



Parole Commissioners
for Northern Ireland

THE PAROLE REVIEW PROCESS

A step-by-step guide for Determinate Custodial Sentenced prisoners on the panel process following recall to prison

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 the procedure to be followed if the Commissioner who has dealt with your case and not directed your release decides that your case should be considered by a panel of three Commissioners.

You will receive a copy of a direction from the chairman of the panel that will say how your case will be dealt with. An oral hearing will be held unless the panel and the parties agree that such a hearing is not necessary.

2. Oral Hearing Process

Subject to any direction(s) given by the chairman of the panel the following procedure will apply.

If you want to call any witnesses at the hearing you must make a written application to the Commissioners, copied to the Offender Recall Unit (ORU) (which acts on the behalf of the Department of Justice), within two weeks of receiving the Commissioner's decision, setting out the name, address and occupation of each witness 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 ORU must also submit a written application (copied to you) 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 be copied to the ORU and 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 ORU also has a right

to apply for people not directly involved to be present at the hearing and must copy any such application to you.

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 permitted to attend the hearing on your behalf are available on that date. They should, if possible, be available for the whole day. **It is the responsibility of those who wish to call 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 and copied to the ORU, in good time for the hearing, attaching the documentation and explaining why it was not produced earlier. The chairman of the panel will decide whether this information can be accepted.

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 ORU. Speak to your solicitor for advice on these matters. The notification must be copied to the ORU.

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

2.1 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.

2.2 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 information about the proceedings or the names of any persons concerned must not be made public – see also Paragraph 2.7.

2.3 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 ORU's representative and his witnesses. When the hearing is ready to begin, you will be escorted into the hearing room.

2.4 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 Offender Recall Unit (acting on behalf of 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 ORU 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.

2.5 The Layout of the Room

The three members of the panel will sit facing you, your representative and the ORU'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 ORU, 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.

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

Please note that if you are to be released the panel **must** be satisfied that it is no longer necessary for the protection of the public that you stay in prison.

2.7 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.

2.8 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 ORU'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 ORU's representative to give the ORU'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 ORU's representative to call his or her witnesses. The witnesses will usually be asked questions in the following order by:
 - a. the ORU's representative;
 - b. you or your representative;
 - c. each panel member in turn.

The chairman may, however, decide that panel members may ask questions before the witness is questioned by the ORU'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 ORU'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 ORU'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 ORU'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 ORU'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 ORU.

3. Licence Conditions

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

The ORU 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, may decide to recommend the inclusion of other conditions tailored to the particular circumstances of your case. **It is important that if you have anything you want to say about any licence condition that you say it during the hearing.**

4. The Decision of the Panel

4.1 Direction to release

At the end of the hearing, if the panel is satisfied that the risk you would pose if you were to be released 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 Department of Justice must comply with the panel's direction to release.

4.2 Decision 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 may 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 harm posed by you.

Whichever decision the panel makes, it must give its reasons in writing. Neither you nor the ORU 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 contact the Parole Commissioners' Secretariat on 028 905 49429.

The relevant legislation can be found in The Criminal Justice (Northern Ireland) Order 2008 [Statutory Instruments No. 1216 (N.I. 1)] which can be accessed through the public sector website at www.opsi.gov.uk by inputting the title of the Order into the search box, as can The Parole Commissioners' Rules (Northern Ireland) 2009 (Statutory Rules of Northern Ireland 2009 No. 82)

Parole Commissioners for Northern Ireland

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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

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

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

"Offender Recall Unit" – the ORU acts on behalf of the Department of Justice for the purposes of the review of recalls;

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

"Parties" – means the prisoner and the Department of Justice;

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

"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;

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

PCNI 3 – REQUEST FOR ORAL HEARING

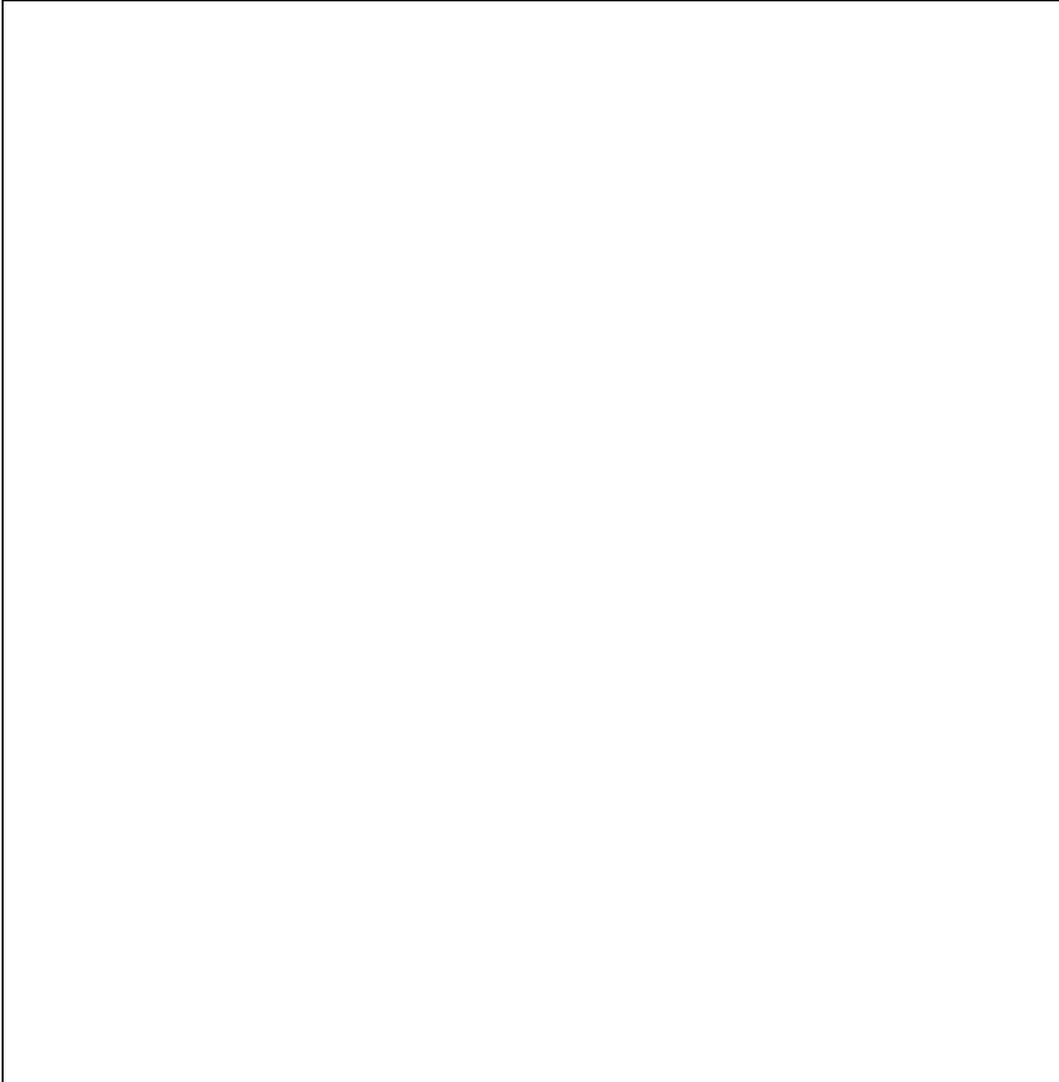
This form should be completed, signed and returned to the Commissioners office at the address below within **2 weeks** of you receiving the Commissioners direction on your case.

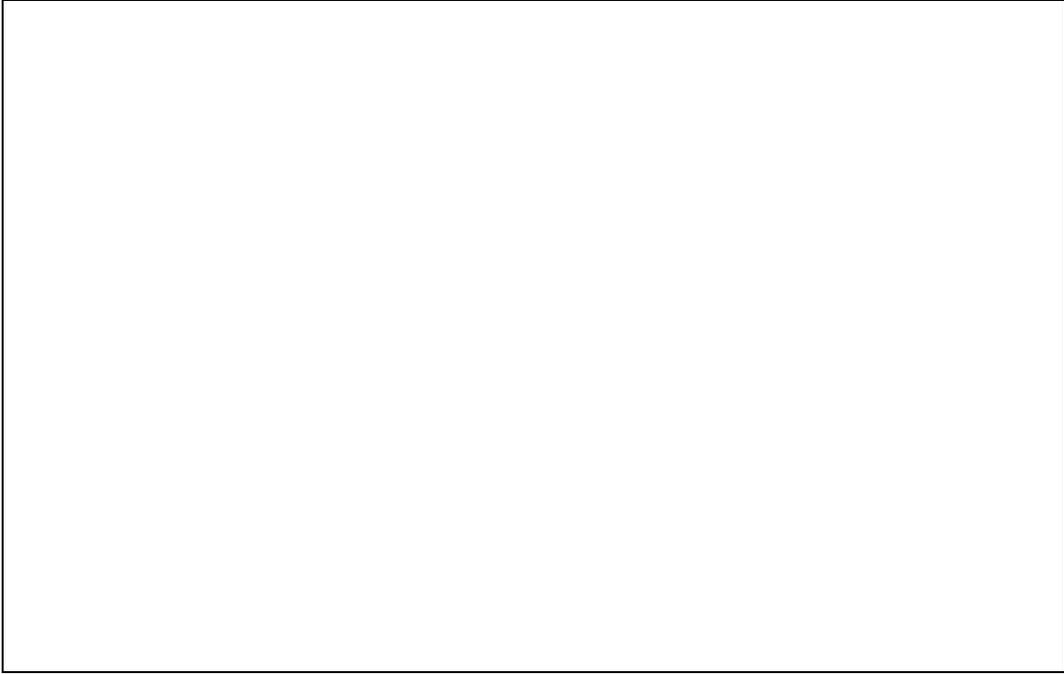
A copy should also be sent to the Offender Recall Unit who will be acting on behalf of the Department of Justice for Northern Ireland.

Please note that a panel hearing will not take place unless you demonstrate to the satisfaction of the Commissioner that:

- (i) there is a realistic prospect of release being directed by a panel; or
- (ii) there is a dispute of fact crucial to the determination of the reference that can only be decided after an oral hearing; or
- (iii) the assessment of risk requires oral evidence from you and/or a witness or witnesses; or
- (iv) fairness dictates that your case be so considered.

Reason(s)

A large, empty rectangular box with a thin black border, intended for the user to provide reasons for a decision or action. The box is currently blank.



Signed _____

Dated _____

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 Commissioners decision on your case.

A copy should also be sent to the Offender Recall Unit which acts on behalf of the Department of Justice for Northern Ireland.

1. Witnesses

I wish to apply for the witness(es) listed on the attached form (a) 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.

2. Attendance of others

I wish to apply for other person(s) listed on the attached form (b) 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 _____

Form (a) – Witness application

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.	

Form (b) – Application for others to attend

Name	
Address	
Tel. No.	
Occupation	
Reason for the application	
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.	