



**Parole Commissioners**  
for Northern Ireland

## **THE PAROLE REVIEW PROCESS**

**A step-by-step guide for Determinate Custodial Sentenced prisoners who have been recalled 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 how your case will be dealt with by the Parole Commissioners when it is referred to them after your recall to prison<sup>1</sup>.

## **2. Recall and Release**

It is likely that you have been sent back to prison because you have broken one or more of your licence conditions. You will be informed of the circumstances of your recall by your case manager and advised of your right to challenge this decision.

The length of time you will have to remain in prison depends on the reasons why you have been returned to prison and whether it is safe to release you again on licence. You may have to stay in prison until the end of your sentence or, if the Commissioners are satisfied that if you are released you would not put the public at risk of harm, your release will be directed.

## **3. THE PROCESS**

### **3.1 Referral**

The Offender Recall Unit (ORU), acting on behalf of the Department of Justice, starts the parole process by referring your case to the Commissioners for consideration within 5 days of your being returned to custody.

### **3.2 Appointment of a Commissioner**

A Parole Commissioner will be appointed to consider your case.

### **3.3 Notice of referral**

The Commissioners' office will write to you to let you know that your case has been referred to them by the ORU. That letter, known as the 'Notice of Referral', will list the dates by which certain things need to be done by you and/or your representative so that your case can proceed. It is very important that you and your representative keep a note of these dates and that you are clear about what

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<sup>1</sup> Article 28 of the Criminal Justice (Northern Ireland) Order 2008 relates to the powers to recall prisoners following their release on licence. Article 29 of the Order relates to the further release after recall for certain fixed-term prisoners

you have to do. More information about appointing a representative can be found at 3.5.1 below.

You will receive a copy of a direction from the Commissioner along with your Notice of Referral which will say how your case will be dealt with.

### **3.4 Decision of the Commissioner**

The Commissioner will either:

#### ***direct your release***

Your release will be directed if the Commissioner is satisfied that the risk of harm you would pose if you were to be released would be minimal. The direction will be the final decision of the Commissioners and it will not be necessary for your case to be considered further. The Commissioner will recommend any licence condition(s) thought necessary to enable the risk you pose to be managed safely in the community. The ORU will be informed of the direction and arrangements will be made for your release on licence.

#### ***Or: decide that you are not to be released***

If the Commissioner decides that you are not to be released, the decision of the Commissioner will be the final decision of the Commissioners and you will not be entitled to have your case considered further by the Commissioners unless the Commissioner dealing with your case so decides – see para 3.6 below.

The decision of the Commissioner may also include either a recommended date for your release on licence or a date for the next review of your case and may include a recommendation that you complete offence focussed work to reduce your risk.

### **3.5 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 (see para 3.5.1 below).

**The Commissioner will try to decide your case as quickly 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 else whose case you think is similar to your own.**

### **3.5.1 Sample Timetable**

An outline of the stages in the process from the date of the Notice of Referral 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 the Notice of Referral the next steps will be as follows:

**Within 2 weeks** if you intend to appoint someone to act as your representative you must provide the Commissioners' office 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 dealing with your case might wish to consider. After the interview, the Commissioner will prepare a report and send it to the Commissioner dealing with your case and provide a copy to you and the ORU.

**Within 6 weeks** the ORU will provide you, your representative and the Commissioners with a copy of the "dossier". The dossier should contain all the

information relevant to your recall and suitability for release, and may include 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.

After the Commissioner dealing with your case has read the dossier, he or she may feel that further information is required and may direct the production of the same. Any additional information that is produced will also be copied 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 four weeks of receiving the dossier** you must submit any representations and documentary evidence that you would like the Commissioner to consider to the Commissioners' office and provide a copy to the ORU. 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 harm you might pose if you were released. It would also include any expert evidence you wish the Commissioner dealing with your case 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 ORU by you or your representative. They will be given to the Commissioner dealing with your case who will look at them along with all the information provided in the dossier (please see paragraph 3.4.1 above). You can seek advice from your representative about preparing your representations and documentary evidence.

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

### **3.5 The Commissioner's Decision**

Where the Commissioner dealing with your case does not direct your release, the decision will be the final decision of the Commissioners and you will not be entitled to have your case considered further **unless**:

- a) within two weeks of receipt of the decision, you or your representative serves notice on the Commissioners' office and the ORU stating that you wish to have your case considered by a panel of three Commissioners; and
- b) you or your representative demonstrate to the Commissioner who has been dealing with your case that:
  - i. there is a dispute of fact crucial to the determination of your case that can only be decided after an oral hearing; or
  - ii. the assessment of risk requires that oral evidence from you and/or witness(es) is made; or
  - iii. fairness dictates that your case be considered by a panel.

Where the Commissioner who has been dealing with your case decides that your case should be considered by a panel of three Commissioners a guidance document will be provided to you which will set out the process to be followed.

Whichever decision is made, the Commissioner must give his/her reasons in writing. Neither you nor the ORU can appeal against the Commissioner's decision though it is open to either party to seek to challenge it by way of judicial review.

### **4. 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.

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](http://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 1 - APPOINTMENT OF A REPRESENTATIVE**

This form should be completed, signed and returned to the Commissioners office at the address below within **2 weeks** of the date on your notice of referral letter.

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.

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:** \_\_\_\_\_



