



**Parole Commissioners
for Northern Ireland**

**Annual Report
2009/10**



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for Northern Ireland**

PAROLE COMMISSIONERS FOR NORTHERN IRELAND

Annual Report 2009/10

Report for the year ended 31 March 2010

Presented to Parliament pursuant to Paragraph 7 (2) of Schedule 4
to the Criminal Justice (Northern Ireland) Order 2008

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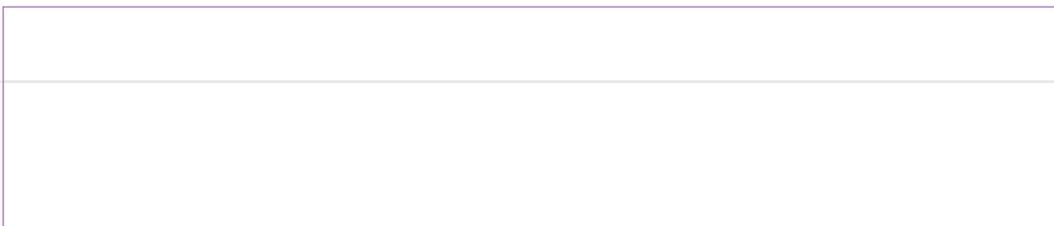
FOREWORD

Dear Secretary of State

Paragraph 7(1) of Schedule 4 of the Criminal Justice (Northern Ireland) Order 2008 requires that, as soon as reasonably practicable after the end of each financial year, the Chief Commissioner of the Parole Commissioners for Northern Ireland shall make a report to the Secretary of State on the performance of the Commissioners' functions during that year. In compliance with that requirement I am pleased to submit to you my report in respect of the financial year 1 April 2009 to 31 March 2010.

In last year's report I referred to the great expansion in the work of the Commissioners consequent upon the coming into force of the Criminal Justice Order and I mentioned the recruitment of additional Commissioners. This process has now been completed. Sixteen additional Commissioners, including three judges, are now in post, the basic training of our newly appointed colleagues is virtually complete and all Commissioners are undergoing ongoing training to enable them to meet the unfolding requirements of the new legislation. Furthermore, the Commissioners' Secretariat has produced a number of guidance documents designed to enable prisoners, officials and legal representatives better to understand, in particular, the procedures laid down in the Parole Commissioners' Rules (Northern Ireland) 2009 which came into force on 1 April 2009. Copies of these documents are annexed to this report.

The significant increase in the number of Commissioners has necessitated the restructuring of the Commissioners' governance arrangements. An executive committee comprising myself and the deputy Chief Commissioner *ex officio* and six Commissioners elected by their colleagues will meet quarterly and report annually to a Plenary meeting of all Commissioners. These arrangements will enable issues pertaining to the work of the Commissioners to be more efficiently and effectively dealt with.



II

In last year's report I referred to the impact of the decision of the Court of Appeal of England and Wales in R (Brooke) and Others –v- The Parole Board and Others (2008) EWCA Civ 29 on the extension of the terms of office of Commissioners and the recruitment of Commissioners. I am pleased to record that at my request your predecessor was good enough to write to me confirming that he abjured any input into either the extension of Commissioners' terms of office or their recruitment. Also in the light of the Brooke decision, I drew to the attention of your Department my view that the provisions dealing with dismissal of Commissioners set out in Paragraph 3 of Schedule 4 to the Criminal Justice Order are unlawful in that they purport to vest the power to dismiss Commissioners in government, subject only to consultation with the Lord Chief Justice. The present position is, therefore, that there is no machinery in place that would enable a complaint that could lead to the dismissal of a Commissioner to be processed in accordance with law, and I have also pointed out that neither is there provision for the suspension from office of a Commissioner against whom such a complaint has been made. I have requested that these lacunae be addressed as quickly as possible.

In last year's report I referred to the significance of the judgment of the European Court of Human Rights in A –v- The United Kingdom (Application No. 3455/05) in relation to information coming before the Commissioners certified as confidential under the Parole Commissioners' Rules and which, therefore, must be withheld from both the prisoner and his or her chosen representative. This has been supplemented during the year under report by the decision of the House of Lords in Secretary of State for the Home Department –v- AF (2009) UKHL 28. No relevant referral was made during the period covered by this report, but it is inevitable that these decisions, if held to be applicable, will have a major impact on how the Commissioners deal with these cases, involving not only demanding legal and case management issues but also a great increase in both the time involved in and the cost of processing them.

The Rules provide that where evidence is certified as confidential the interests of the prisoner in respect of it are to be represented by a special advocate appointed, prior to the devolution of justice, by the Attorney General for Northern Ireland. In my report for the financial year 2009 – 2010 I said that it was my intention to write to the Attorney General requesting her to ensure that the resources necessary to bring judicial review proceedings on behalf of prisoners would be made available to special advocates.



In response to my letter the Attorney General was good enough to meet me to discuss this matter and the outcome was that a procedure has been introduced whereby special advocates have been empowered to draw issues which might justify the initiation of judicial review to the attention of the prisoner and his or her legal representative and thereafter to afford appropriate assistance. Although not what I had suggested, this procedure meets the substance of what I had requested and I informed the Attorney General accordingly.

Turning to another aspect of the same topic, I record that, during the period covered by this report, I had occasion to raise with the appropriate senior official concerns relating to the manner in which issues pertaining to information that had been or might have been certified as confidential were handled on behalf of your Department.

The Commissioners are conscious of the importance of dealing with prisoners' cases as speedily and cost effectively as possible while, at the same time, vindicating the imperative of public safety and meeting the highest standards of procedural fairness. The 2009 Rules introduced a scheme whereby each case referred is initially considered on paper by a single Commissioner empowered to give a provisional direction that the prisoner be released or not be released. An important objective of the scheme is to avoid the necessity for an oral hearing before three more Commissioners where the single Commissioner has provisionally directed that the prisoner not be released and there is no reason to believe that a panel could possibly take a different view from that of the single Commissioner.

There is some evidence to suggest that this objective is being frustrated by no or inadequate representations being furnished on the prisoner's behalf at the single Commissioner stage so that an oral hearing before a panel becomes almost inevitable. A possible cause may be the relatively low level of Legal Aid payments to solicitors at the single Commissioner stage, a matter that I have raised with the Legal Services Commission. If this is in fact the case, the remedy would appear lie with government by way of empowering the Commission to provide adequate remuneration. Failing this, it may well be that, paradoxically, the only effect of this aspect of the new Rules will be to increase the number of Commissioners dealing with each case from three to four with a consequent significant increase, rather than a decrease, in overall cost.

IV

It is also becoming apparent that the efficient and timely disposal of the cases of prisoners serving Extended Custodial Sentences may be being compromised by delays in sentencing which can mean that the parole eligibility date of the prisoner has been reached or has even passed before the case is referred to the Commissioners. Another factor in some cases is the failure of the Secretary of State's (now the Department of Justice's) side to furnish the material required under the Parole Commissioners' Rules by the time provided for in the Rules. I have drawn this problem to the attention of the appropriate senior official.

These issues are of great importance as Article 5(4) of the European Convention on Human Rights entitles prisoners to a speedy determination of the lawfulness of their continued incarceration.

The Commissioners have continued to develop and update their policies. In particular, a policy has been adopted on information security which comprises a set of procedures and guidance to be followed in respect of the transportation, storage and disposal of information which is personal, sensitive or comes within the Protective Marking Scheme. Each Commissioner is responsible for safeguarding all electronic and paper information, their encrypted laptop and all hardware made available to them for the purposes of discharging their statutory functions.

Two other matters are worthy of mention. The Commissioners have established a Users' Group designed to enable issues of concern to the parties to and the other participants in cases coming before the Commissioners to be raised in a setting that does not give rise to the perception that the Commissioners are favouring one side over the other. The Group has been well attended and a number of important matters have been raised for consideration.

Secondly, arrangements for the more effective monitoring of cases, particularly in relation to the timetable for completing them, have been introduced. It is anticipated that developments enabling references to be processed more quickly and efficiently will emerge from this process.

During the period covered by this report Mrs. Elsbeth Rea OBE was appointed deputy Chief Commissioner in exercise of the power to do so included in the Criminal Justice Order. From the moment of her appointment she has been an immense source of assistance to me, having taken the lead, in particular, in the extensive training conducted during the year, the development of the information security policy and the evolution



and implementation of the new governance structure. I am very grateful to her for all her hard work.

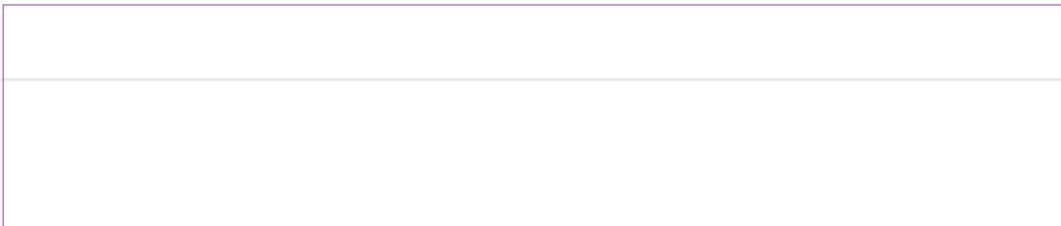
I also wish to record my gratitude to the Commissioners' sponsoring entity, the Criminal Justice Services Division, which has been extremely supportive throughout a difficult and demanding year of change.

Last but by no means least, I extend thanks on behalf of both myself and my Commissioner colleagues to the members of the Secretariat. Once again they have displayed the highest standards of dedicated professionalism in facilitating the Commissioners in the performance of our statutory functions.

Yours sincerely,



PETER SMITH CBE QC
Chief Commissioner



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CHAPTER 1

Background



CHAPTER ONE BACKGROUND

The appointment of the Life Sentence Review Commissioners was the result of a review of Northern Ireland prisons legislation conducted by the Government in anticipation of the coming into effect, in October 2000, of the provisions of the Human Rights Act 1998. An important aspect of that work was to review the arrangements then in place for the consideration of the suitability for release of prisoners who had been sentenced to life imprisonment. The review considered the three types of life sentence: mandatory life sentences (for murder), discretionary life sentences (for other serious violent offences) and juvenile offenders sentenced to detention in circumstances that would, for an adult, have merited either a mandatory or a discretionary life sentence.

The review concluded that the existing procedures for discretionary life sentence prisoners and those sentenced to detention at the Secretary of State's pleasure could be deemed inconsistent with the requirements of the European Convention on Human Rights. This was based on advice on the suitability of the prisoner for release being given to the then Secretary of State by the Life Sentence Review Board, a non-statutory body consisting largely of senior officials of the Northern Ireland Office. It was considered that compliance with the European Convention on Human Rights would require that, once the punitive element of the sentence had been completed, each prisoner should have his or her case reviewed periodically by a judicial body. To have judicial character, the body would need to be independent of the executive (and of the parties concerned); impartial; and able to give a legally binding direction regarding the prisoner's release.

In March 2000, the report of the Review of the Criminal Justice System in Northern Ireland endorsed this conclusion and further recommended that an independent body should make decisions on the release of **all** life sentence prisoners.

The Government accepted this recommendation and brought forward legislation that required all life sentence prisoners to have the punitive element of their sentence judicially determined and their suitability for release independently assessed and directed at the appropriate time by an independent body of judicial character. The legislation in question was

the Life Sentences (Northern Ireland) Order 2001 (2001 Order) and the Life Sentence Review Commissioners' Rules 2001 (2001 Rules). The Order was approved by and the Rules laid before Parliament in July 2001 and both came into force on 8 October 2001.

The Criminal Justice Act 2003 made a number of significant changes to the sentencing framework for England and Wales. As a result it was felt that Northern Ireland should have its own review. In March 2005 the Northern Ireland Office published a consultation paper on the sentencing framework in Northern Ireland which considered new measures to enhance public protection. The exercise was largely informed by provisions contained in the Criminal Justice Act 2003, particularly the introduction of indeterminate and extended public protection sentences for dangerous sexual and violent offenders.

Ministers concluded that the sentencing framework should be revised and that legislation should be brought forward to provide for the introduction of indeterminate and extended sentences for dangerous sexual and violent offenders allowing individuals posing a risk of serious harm to be detained indefinitely or to the end of their extended sentences.

CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008

The relevant legislative provisions are contained in the Criminal Justice (Northern Ireland) Order 2008 (2008 Order). Among other things it provided that the Life Sentence Review Commissioners be renamed the Parole Commissioners for Northern Ireland and that the responsibilities of the Commissioners be extended to include decisions as to the release and recall of prisoners sentenced to indeterminate and extended custodial sentences and the recall of prisoners who receive other determinate sentences.

The Parole Commissioners' Rules (Northern Ireland) 2009 (2009 Rules) came into operation on 1 April 2009. These Rules replaced the Life Sentence Review Commissioners' Rules 2001 and apply to both the 2001 Order and the 2008 Order.

CURRENT LEGISLATION

The work of the Parole Commissioners for Northern Ireland is governed by two 'Orders' and one set of 'Rules' - The Criminal Justice (Northern Ireland) Order 2008, the Life Sentence (Northern Ireland) Order 2001 and the Parole Commissioners' Rules (Northern Ireland) 2009.

The principal provisions of the Life Sentence (Northern Ireland) 2001 Order provide for:

- the setting by the court of a relevant period, or 'tariff', as the period of the sentence to be served to satisfy retribution and deterrence before review for release;
- the power of the Commissioners to direct a prisoner's release on licence if continued detention is not required for the protection of the public;
- the attachment by the Secretary of State of conditions to the release licence, in accordance with recommendations of the Commissioners;
- the revocation by the Secretary of State of the licence of a released prisoner and the latter's recall to prison;
- the consideration by the Commissioners of such recalls and their power to direct the release of recalled prisoners; and
- arrangement for setting of tariffs for prisoners already serving life sentences.

The principal provisions of the Criminal Justice (Northern Ireland) 2008 Order provide for:

- the appointment of Commissioners;
- the Commissioners to advise the Secretary of State with respect to any matter connected with the release or recall of prisoners referred to them;
- the renaming of the LSRC as the Parole Commissioners for Northern Ireland;

- the appointment of Parole Commissioners to include a Chief Commissioner and a deputy Chief Commissioner;
- the introduction of public protection sentences for violent and/or sexual offenders based on an assessment of dangerousness;
- the necessity for all public protection sentence prisoners to be referred to the Commissioners to assess suitability for release;
- the imposition of licence conditions on persons who have been sentenced to a public protection sentence or a determinate sentence of 12 months or more;
- the revocation by the Secretary of State of the licence of a released prisoner and recall to prison, if so directed by Parole Commissioners; and
- the consideration by the Commissioners of such recalls and their power to direct release.

The Rules set out in detail the procedures that apply where the Secretary of State refers a prisoner's case to the Commissioners regarding his release or recall. They provide, in particular, for:

- the exercise by the deputy Chief Commissioner of such powers and functions as may be delegated by the Chief Commissioner and for the deputy Chief Commissioner to act on the Chief Commissioner's behalf if he is unavailable;
- the appointment by the Chief Commissioner of a single Commissioner to consider a case initially and provide a provisional direction on release;
- the appointment by the Chief Commissioner of a panel of three Commissioners to consider those cases where release has been directed or, in the case where a prisoner is not to be released, the prisoner has requested an oral hearing of his case (wherever practical, one panel member should be legally qualified and another a psychiatrist or psychologist);
- the representation of the prisoner and the Secretary of State;

- the appointment by the Commissioners of a representative to act on behalf of the prisoner or for a single Commissioner to carry out an interview, with the prisoner's consent;
- the submission of information and reports by the Secretary of State and of representations and documentary evidence by the prisoner;
- the making of procedural directions and the holding of oral hearings to consider the prisoner's case and the procedure for such hearings (including the attendance of witnesses);
- the time limits within which notifications and responses must be made;
- the distribution of procedural directions by the single Commissioner and/or panel chairman and the consideration of appeals against such directions; and
- the withholding, in specified circumstances, of particular items of evidence from the prisoner, or the prisoner and his representative and in the latter event, the appointment by the Attorney General of a special advocate to represent the prisoner's interests.

FURTHER DEVELOPMENTS

As mentioned above, the Parole Commissioners were established through the renaming of the Life Sentence Review Commissioners (LSRC) under Article 46(1) of the Criminal Justice (Northern Ireland) Order 2008, in May 2008. Peter Smith CBE QC, the then Chairman of the LSRC was appointed as Chief Commissioner and subsequently Elsbeth Rea OBE was appointed deputy Chief Commissioner. In order to deal with the anticipated increase in workload sixteen additional Commissioners were appointed in 2009.

THE COMMISSIONERS

The Commissioners appointed by the Secretary of State are:

Chief Commissioner

Mr Peter Smith CBE QC is a QC who retired from practice in 2001 after over 30 years' experience at the Bar of Northern Ireland. He was formerly a Judge of the Courts of Appeal of Jersey and Guernsey and a Deputy Judge of the High Court of Justice in Northern Ireland. Between 1998 and 1999 he was a member of the Independent Commission on Policing. He was appointed CBE in 2008.

Deputy Chief Commissioner

Mrs Elsbeth Rea OBE is a registered social worker and self employed consultant. She has previously worked as both a Senior Probation Officer with the Probation Board for Northern Ireland and as a lecturer in Social Work at Queen's University Belfast. She is a Lay Magistrate and has held public appointments with the Ulster Community and Hospitals Trust, the Police Authority for Northern Ireland and the Eastern Health and Social Services Council.

Commissioners from a Legal Background

Justice Teresa Doherty CBE was a barrister. She was formerly a member of the Lord Chancellor's Advisory Committee of JP's, is a part-time Chairperson of the Social Security Appeals Tribunal and also held the positions of Principal Magistrate and Judge of the National and Supreme Court of Papua New Guinea and of the Court of Appeal and High Court of Sierra Leone. In January 2005 she was appointed by the United Nations as a judge of the 2nd trial chamber of the Special Court for Sierra Leone (the international war crimes tribunal for Sierra Leone).

Mrs Anne Fenton has been a qualified solicitor since 1978. She was appointed Director of the Institute of Professional Legal Studies at Queen's University, Belfast in 1998. She is currently a part-time legal member of the Mental Health Review Tribunal and has previously held appointments as part-time Chairperson to both the Child Support and Disability Appeal Tribunals.

Mr Brian Garrett qualified as a solicitor in 1962 and is a consultant with Elliott Duffy Garrett (Solicitors, Belfast). He has been a Deputy County Court Judge and is Chairman of the Northern Ireland Teachers' Salaries and Conditions of Service Committee and a qualified arbitrator. He has previously held appointments as Deputy Chairman of the Northern Ireland Independent Commission for Police Complaints and was a member of the Standing Advisory Commission on Human Rights and the Department of Trade and Industry Arbitration Law Committee.

Mr John Leckey qualified as a solicitor in 1974 and is presently the Senior Coroner for Northern Ireland. From 1996 to 2001, he served as a member of the Criminal Cases Review Commission, which considers allegations of miscarriage of justice in England, Wales and Northern Ireland.

Mr Donal McFerran is a qualified solicitor who practised as partner in a litigation firm in Belfast. He has served as a Deputy Resident Magistrate, and was appointed a Deputy County Court Judge in 1990 and is a legal member of the Mental Health Tribunal. Since 2001 he has also served as a Sentence Review Commissioner.

Ms Clodach McGrory practiced at the Bar in Northern Ireland from 1990 to 1995 and subsequently worked at the Law Centre (NI). She was a member of the Standing Advisory Commission on Human Rights from 1998 to 1999 and served a term of office on the Irish Human Rights Commission from December 2000 until August 2006. She is currently a part-time Chairperson of Social Security Appeal Tribunals and has been a Sentence Review Commissioner since 1998.

His Honour Judge Derek Rodgers qualified as a solicitor in 1973 and was appointed as a District Judge in 1989 and a County Court Judge in 1997. He is a member of the Legal Advisory Committee of the Church of Ireland and Chancellor of the Diocese of Connor. He holds positions with a number of voluntary organisations.

Professor John Jackson is Dean of the School of Law at University College Dublin and a qualified barrister. He was previously Professor of Law at Queen's University Belfast and has taught at University College Cardiff, the City University, London and the University of Sheffield. He has held visiting professorships at Hastings College of Law, University of California and the Faculty of Law, University of New South Wales and was a Fernand Braudel Senior Fellow at the European University Institute in 2007 – 2008. From 1998

to 2000 he was an Independent Assessor for the Northern Ireland Criminal Justice Review.

Professor Herbert Wallace OBE is a legal academic and Professor Emeritus at the Queen's University of Belfast. He was formerly Vice-Chairman of the Police Authority for Northern Ireland and since 2002 has served as a statutory adjudicator on the Criminal Injuries Compensation Appeals Panel for Northern Ireland.

The Honourable Mr Justice Stephens was called to the Bar of Northern Ireland in 1977 and took silk in 1996. He was appointed a deputy County Court Judge in 1998 and a High Court Judge in 2007. He was a senior member of the Government Civil Panel of Counsel and a member of the Panel of Arbitrators of the Motor Insurers' Bureau. He has held several other positions including Member of the Direct Professional Access Committee of the Bar of Northern Ireland and Assistant Editor of the Northern Ireland Law Reports.

His Honour Judge Patrick Lynch QC was called to the Bar of Northern Ireland in 1975 and made Queens Counsel in 2000. In 2004 he was appointed a County Court Judge.

His Honour Judge Kevin Finnegan QC was called to the Bar of Northern Ireland in 1973 and took Silk in 1986. He has been a Bencher (now Emeritus) of The Inn of Court of Northern Ireland since 1995 and was appointed as a County Court Judge in 2001.

Ms Christine Glenn qualified as a barrister in 1980. She was the Justices' Chief Executive in the Inner London Magistrates' Courts Service until 2001 and Chief Executive of the Parole Board for England and Wales from 2001 until March 2009. She is an Immigration Judge and a Parking and Traffic Adjudicator. She is a member of the Thames Valley Courts Board and Deputy Chair of the London and Royal Courts of Justice Audit and Risk Committee. She is also a trustee of a national employment charity, Tomorrow's People.

Mr Paul Mageean qualified as a solicitor in 1991 and was originally in private practice. In 1995 he joined the Committee on the Administration of Justice as their Legal Officer during which time he successfully brought a number of cases to the European Court of Human Rights. He was Head of the Criminal Justice Secretariat of the Court Service from 2004, and joined the Criminal

Justice Inspection Northern Ireland in 2005 before taking up his current post as Director of the Graduate School for Professional Legal Education at the University of Ulster in 2008.

Mr Jeremy Mills qualified as a solicitor in 1990. He spent 15 years with a corporate firm in Belfast and was a partner for 10 years. In 2007 he was appointed a part time Legal Chairman of the Northern Ireland Valuation Tribunal and in 2008 he was also appointed to the Department of Agriculture and Rural Development's Independent Review of Decisions Panel. He joined the Board of Bryson Charitable Group in 2008 as a non executive Director. In 2009 he was appointed to Roads Service's panel of Public Inquiry Inspectors.

Commissioners from a Psychiatry and Psychology Background

Dr Ruth Elliott is a retired Consultant Clinical Psychologist. She was Clinical Psychology Services Manager at Belfast City Hospital and served on the Mental Health Commission for over seven years, latterly as Vice-Chairman. She is a Chartered Clinical Psychologist, an associate fellow of the British Psychological Society, and a member of the Northern Ireland Division of Clinical Psychology.

Dr Adrian Grounds is a University senior lecturer in forensic psychiatry at the Institute of Criminology, University of Cambridge, and an honorary consultant forensic psychiatrist in the Cambridgeshire and Peterborough NHS Foundation Trust. He has also been a Sentence Review Commissioner since 1998.

Professor Peter Hepper is a Professor of Psychology, and currently is the Head of the School of Psychology, Queen's University Belfast. He is Chair of the Irish Football Associations Appeal Committee. He is a Chartered Psychologist and a Fellow of the British Psychological Society and has been Visiting Professor at Kyushu University, Japan, and University New South Wales, Australia.

Dr Damien McCullagh is a Consultant Clinical and Forensic Psychologist within the Mental Health and Learning Disability Directorate of the Southern Trust (2000-present). He is a Chartered member of the British Psychological Society. He has previously worked as a Principal Psychologist with the Northern Ireland Prison Service where he had primary responsibility for providing psychological risk assessments on Life Sentence Prisoners to the

Life Sentence Review Board (1997-2000). He previously held posts in Adult and Child Psychology Services in the Republic of Ireland and with Sperrin Lakeland Health and Social Services in Omagh (1989-1997). Dr McCullagh is an Honorary Lecturer in Forensic Risk Assessment at Queen's University, Belfast. He is also an Association of Chief Police Officers (ACPO) accredited Behavioural Investigative Advisor. He has previously been the Chairman of the Board of Governors of Drumragh Integrated College in Omagh from 1995-2005.

Dr Oliver Shanks is a retired Consultant Psychiatrist in Learning Disability who specialised in forensic psychiatry. He is a member of the Royal College of Physicians, a fellow of the Royal College of Psychiatrists and was a member of The Mental Health Commission from 1996 until 2005. He was an Honorary Clinical Lecturer in Mental Health at Queen's University, Belfast and is currently a member of the Boards of EXTERN and PRAXIS.

Dr Micaela McGinley is an independent business psychologist and management consultant. Her previous positions include Principal Occupational Psychologist with the Police Service of Northern Ireland and Associate Director of the MSc in Occupational Psychology at the Queen's University of Belfast.

Mrs Deborah McQueirns is a Registered Psychologist, Chartered Forensic Psychologist and Chartered Scientist in HMPS High Security Estate. She is also a visiting Consultant Psychologist with Priory Health Care and an associate fellow of the British Psychological Society, Division of Forensic Psychology.

Mr Emmet Murray is a Chartered Forensic Clinical Psychologist currently working in the area of Mental Health. He was previously a Principal Psychologist with the Northern Ireland Prison Service and has also worked as a Behavioural Investigative Advisor with Centrex, now the National Policing Improvement Agency.

Dr Shelagh-Mary Rea is a Consultant Psychiatrist with the Western Health and Social Care Trust in Northern Ireland. She has worked as the Old Age Psychiatrist for the Northern Sector of the Trust for the past twenty-two years. She also has specialist status in General Adult Psychiatry and is a Fellow of the Royal College of Psychiatrists. She is currently a medical member of the Regulation and Quality Improvement Authority.

Dr Adrian East is the Consultant Forensic Psychiatrist to the Southern Health and Social Care Trust. He is a fully registered medical practitioner and a member of the Royal College of Psychiatrists. He specialises in the assessment and management of mentally disordered offenders.

Commissioners from Other Backgrounds

Professor Andrew Sanders is a Professor of Criminal Law and Criminology at the University of Birmingham, having previously held a similar post at the University of Manchester. Prior to that, he held the post of Deputy Director of the Centre for Criminological Research at the University of Oxford. His current research is focused on the role of victims in the criminal justice process and he is the author of several criminal justice publications. He was a member of the Parole Board for England and Wales for several years.

Mr Nigel Stone has been Senior Lecturer in Criminology and Criminal Justice at the University of East Anglia since 1979. Until 1997 he also served in the Probation Service for 24 years, holding a joint appointment as Probation Officer and Head of the Home Office sponsored training programme for probation students at East Anglia. He was a criminologist member of the Parole Board for England and Wales 1997-2007 and continues to serve as an appraiser for the Board.

Mr Stephen Murphy CBE is a former Director General of the National Probation Service for England and Wales, prior to which he was Chief Probation Officer first in Hampshire and the Isle of Wight and then in Northumbria. He was a member of the Parole Board for England and Wales from 1995 to 2005, and is a former member of the Local Review Committee at HMP Wandsworth. He was made a CBE in the 2004 New Year's Honours List for services to the probation service. On retiring from the Civil Service in June 2008, he has been working internationally as a consultant in criminal justice and home affairs, and as Chair of the Board of Your Homes Newcastle Ltd, which runs and develops the council housing stock for the city of Newcastle upon Tyne.

Mrs Elaine Peel is a former Assistant Chief Probation Officer with the Probation Board for Northern Ireland and in that capacity acted as Chairperson of the Criminal Justice sub-committee on Domestic Violence and Director of the National Community Justice Training Organisation.

Mrs Alexandra Delimata is a self-employed consultant who works primarily with community groups, enterprises and small businesses in North West Ireland. Until 2004, she was Corporate Secretary of The Travel Partnership Corporation, an international consortium of travel associations. Prior to relocating to Ireland in 2001, she was Assistant Director, Corporate Development, for the International Air Transport Association (IATA) in Geneva.

Mrs Ruth Laird has over 25 years experience in human resource management and organisational development in the public, private and voluntary sectors. She was formerly Director of the National Trust NI, Head of Personnel for BBC (NI) and a Fair Employment Commissioner. She is currently a member of the NI Judicial Appointments Commission; a Civil Service Commissioner for NI; a member of the HPSS Regulation and Quality Improvement Authority and a non-executive Director of the NI Transport Holding Company. She is also a Board Member of Business in the Community.

Mr Stephen Leach CB is a retired senior civil servant. He was Director of Criminal Justice in the Northern Ireland Office and Chair of the Northern Ireland Criminal Justice Board from August 2000 until the start of 2009. Before that, he held a range of other posts in the NIO and other Departments. He has been a Non-Executive Director of the Northern Ireland Health and Social Care Board since April 2009.

Ms Mollie Weatheritt was, until recently, a member of the Parole Board for England and Wales where she previously also served as Director of Quality and Standards. She has a background in research on criminal justice, focussing on policing. She is currently a member of the Conduct and Competence Committee of the Nursing and Midwifery Council.

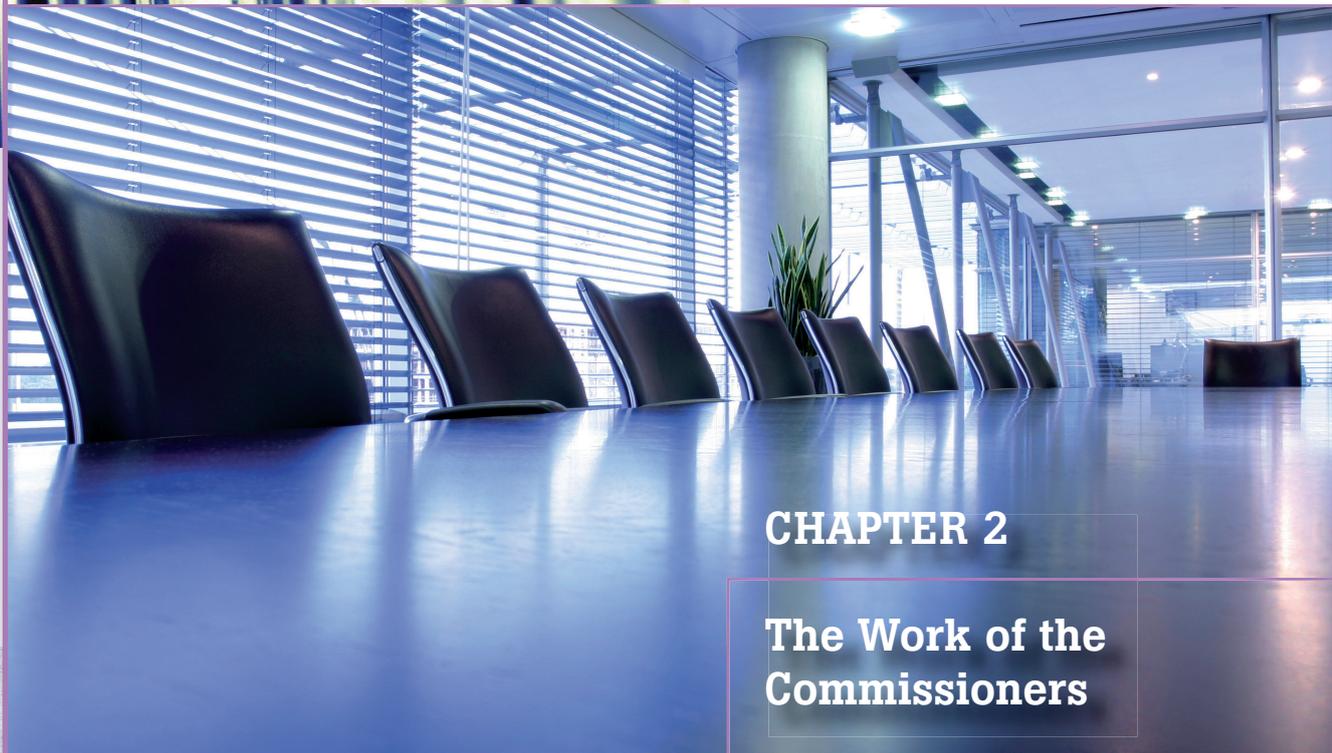
Mr Thomas Craig is a retired Assistant Chief Constable with over 35 years of policing experience in Northern Ireland. He was appointed Regional Commander of South Region in 1998 and had previous experience in a number of headquarter support roles.

Dr Duncan Morrow is Chief Executive of the Community Relations Council (CRC). The Council has responsibility for supporting and developing inter-community and inter-cultural engagement in Northern Ireland and also supports work in the rest of Ireland in conjunction with Border Action, the European Union and the International Fund for Ireland. Since 2002 CRC has also taken a lead role to support Victims and Survivors of violence of the

troubles. Dr Morrow was previously a lecturer in Politics at the University of Ulster, a Director of the Future Ways Programme and is currently a Sentence Review Commissioner.

Dr Patrick McGrath retired in 2002 from the NHS after 30 years service as a General Practitioner and now continues in regular clinical practice as a Forensic Physician in Antrim. He teaches Medical Ethics and Law at the University of Ulster as a visiting Professor. In addition, Dr McGrath serves as Chairman of the Northern Ireland Association of Forensic Medical Officers and in 2006 was elected a Foundation Fellow of the Faculty of Forensic and Legal Medicine of the Royal College of Physicians.

Miss Linda McHugh is a Management Consultant and Vice-Chair of Community Housing Association. She is also a Trustee of a number of voluntary sector organisations including NACRO, the crime reduction charity. She was an Independent Member of the Parole Board for England and Wales from 2002 until 2009 and was a non-executive member of its Management Board and Chairman of its Audit and Risk Management Committee.



CHAPTER 2

The Work of the Commissioners



CHAPTER TWO THE WORK OF THE COMMISSIONERS

STRUCTURES AND COMMUNICATION

The Parole Commissioners have a responsibility to ensure that they adhere to the principles of best practice in governance. With the increase in the number of Parole Commissioners and the drive for greater efficiency, it was decided to review the decision making arrangements for the Parole Commissioners which had evolved over the years since the Life Sentence Review Commissioners were first appointed in 2001.

In June 2009 the Parole Commissioners appointed a Pro Tem Executive Committee to act on their behalf between Plenary meetings.

FUNCTION OF PRO TEM EXECUTIVE COMMITTEE

The Pro Tem Executive Committee was designed to provide strategic guidance, make proposals on issues of importance and adopt interim policies subject to ratification by the Commissioners as a body at Plenary.

Elections for the Pro Tem Executive Committee were held in August 2009 and the first meeting took place in September 2009. Tenure was fixed at 1 September 2009 to 31 May 2010 with routine business conducted at quarterly meetings. It will be replaced by a definitive Executive Committee from June 2010.

USERS' GROUP

During the period of this report the Parole Commissioners set up a 'Users' Group' the purpose of which is to discuss matters of mutual interest and provide a forum for discussion on operational issues aimed at improving the systems. This group, chaired by a legally qualified Commissioner, includes members of the relevant Criminal Justice organisations and members of the legal profession.

The Users' Group held its first meeting on 22 January 2010.

POLICY AND PROCEDURES

Throughout the year the Commissioners have continued to enhance their understanding of the arrangements for the sentence management and rehabilitation of prisoners, and of the associated Human Rights issues affecting the exercise of their statutory responsibilities. They have also held plenary meetings at which they have continued their work of developing policies and refining their procedures.

On the appointment of an additional 16 new Parole Commissioners a two-day training session was held in December 2009. Representatives of the various state agencies and other bodies whose roles are relevant to the work of the Parole Commissioners were invited to speak. The event was highly successful and a further training session involving all Commissioners, designed to develop understanding of the processes required under the new sentencing framework arrangements, is scheduled for June 2010.



As the Commissioners need to maintain a current knowledge of developments in jurisprudence, the legally qualified Commissioners continue to meet regularly to discuss the implications of relevant judgments delivered in the United Kingdom and by the European Court of Human Rights.

As a result of the legislative changes the Commissioners reviewed their Step by Step guides for Prisoners which has necessitated producing three separate guides:

- the Parole Review Process – A step-by-step guide for prisoners serving an Extended Custodial Sentence (ECS);
- the Parole Review Process – A step-by-step guide for prisoners serving a Life or Indeterminate Custodial Sentence (ICS); and
- the Pre-Tariff Review Process – A step-by-step guide for prisoners serving a Life or Indeterminate Custodial Sentence (ICS).

The prisoner guides are attached at Appendices A - C.



CHAPTER 3

Casework



CHAPTER THREE CASEWORK

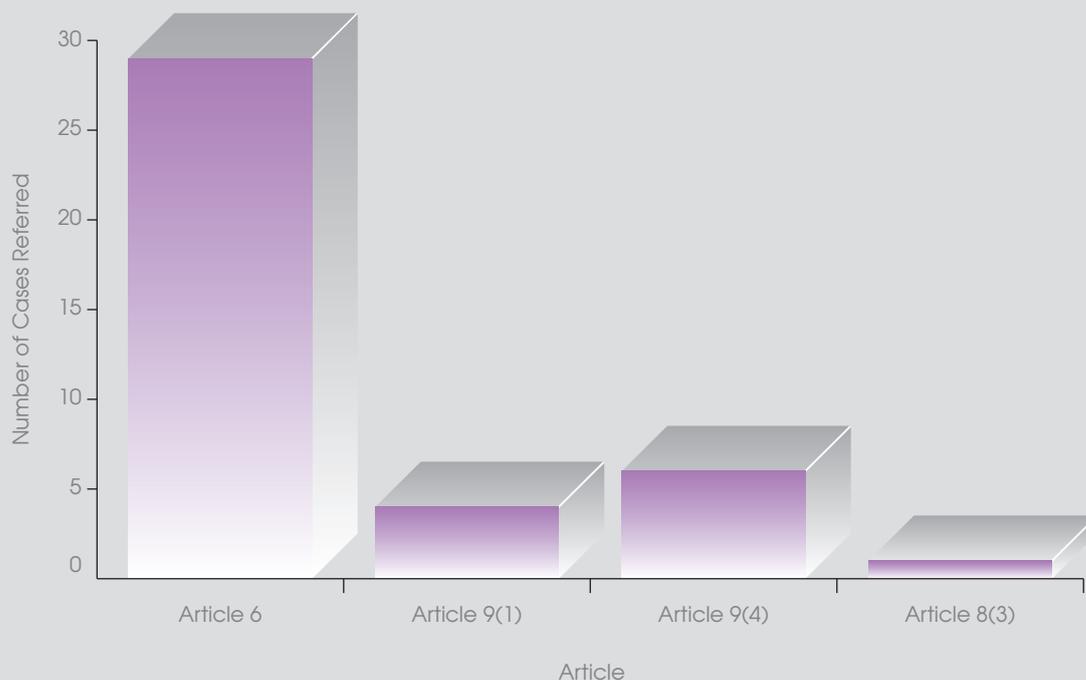
During the year the volume of work of the Commissioners was determined by the number of cases referred to them in accordance with the provisions of the Life Sentences (Northern Ireland) Order 2001 and the Criminal Justice (Northern Ireland) Order 2008.

During the period of this report, cases were referred and processed as follows:

LIFE SENTENCE ORDER (NORTHERN IRELAND) ORDER 2001

- Article 6, release of life sentenced prisoners – twenty-nine cases referred.
- Article 9(1), recommendation for recall – four cases referred.
- Article 9(4), review of recall – six cases referred.
- Article 8(3), recommendation to revoke a life licence – one case referred.

Cases Referred to PCNI between 01/04/2009 and 31/03/2010 under the Life Sentence (Northern Ireland) Order 2001



CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008

- Article 18, release of ICS/ECS prisoners – seven cases referred.
- Article 46 (3), pre-tariff review – ten cases referred.
- Article 28 (2) (a), recommendation for recall – one case referred.
- Article 28 (4), review of recall – one case referred.

Cases Referred to PCNI between 01/04/2009 and 31/03/2010 under the Criminal Justice (Northern Ireland) Order 2008

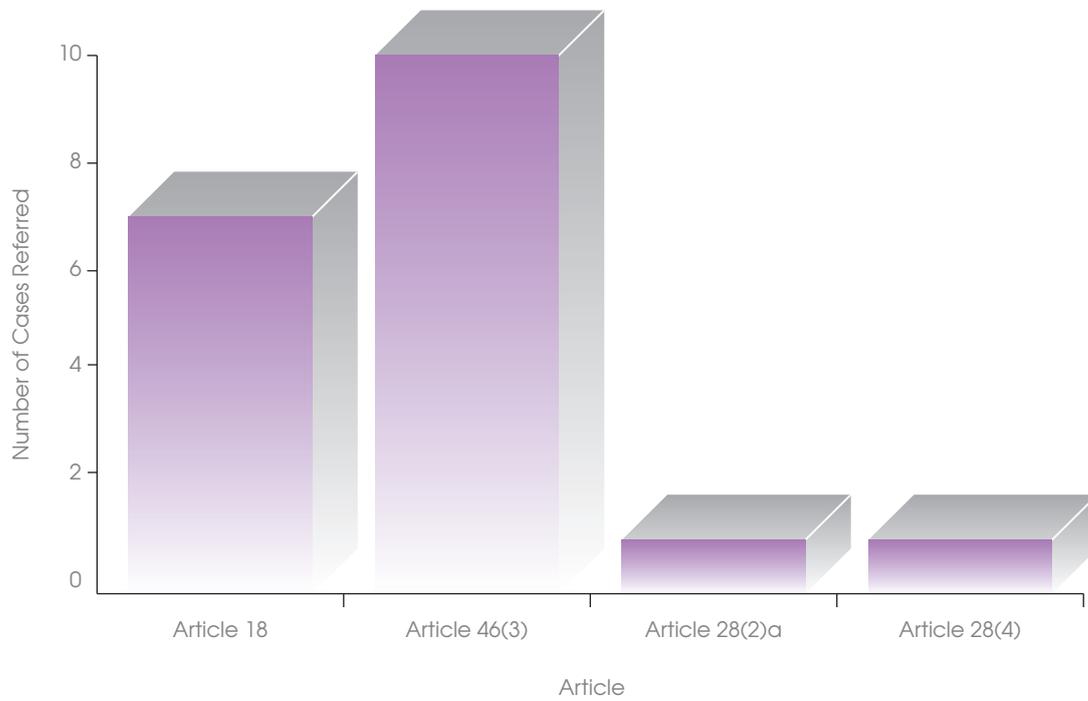


Table 1: Breakdown of work at the end of each quarter and the total cases processed in the year.

**CASES PROCESSED IN-YEAR
LIFE SENTENCE (NORTHERN IRELAND) ORDER 2001**

Cases Processed In-Year - Article 6					
	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Total
Referred for Decision on Release under Article 6	12	6	8	3	29
Of the 29 cases referred 15 cases were completed					
Releases Directed	7				
Releases Not Directed	7				
Not proceeded with/Withdrawn	1				
Cases Pending	The remaining 14 cases are due to be heard in the 2010/11 financial year.				

Cases Processed In-Year – Article 8 (3)					
	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Total
Referred for consultation on cancellation of Licence Conditions under Article 8(3)	0	0	0	1	1
Recommendations Given – Life Licence cancelled	0	0	0	1	1
Cases Pending					0

Cases Processed In-Year - Article 9 (1)					
	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Total
Referred for Advice on Recall under Article 9(1)	0	3	1	0	4
Recall Recommended	4				
Recall Not Recommended	0				
Cases Pending					0

Cases Processed In-Year – Article 9 (4)					
	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Total
Referred for Decision on Revocation of Licence under Article 9(4)	0	4	2	0	6
Of the 6 cases referred 3 cases were completed					
Licence Confirmed	1 (release)				
Licence Revoked	2 (not release)				
Cases Pending	The remaining 3 cases are due to be heard in the 2010/11 financial year				

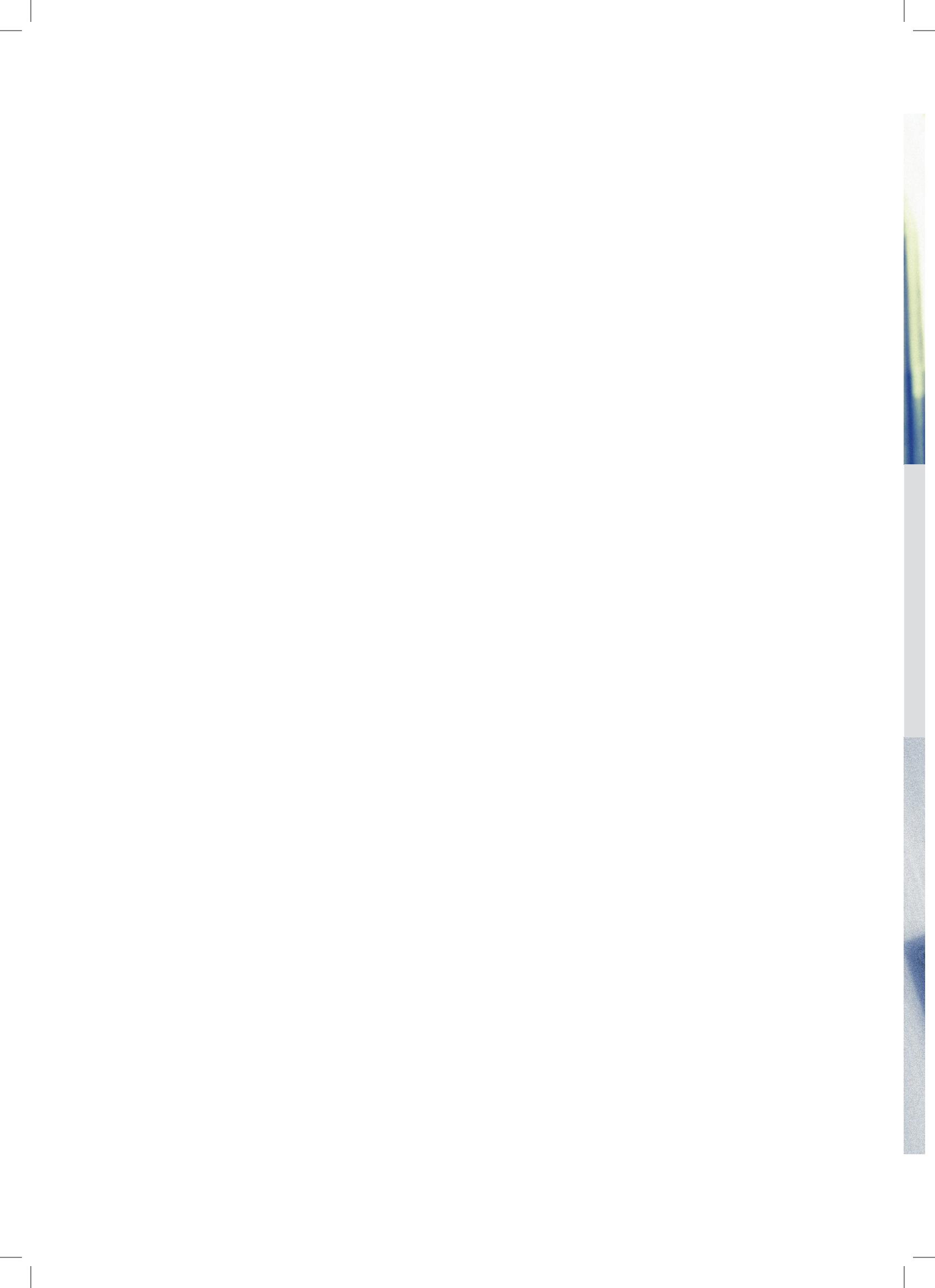
CRIMINAL JUSTICE (NORTHERN IRELAND) ORDER 2008

Cases Processed In-Year - Article 18					
	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Total
Referred for Decision on Release under Article 18	2	1	1	3	7
Of the 7 cases referred 2 cases were completed					
Releases Directed	0				
Releases Not Directed	2				
Cases Pending	The remaining 5 cases are due to be heard in the 2010/11 financial year.				

Cases Processed In-Year – Article 46(3) - pre-tariff					
	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Total
Referred for Pre-Tariff expiration review under Article 46(3)	1	1	4	4	10
Of the 10 cases referred 4 were completed					
Pre-tariff expiration recommendation given	0	0	2	2	4
Cases Pending	The remaining 6 cases are due to be completed in the 2010/11 financial year.				

Cases Processed In-Year – Article 28 (2) (a)					
	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Total
Referred for Advice on Recall under Article 28 (2) a	0	0	0	1	1
Recall Recommended	1				
Cases Pending					0

Cases Processed In-Year – Article 28 (4)					
	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	Total
Referred for Advice on Recall under Article 28 (4)	0	0	0	1	1
Cases Pending	Case due to be heard in the 2010/11 financial year				1





CHAPTER 4

Staff and Resources



CHAPTER FOUR STAFF AND RESOURCES

For most of the year covered by this report, the Commissioners have been supported and advised by a Secretariat comprising the Secretary to the Commissioners and a team of eleven staff.

Throughout the year, the Commissioners have occupied accommodation on the 5th floor of Windsor House, Belfast.

The Secretariat also support the work of the Sentence Review Commissioners appointed under the Northern Ireland (Sentences) Act 1998, who occupy the same accommodation.

Expenditure incurred by the Secretary of State in providing for the work of the Commissioners in the year ended 31 March 2010 was:

Programme Expenditure	2007/08 (£000)	2008/09 (£000)	2009/10 (£000)
Commissioners' Remuneration	114	182	324
Commissioners' Travel, Accommodation and Expenses	18	26	19
Legal Costs	158	184	119
Premises	52	58	77
General Administration	51	54	75
Staff Salaries etc	135	207	279
Total Expenditure	£528	£711	£893



APPENDIX A

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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APPENDIX A INDEX

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.

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.

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

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; and
 - 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 with 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

ANNEX A 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.

ANNEX B 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.

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: _____

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: _____

--

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: _____

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.

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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APPENDIX B

The Parole Review Process



A STEP-BY-STEP GUIDE
FOR PRISONERS SERVING
A LIFE OR INDETERMINATE
CUSTODIAL SENTENCE (ICS)

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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APPENDIX B INDEX

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

A life sentence must be imposed for murder and may be imposed for certain other very serious offences.

An Indeterminate Custodial Sentence (ICS) 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 serious 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.

2.1 Overview of the Parole process

- at court the judge will have set a tariff expiry date which will be the earliest date on which you may be released from custody;
- approximately 6 months prior to the tariff expiry date the Prison Service, acting on behalf of the Department of Justice, will refer your case to the Commissioners who will consider whether you have reduced your risk of serious harm to the public enough to be released safely into the community on the date on which your tariff expires;

- if the Commissioners do not direct the Prison Service to release you they may recommend a date for the next review of your case 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;
- when you are released you will be on a life licence (see annexes A and B for licence conditions). If you are an ICS prisoner, 10 years after your release the Commissioners may direct the Department of Justice to order that your licence cease to have effect, if it is considered that you no longer need to be on licence;
- if your release is directed and you subsequently 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.

3. THE PAROLE PROCESS

3.1 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 tariff expiry date of your sentence.

3.2 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 tariff expiry 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 3.4.1 below.

3.3 Stages of the 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).

3.4 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.

3.4.1 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 of the date of the Notice of Referral 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. You will be sent a copy and the Commissioner(s) dealing with your case will also receive a copy, as will the Prison Service.

Within 8 weeks of the date of the Notice of Referral 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); and
- 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. The dossier will normally contain all the information and reports that the Prison Service thinks are relevant to your suitability for release.

The Prison Service will also forward a copy of the dossier to the Commissioners' office. The single Commissioner will also be provided with a copy of the recommendations that were made at the time of your pre-tariff review.

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 of the date of the Notice of Referral you must submit any representations and documentary evidence on which you intend to rely 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. These will be given to the single Commissioner who will look at them along with all the information provided in the dossier (please see paragraph 3.3 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's 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 side 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.

When the date of the oral hearing is being finalised the parties will be consulted. Unless the parties have consented a shorter period 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 you want to give evidence at 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 must 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.

3.5 The Oral Hearing

3.5.1 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.

3.5.2 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 3.5.7.

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

3.5.4 Participants

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

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.

3.5.5 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.

3.5.6 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.

3.5.7 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.

3.5.8 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 observer 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;
- by you or your representative;
- by 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;
- by the Prison Service's representative;
- by 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.

3.6 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 additional licence condition(s) that it is felt may be required to ensure that you can be released safely into the community. Such conditions 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 proposed licence condition that you do so during the hearing.**

3.7 The Decision of the Commissioners

3.7.1 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.

3.7.2 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
May 2010

ANNEX A 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.

ANNEX B 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;

“Indeterminate Custodial Sentence” (ICS) – a sentence of imprisonment which includes a minimum period of time to be spent in custody and a life licence on release;

“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;

“Panel” – means a panel of three Commissioners;

“Parties” – means the prisoner and the Secretary of State;

“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 Parole Commissioners;

“Representative” – the person you have chosen to act on your behalf. This is usually a solicitor. You can nominate someone else but certain people 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;

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

“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 **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: _____

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: _____

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: _____

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.

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.



The Pre-Tariff Review Process

A STEP-BY-STEP GUIDE
FOR PRISONERS SERVING
A LIFE OR INDETERMINATE
CUSTODIAL SENTENCE (ICS)



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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THE PRE-TARRIFF REVIEW PROCESS

1. INTRODUCTION

This guide sets out information on how and when your case will be referred to the Parole Commissioners for a pre-tariff review which will identify areas of work which you will need to complete in advance of your tariff expiry date.

2. PRE-TARIFF REVIEW PROCESS

2.1 Referral

Depending on the length and type of sentence, you will be referred to the Commissioners by the Prison Service for a pre-tariff review. The purpose of the review is to enable the Commissioners to monitor your progress and provide you with a clear indication of what areas of work you will need to complete before you can be considered for release.

- If you have been sentenced to a life sentence you will be referred to the Commissioners for pre-tariff review 3 years before your tariff expiry date.
- If you have been sentenced to an Indeterminate Custodial Sentence (ICS) and your custodial period is **less than 3 years**, you will be referred to the Commissioners for pre-tariff review 6 months after you were sentenced.
- If you have been sentenced to an ICS and your custodial period is **between 3 and 6 years**, you will be referred to the Commissioners for pre-tariff review at the half way point of your sentence.
- If you have been sentenced to an ICS and your custodial period is **more than 6 years**, you will be referred to the Commissioners for pre-tariff review 3 years before your tariff expiry date.

2.2 Notice of Review

The Commissioners will write to you to let you know that a pre-tariff review has been referred to them by the Prison Service. The letter, known as the 'Notice of Review' will provide you with the dates by which certain things need to be done by the Prison Service, the Commissioners and by you.

2.3 Review Timetable

Your review will be conducted by a panel of three Commissioners. There will not be an oral hearing.

Within 8 weeks of the date of the Notice of Review, the Prison Service will provide the Commissioners with a dossier containing information and reports about your case. You will also be provided with a copy of dossier. The dossier will include the information and reports as outlined in section 3 of this guide.

Within 3 weeks of you receiving the dossier, you will be offered an interview with a Commissioner who will not be a member of the panel. The interview will only proceed if you agree to it. The purpose of the interview is to let you clarify or add to the information contained within the dossier and bring any other matters which you think are relevant to the attention of the panel. The interviewing Commissioner will have read the dossier and may have identified matters which they may need to discuss with you.

If you agree to be interviewed, you may bring any documents with you which you want the Commissioner to see.

Within 3 weeks of the interview you will be provided with a copy of the written report from the Commissioner. You will be given a further 2 weeks to make any written comments you may have on the report which must be submitted to the Commissioners.

If you do not wish to be interviewed, the panel will make their recommendations on the basis of the information provided in the dossier and any written representations you send to the Commissioners. You must copy these to the Prison Service.

The dossier, any representations you have made, the Commissioners' report on your interview and your comments, if you have made any, will then be given to the panel of Commissioners to consider.

Within 6 weeks of your interview you will receive a copy of the panel's recommendations. This will also be sent to the Prison Service.

2.4 Panel Recommendations

The recommendations made will highlight any areas of risk management to be addressed before your tariff expiry review, for example, anger management, alcohol misuse etc; suitability for a structured pre-release programme which may include elements of accompanied or unaccompanied temporary release; and any other outstanding matters.

3. THE DOSSIER

The dossier submitted in your case will include information and reports which the Prison Service deems relevant to the review. It is likely to include the following information and reports:

- 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); and
- 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 your level of risk to the public; and
 - 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, where relevant:

- your home address and family circumstances;
- 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; and
- an assessment of the likelihood of you re-offending and the risk of serious harm.

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.

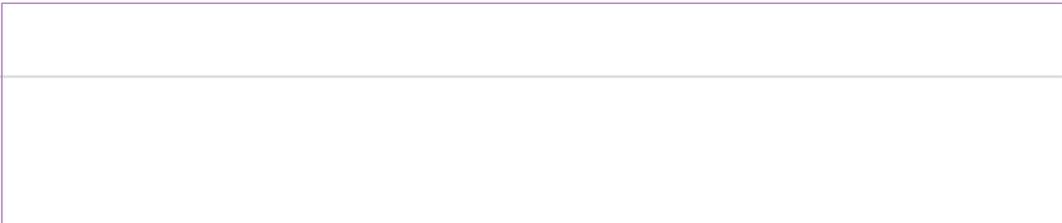
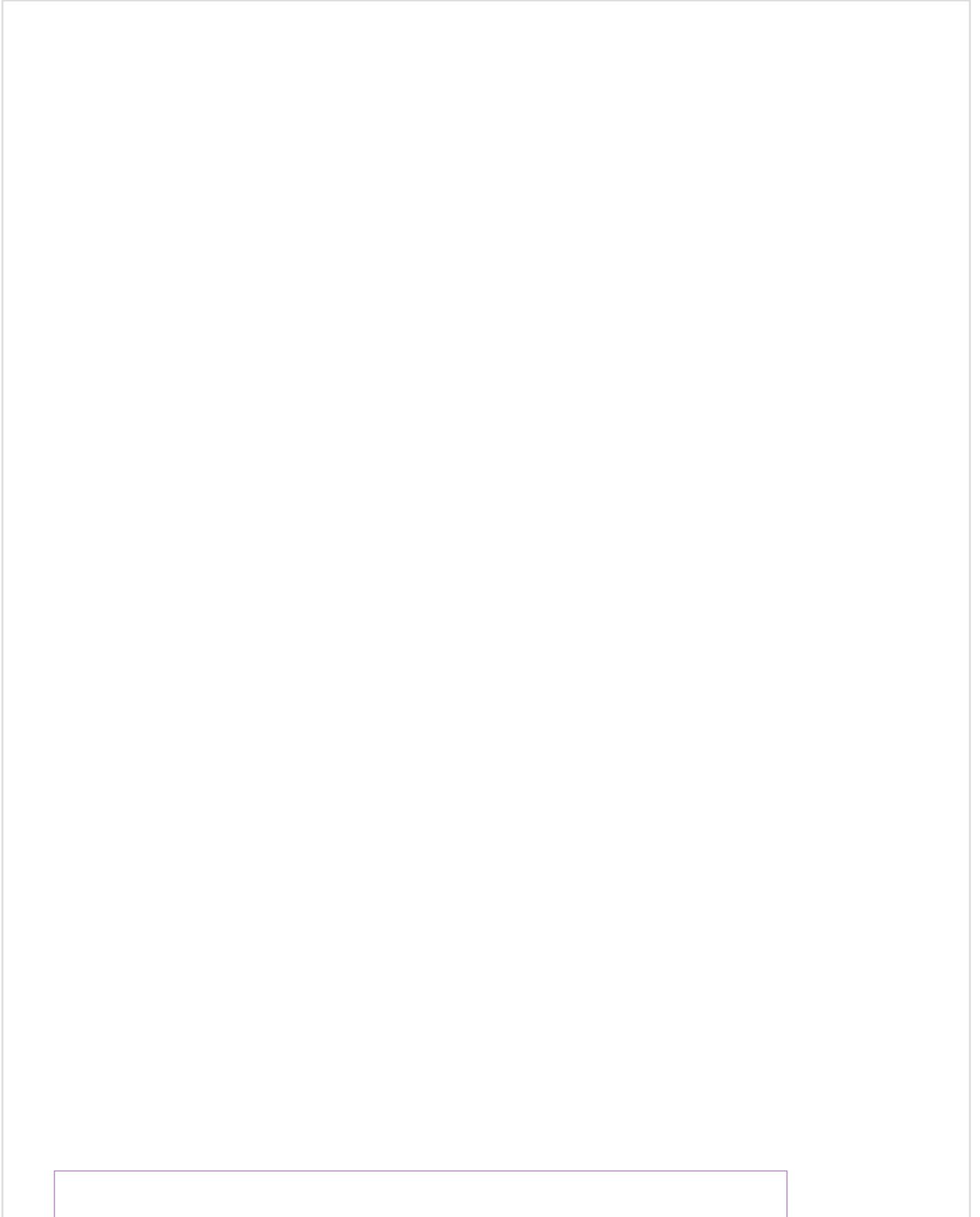
4. THE PAROLE REVIEW PROCESS

Approximately 6 months prior to your tariff expiry date the Prison Service will refer your case to the Commissioners to consider your suitability for release – please see “The Parole Review Process – A step-by-step guide for prisoners serving a Life or Indeterminate Custodial Sentence” which accompanies this guide. Please note that the Prison Service will include a progress report on the recommendations which have been made at your pre-tariff review.

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

Parole Commissioners for Northern Ireland
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NOTES





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