you, the Prison Service and the panel agree that one does not have to be held. If all parties are in agreement that an oral hearing is not necessary, your case can be considered on the basis of the written evidence and representations provided.

Stage 2 – Paper or Oral Hearing by a panel of three Commissioners

If your case is to be referred to a panel of three Commissioners, and an oral hearing is to be held, then you can decide whether or not you want to attend the hearing. If you do want to attend the hearing, the Commissioners' office will advise you and your representative of the date your case is to be heard.

If all parties are in agreement that an oral hearing is not necessary, your case will be considered on the basis of the written evidence and representations provided (a paper hearing).

4.4 The Timetable

All the dates and timings are set out in the Notice of Referral letter and you should be clear about what you have to do. If you are unsure about any aspect of the process, you should ask your case manager or your representative.

The Commissioners will try to arrange for your case to be heard as soon as possible. However, you should be aware that, depending on the particular

circumstances of your case, the amount of time it takes to deal with it may differ from that of someone whose case you think is similar to your own.

4.4.1 Sample Timetable

An outline of the different stages in the process after your case has been referred to the Commissioners is set out below. Please remember that the actual dates by which each step must be completed will be included in your Notice of Referral letter. From the date of your Notice of Referral the next steps are as follows:

Within 3 weeks if you intend to appoint someone to act as your representative you must provide the Commissioners with the details of that person. You should use form PCNI 1 for this purpose, a copy of which can be found in the forms section of this guide.

If you want a solicitor to act on your behalf, you may be entitled to Legal Aid. You may of course choose to be represented by someone else, but please note that if you choose any person serving a sentence of imprisonment or a person who has been released from prison on licence you must get the approval of the Chief Commissioner **before** they can act for you.

The Commissioners encourage you to be represented but, if you do not appoint a representative, an eligible person may, with your agreement, be appointed by the Commissioners to act on your behalf.

If you prefer not to be represented, you will be offered an interview with a Commissioner who will not be dealing with your case. The interview will only proceed if you agree to it. The purpose of the interview is to give you the opportunity to discuss your case with a Commissioner and mention anything that you want considered. The Commissioner may also ask you questions about matters that the Commissioner(s) dealing with your case might wish to consider. After the interview, the Commissioner will prepare a report and send a copy to you.

Within 8 weeks the Prison Service will provide you, your representative and the Commissioners with a copy of the "dossier". The dossier should contain all the information relevant to your suitability for release, including the following:

- An outline of the offence(s) for which your sentence was imposed

- A list of any previous convictions, sentences, licences, periods of temporary release and release / recall history
- Comments of the Judge when passing your sentence, if available
- The result of any appeal against your sentence
- Any pre-trial and/or pre-sentence probation reports
- Any police report on the circumstances of the offence(s)
- If you have been subject to a transfer direction under Article 53 of the Mental Health (NI) Order 1986, any relevant report on you
- Any current reports on your performance and behaviour in prison, including:
 - prison reports;
 - record of offences against discipline;
 - reports on any temporary release;
 - details of, and reports on compliance with, any sentence management plan;
 - report on your health, including mental health;
 - psychology reports;
 - assessment of the likelihood of you re-offending and the risk of you being a danger to the public if released;
 - assessment of your suitability for release on licence and licence conditions.

The Probation Board should also provide an up to date report on the following:

- your home address, family circumstances and the support available to you in the community from family or others;
- alternative options if you cannot go home;
- opportunities for employment on release;
- local community attitudes towards you (if known);
- attitudes and concerns of the victim(s) (if known);
- your views on the offence(s);
- your response to previous periods of supervision;
- your behaviour during temporary release during your current sentence;
- your attitude to the prospect of release and the requirements and objectives of supervision;
- an assessment of the likelihood of you re-offending and the risk of serious harm;
- a programme of supervision, should you be released;
- a view on your suitability for release; and
- recommendations regarding any special licence conditions.

If you have been interviewed by a Commissioner not related to the case, his / her report will also be included.

After the single Commissioner dealing with your case has read the dossier, he or she may feel that further information is required. Any additional information that is produced will also be provided to you and your representative.

You will need to consider all of this information and the reports carefully and, if you have a representative you should discuss all of these documents carefully with him/her.

Within 14 weeks you must submit any representations and documentary evidence on which you intend to rely on to the Commissioners and provide a copy to the Prison Service. Representations are any comments that you want to make about your case including comments on anything that is contained within the dossier.

Documentary evidence would include anything that anyone who knows you or about your case can say of their own personal knowledge about the risk of serious harm you might pose if you were released. It would also include any expert evidence you wish the Commissioner(s) to consider.

You may, if you wish, use form PCNI 2 which can be found in the forms section of this guide for this purpose. Your representations and documentary evidence must be forwarded to the Commissioners office and copied to the Prison Service by you or your representative. They will be given to the single Commissioner who will look at them along with all the information provided in the dossier (please see paragraph 4.3 above). You can seek advice from your representative about preparing your representations and documentary evidence.

When the single Commissioner has considered your case, you will receive a copy of the decision which will include the reasons for it.

If the single Commissioner provisionally directs that you are not to be released and you **do not** wish your case to be considered by a panel, the provisional direction will become final after two weeks.

If your case **is** to be heard by a panel of three Commissioners then the following process will apply.

Within 2 weeks of the single Commissioner direction/provisional direction being received you must inform the Commissioners whether you intend to attend an oral hearing of your case. If you wish, you can use form PCNI 3 which can be found in the forms sections of this guide to do this.

If you want to call any witnesses at the hearing you must also make a written application to the Commissioners at this time setting out the name, address and occupation of those witnesses and a full statement of the evidence that they are to give. You can, if you wish, use form PCNI 4 which can be found in the forms section of this guide to do this.

The Prison Service must also submit a written application containing the same things to the Commissioners at this time in respect of any witnesses they want to have at the hearing and they must send a copy of this to you.

You may also apply to the Commissioners, in writing, to be accompanied at the hearing by, for example, a family member, a friend, or a minister of religion. Your application must include the reason why you want this person to be there and include their name, address and occupation. If you wish, you can use the same form as for witnesses. The Prison Service also has a right to apply for people not directly involved to be present at the hearing.

The chairman of the panel will decide whether or not to grant these applications within one week and will give reasons in writing for the decision if any application is refused.

You will be given at least two weeks notice of the date, time and place that has been set for your oral hearing. You and your representative must ensure that the witnesses who have been called to attend the hearing are available on that date. They should, if possible, be available for the whole day. **It is the responsibility of those calling witnesses to arrange for their attendance.**

If you have any further documentation that you wish to have considered by the panel, you must submit an application, in writing, to the Commissioners' office in good time for the hearing. The chairman of the panel will decide whether this information can be submitted.

If you or your representative wish to make any submissions on any point of law at the hearing, you or your representative should notify the Commissioners' office, in writing, within one week from the day on which you receive confirmation of the date of hearing.

The notification should include a summary of the point(s) of law to be raised and should also include a list of any legal precedents, upon which you or your representative proposes to rely, together with their citation. If possible, photocopies of such precedents should accompany the notification and, in any event, a sufficient number of photocopies of precedents must be available at the hearing for use by the panel and the representative of the Prison Service. Speak to your solicitor for advice on these matters.

Failure to comply with these requirements may result in the hearing of your case being delayed or adjourned.

4.5 The Oral Hearing

4.5.1 Where will the hearing be held?

The hearing will be held in a designated room in the prison that you are in unless the panel chairman and the parties agree otherwise.

4.5.2 Record of hearing

You should note that all hearings are recorded. Although the panel may grant permission for notes to be taken by the parties, the Rules forbid information about the proceedings or the names of any persons concerned from being made public – see also Paragraph 4.5.7.

4.5.3 Consultation

A room will be available for you and your representative and any witnesses to be called on your behalf to consult in. A separate room will be available for the Department of Justice's representative and his witnesses. When the hearing is ready to begin, you will be escorted into the hearing room.

4.5.4 Participants

The panel is made up of **three Commissioners**. The chairman is usually a lawyer and one of the other members is normally a psychiatrist or psychologist.

The function of the panel is to consider your suitability for release. Each of the panel members is entitled to an equal voice on questions of law, procedure and substance. The panel will try to keep the proceedings as informal as possible.

The Secretary is a member of the Commissioners' Secretariat and is responsible for administrative duties during the hearing. The Secretary will also operate the recording equipment.

The Department of Justice is normally represented by a solicitor from the Departmental Solicitor's Office and/or a prison governor. The governor is not there to give evidence about you, but may be asked general questions about the management of prisoners.

Your representative is the person you have chosen to represent you at the hearing.

Please note that although there will be lawyer(s) present as far as possible the hearing will be held in a way that is easily understood by all parties using ordinary language.

Witnesses are people called by either you or the Prison Service to give evidence at the hearing. In keeping with the informality of the hearing, witnesses are not required to give evidence on oath.

Observers are people granted permission by the chairman of the panel to attend the hearing but do not have an active part in the process. These could include other Commissioners, but only the three panel members will play a role in the discussions of the panel during and after the hearing.

4.5.5 The Layout of the Room

The three members of the panel will sit facing you, your representative and the Prison Service's representative. The Secretary will sit to one side of the panel and the witnesses will sit on the opposite side while giving evidence. Besides you and your representative and whoever is representing the Prison Service, and unless the chairman of the panel directs otherwise, only expert and professionally qualified witnesses or public servants who are there to give evidence can expect to be present during the entire hearing.

4.5.6 The Purpose of the Oral Hearing

The panel's task is to consider your suitability for release. The hearing lets the panel examine all the relevant information in depth, including your views and the views of the Prison Service. From time to time the chairman of the panel or panel members may

raise particular issues in which they are interested or ask you questions. You should do your best to answer them.

Where the Prison Service makes any allegation of fact against you which you dispute it will be up to the Prison Service to prove, on the balance of probabilities, that that fact is true.

Please note that if you are to be released before your custodial sentence is completed the panel **must** be satisfied that it is no longer necessary for the protection of the public from serious harm that you stay in prison. Serious harm has been defined by law as being "death or serious personal injury, whether physical or psychological".

It must be clear that the risk of you committing serious harm if you are released on licence is no more than minimal.

4.5.7 Confidentiality of the Oral Hearing

The hearing will be held in private and those present must not subsequently make public any information about the proceedings or the names of any of those taking part.

4.5.8 The Order of Proceedings

It is important to remember that the panel has discretion as to how the hearing is conducted but the following guidance sets out what you would normally expect. You, your representative or the Prison Service's representative may also make application to the panel during the hearing if they want to change the order of proceedings.

- i. The panel will try to keep the proceedings as informal as possible. The chairman will direct his or her opening remarks to you, introduce all the participants and outline how the hearing will proceed. (You may be asked whether you object to the presence of any of the observers and, if so, why).
- ii. At the beginning of the hearing the chairman of the panel may indicate what the panel regards as the important issues in your case.
- iii. The chairman may ask the Prison Service's representative to give the Prison Service's view on what the outcome of your case should be. The chairman may also ask you or your representative to state what decision and/or recommendation you will be asking the panel to make. This should be a short statement of fact.

iv. The chairman will then ask the Prison Service's representative to call his or her witnesses. The witnesses will usually be asked questions in the following order by:

- the Prison Service's representative;
- you or your representative;
- each panel member in turn.

The chairman may, however, decide that panel members may ask questions before the witness is questioned by the Prison Service's representative or you or your representative. If so, this will be intended to focus the questioning on what the panel regards as the important issues in your case.

v. Once all the Prison Service's witnesses have been heard, you or your representative will be asked to call your witnesses. This time, the order in which the witnesses will be asked questions will be as follows by:

- your representative;
- the Prison Service's representative;
- each panel member in turn.

vi. You will have an opportunity to speak on your own behalf if you wish. You may be asked questions by your own representative, the Prison Service's representative and by members of the panel. It is important that you try to answer all questions put to you, including those from the panel.

vii. Once all the evidence has been heard, the chairman may ask the Prison Service's representative to make a closing statement.

viii. You or your representative will be asked to make a closing statement.

ix. Finally, the chairman will explain that when the panel reaches its decision it will be sent in writing to you within seven days, unless the chairman has extended the time. A copy of the decision will also be sent to your representative, and to the Prison Service.

4.6 Licence Conditions

If your release is directed you will be subject to standard licence conditions as set out at annex A.

The Prison Service will consult with Commissioners on any further licence conditions that it is felt may be required to ensure that you can be released safely into the

community. These are known as “prescribed” licence conditions and can be found at annex B. These conditions will be specific to your circumstances.

Also, the panel, in its decision, may recommend the inclusion of other conditions tailored to the particular circumstances of your case. **It is important if you have anything that you want to say about any licence condition that you do so during the hearing.**

4.7 The Decision of the Commissioners

4.7.1 Direction to release

At the end of the hearing, if the panel is satisfied that the level of risk you pose is no more than minimal, then it is required by law to direct that you should be released. This decision may be taken by a majority but will be presented as the decision of the entire panel. The Prison Service must comply with the panel’s direction to release.

4.7.2 Direction not to release

If the panel is not satisfied that the level of risk you pose is minimal, it must make clear in its decision that no direction for release is being made. The panel will recommend when your case should be reviewed again and may also make recommendations as to what should be done during the course of your imprisonment in order to minimise the risk of serious harm posed by you.

Whichever decision the panel makes, it must give its reasons in writing. Neither you nor the Prison Service can appeal against the Commissioners’ decision though it is open to either party to seek to challenge it by way of judicial review.

Should you require any further information about the process, you can ask your representative, or you can access the website at www.parolecomni.org.uk.

The relevant legislation can be found in The Criminal Justice (Northern Ireland) Order 2008 [Statutory Instruments No. 1216 (N.I. 1)] and The Parole Commissioners’ Rules (Northern Ireland) 2009 (Statutory Rules of Northern Ireland 2009 No. 82), both of

which can be accessed through the public sector website at www.opsi.gov.uk by inputting the title of the Order or the Rules you wish to read in the search box.

Parole Commissioners for Northern Ireland

April 2010

Standard licence conditions

When a prisoner is released from custody, he will be subject to the requirements of a licence. A licence will include standard conditions such as:

- A.** report to a Probation Officer;
- B.** receive visits from a Probation Officer;
- C.** reside at an address approved by the Probation Officer;
- D.** undertake work, including that of a voluntary nature, as approved by the Probation Officer;
- E.** not to travel outside the UK, Channel Islands or the Isle of Man without the prior permission of the Probation Officer, except where he is deported or removed under the Immigration Act;
- F.** obtain permission of the Probation Officer for any proposed address / work change;
- G.** must not behave in a way that undermines the purposes of release which are to protect the public, prevent re-offending and rehabilitate; and
- H.** must not commit any further offences.

Prescribed Licence Conditions

A licence can also include conditions prescribed by the Department of Justice such as:

- A.** a requirement to reside at a certain place;
- B.** a requirement to make or maintain contact with a person(s) or identified group;
- C.** a restriction on making or maintaining contact with a person(s) or identified group;
- D.** a restriction on participation in any activity;
- E.** a requirement to participate or co-operate with a programme or set of activities which may include testing e.g. alcohol or drugs;
- F.** a requirement to comply with a curfew;
- G.** a requirement to comply with an electronic monitoring arrangement;
- H.** a restriction on his freedom of movement outside of curfew hours; or
- I.** a requirement relating to his supervision in the community by a probation officer.

It is important to note that prescribed licence conditions are relevant to the individual circumstances and therefore the licence will list very specific terms that must be complied with.

Glossary of terms

"Custodial term" – the maximum period of time that you will spend in prison before being released on licence;

"Department of Justice" – the Northern Ireland Prison Service acts on behalf of the Department of Justice for the purposes of the parole process;

"Dossier" – the documents, materials and paper evidence provided by the Department of Justice (Prison Service) as to your suitability for release;

"Extended Custodial Sentence" (ECS) – a sentence of imprisonment which includes an appropriate period of time in custody and a specific period of time in the community under licence conditions;

"Extension period" – a period of time that an offender is subject to licence conditions;

"Licence" – includes the conditions that you must comply with when you are released from prison;

"Oral hearing" – the hearing of all the information and evidence in regard to your case in front of a panel of three Commissioners;

"Parole eligibility date" – the earliest date on which you may be released from custody if the Commissioners are satisfied that you no longer pose a risk of serious harm to the public;

"Parties" – means the prisoner and the Department of Justice (Prison Service);

"Prescribed licence conditions" – the additional licence conditions that may be added to your standard licence and which relate specifically to your circumstances;

"Provisional direction" – the single Commissioner's decision on your case;

"Public protection sentence" – a sentence that has been introduced since 15th May 2008 for those offences of a serious sexual or violent nature;

"Representations" – your comments on the content of the dossier or anything else you or your representative may wish to say to the Commissioners;

"Representative" – the person you have chosen to act on your behalf. This is usually a solicitor. You can nominate someone else but you must have the agreement of the Chief Commissioner to do so;

"Serious harm" – defined in law as meaning death or serious personal injury, whether physical or psychological;

"Single Commissioner" – a Commissioner appointed to look at your case on paper and provide a provisional direction or a direction that your case be considered by a panel;

"Witness" – any person who may be called to give evidence for either of the parties involved.



Parole Commissioners
for Northern Ireland

PCNI 1 - APPOINTMENT OF A REPRESENTATIVE

This form should be completed, signed and returned to the Commissioners office at the address below within **3 weeks** of the date on your notice of referral letter.

A copy should also be sent to the Offender Management Unit who will be acting on behalf of the Department of Justice for Northern Ireland.

I have / have not* appointed a representative to assist with my case.

(*please delete as appropriate)

If you have appointed a representative, please provide the following information:

Name: _____

Address: _____

Tel No: _____

Occupation: _____

Signed: _____

Dated: _____

9th Floor Linum Chambers
2 Bedford Square
Bedford Street
BELFAST
BT2 7ES

Telephone – 028 9054 5900
Facsimile – 028 9054 5915
Email – info@parolecomni.org.uk



Parole Commissioners
for Northern Ireland

PCNI 3 - ORAL HEARING

This form should be completed, signed and returned to the Commissioners office at the address below within **2 weeks** of you receiving the single Commissioners provisional direction on your case.

A copy should also be given to the Offender Management Unit, who acts on behalf of the Department of Justice for Northern Ireland.

Notification

I do / do not* wish my case to be considered by a panel.

Attendance

I confirm that I do / do not* wish to attend an oral hearing of my case.

(*Please delete as appropriate)

Signed

Dated

9th Floor Linum Chambers
2 Bedford Square
Bedford Street
BELFAST
BT2 7ES

Telephone – 028 9054 5900
Facsimile – 028 9054 5915
Email – info@parolecomni.org.uk



Parole Commissioners
for Northern Ireland

PCNI 4 - APPLICATION FOR WITNESSES OR OTHERS TO ATTEND AN ORAL HEARING

This form should be completed, signed and returned to the Commissioners office at the address below within **2 weeks** of you receiving the single Commissioners provisional direction on your case.

A copy should also be sent to the Offender Management Unit who will be acting on behalf of the Department of Justice for Northern Ireland.

1. Witnesses

I wish to apply for the witness(es) listed on the attached forms to attend the oral hearing of my case.

2. Attendance of others

I wish to apply for other person(s) listed on the attached forms to attend the oral hearing of my case.

Please note that if you are applying for more than two witnesses to attend the hearing, you may use a blank sheet to provide the information required.

Signed

Dated

9th Floor Linum Chambers
2 Bedford Square
Bedford Street
BELFAST
BT2 7ES

Telephone – 028 9054 5900
Facsimile – 028 9054 5915
Email – info@parolecomni.org.uk



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for Northern Ireland

Name	
Address	
Tel. No.	
Occupation	

You must provide a full statement of the evidence that the person named is to give. You may, if you wish, use the space below.

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9th Floor Linum Chambers
2 Bedford Square
Bedford Street
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BT2 7ES

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