

Listing Prioritisation Framework for Oral Hearings

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Document History

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Overview

Listing enables cases to be scheduled for an oral hearing in a way that balances the general need to bring cases to a timely conclusion and the individual facts of the case. The Parole Board has adopted a general set of principles to guide its approach to listing the cases which are referred to it by the Secretary of State. These principles, as set out in this Listings Prioritisation Framework (LPF), balance the need to manage overall caseload with the obligation the Parole Board is under to ensure the timely review of cases which have been referred to it.

The Parole Board will ensure that it makes the most efficient use of public resources available to it to maximise the number of cases it can list each month. The Parole Board will remain flexible in its approach to listing cases and will consider departing from the general principles set out below where there are good reasons to do so. The general approach to listing will be kept under review and may be subject to change to ensure that any variation in caseload can be managed efficiently and effectively.

The Parole Board will initially prioritise the referrals that are ready to list, and that have been waiting for a date for more than 90 days; and those cases where the review has been ongoing for more than 18 months and are ready to list. The Parole Board will then move to prioritising cases according to the date the review was due. For a definition of this date for each type of case, please refer to the list below on page 5. The Parole Board will also reflect individual circumstances and provide equitable fairness across the different types of cases referred to it.

Please note: the initial prioritisation by date applies to all types of cases. It is only after the initial prioritisation by due date is completed, and where there is a choice between two cases for one available listing slot, that the type of case will have any bearing on the listing. Further information is on pages 5 and 6.

There are some exceptions that sit outside of this approach which, where they meet certain criteria, are automatically prioritised for listing. Further information on these exceptions can be found on page 8.

Post Covid-19 Pandemic

During the Covid-19 pandemic the Parole Board moved to listing and hearing 93% of oral hearings remotely via telephone or video. Less than 7% of oral hearings were conducted on a face-to-face / in person basis where the needs of the case required it, and it was safe to do so.

The Parole Board has a duty to provide a timely review of detention under Article 5(4) of the European Convention on Human Rights. Its approach to progressing cases aims to balance that requirement with that of fairness to the prisoner, and the duty to protect the public.

The Parole Board has maintained this approach to listing and considers remote hearings to be the standard operating approach following the recovery from the pandemic.

Remote Hearings

All parole cases undergo an initial paper assessment known as Member Case Assessment (MCA). Where a case is not suitable to be concluded on the papers and requires an oral hearing, an MCA panel will determine the format of the hearing. In the first instance, the MCA panel will consider whether the oral hearing can be conducted by telephone or video as the majority of cases will be suitable for this option, or a form of hybrid arrangement. Witnesses can dial in to a remote hearing if they can assure the Parole Board that they have a private and secure setting to do so.

When directing a face-to-face hearing, MCA panels need to give their reasons why a face-to-face oral hearing is necessary when making that direction. Panels should avoid directions that state if a face-to-face oral hearing is not available, a video hearing can be arranged instead.

Monthly Listings Exercise

Each month, the Parole Board will undertake to list as many cases as possible the "bulk listings" exercise. The bulk listings exercise will take place over a two-week period, during which as many cases as possible will be allocated a listing for a date, usually, three months ahead e.g., If listed during January bulk listings, cases will be allocated a hearing in April. Hearing dates remain provisional until the bulk listings exercise is completed, and listings are confirmed by the Listings Team Leader.

Maximised and Replacement Listings

Once the bulk listings exercise is completed, the Parole Board will continue to list additional cases on any oral hearing panels where there is capacity within the allotted time for hearings to take place e.g., 9:30am until 5:30pm. If an oral hearing is deferred or adjourned before the oral hearing date, the Parole Board will also look to replace the case with another case that is waiting for a scheduled hearing date, provided there is sufficient time to ensure the case is suitably prepared for the hearing; cases are rarely listed if there is less than 4 weeks until the available listed date.

Definition of Due Dates by Case Type

First review at tariff expiry (Indeterminate Sentence Prisoners (ISPs)¹ including recalls)

The due date is the date of tariff expiry. (The Generic Parole Process (GPP) is designed so that parole review occurs around two months prior to the tariff expiry date; the LPF incorporates that intention.)

Further reviews after tariff expiry (ISPs including recalls)

The due date will be the date set by the Secretary of State for Justice upon referral to the Parole Board. (This category also includes life sentence/Imprisonment for Public Protection (IPP & DPP) prisoners undergoing a second or subsequent review following recall.)

First Review Extended Determinate Sentence (EDS)/Sentence for Offender of Particular Concern (SOPC)/Determinate Conditional Release (DCR)

The due date is the Parole Eligibility Date (PED) (The Generic Parole Process (GPP) is designed so that reviews occur around two months prior to the PED; the LPF incorporates that intention.)

¹ Indeterminate Sentence Prisoners includes both life sentence and Imprisonment for Public Protection (IPP) prisoners.

Further reviews after tariff expiry (EDS)/(SOPC)/DCR)

The due date will be the date set by the Secretary of State for Justice upon referral to the Parole Board. (This category also includes EDS/SOPC/DCR prisoners undergoing a second or subsequent review following recall.)

Advice Cases (ISPs)

The due date will be the date of the referral to the Parole Board (i.e., date of receipt of dossier). This category covers both pre-tariff and post-tariff matters which the Secretary of State has referred to the Parole Board for advice under section 239 of the Criminal Justice Act (CJA) 2003.

Combined reviews

Due to the ongoing high volume of cases, life sentence and IPP pre- and post-tariff advice cases (i.e., cases referred to the Parole Board under section 239 of the Criminal Justice Act 2003) may not yet have been listed by the time the first or subsequent referral under section 28 of the Criminal Justice Act 2003 is made. These cases are usually combined (rather than having concurrent reviews for advice on 'suitability for open conditions' and a separate review with power to consider release). In order to recognise the wait time in possible progression already experienced by these prisoners, any combined review will be prioritised according to the original due date of the oldest live review for the prisoner.

Prioritisation Beyond Due Date

The Parole Board recognises that it needs to take a flexible approach to managing its caseload and resources, and that there may be circumstances which justify the listing of a case to be prioritised. Bearing that in mind, the Parole Board has adopted a general and fair approach to listing cases that are beyond their due date.

Cases beyond their due date will generally be listed in accordance with their review type. Cases are then further prioritised according to the review date within the review type. These cases will be listed in accordance with the order below:

1. First review at tariff expiry –Initial release - ISPs.
2. Further reviews after tariff expiry - ISPs.
3. ISP recall reviews.
4. GPP Terrorist Offenders (Restriction of Early Release) Act 2020 (TORERA) reviews.
5. Power to Detain Reviews – Standard Determinate Sentence Prisoners²;
6. First review at Parole Eligibility Date - Initial release - (EDS (including EDS Recalls)/SOPC/DCR).
7. Further reviews after Parole Eligibility Date – (EDS/SOPC/DCR).
8. Advice cases - ISPs.
9. Standard Determinate Sentence (SDS/ESP) Annual reviews after initial recall review.
10. Standard Determinate Sentence Recalls (SDS).

² *The Power to Detain provision applies to prisoners who are serving an SDS sentence for offences, other than terrorism or terrorism connected offences, and where there are reasonable grounds, based on new or additional information, to believe that the prisoner poses an imminent and very high risk of committing a serious specified offence on release.*

PRIORITY ORDER	
Review Type	PPUD Label
1. ISP – first review at tariff expiry (initial release – lifer and IPP) 2. ISP – further reviews after tariff expiry (lifer and IPP)	zzzGPP-I GPP ISP OnPost Tariff
3. ISP Recall – initial recall review	zzzISP Recall ISP Recall Review
4. GPP TORERA 5. Power to Detain Review – Determinate Sentence prisoners whose risk of harm has escalated to ‘very high’. 6. EDS, including EDS Recalls / SOPC / DCR – first review at Parole Eligibility Date (PED) – initial release. 7. EDS / SOPC / DCR – further reviews after PED	GPP TORERA Parole Review PTID Initial Review GPP EDS Parole Review / GPP DCR EPP Parole Review / GPP SOPC Parole Review Standard 255c Recall Review (EDS)
8. ISP – advice cases (lifer and IPP & DPP)	Advice Case DPP ISP Pre Tariff
9. SDS / ESP Determinate Sentence Offenders – further reviews, referred after the initial recall review has been concluded	Further Review (Post Release) Annual Review ESP Annual Review
10. SDS - Determinate Recalls – initial recall review	Standard 255c Recall Review
11. License Termination or Variation Requests directed for an oral hearing	PEC License Variation Termination of IIP License

Determinate Sentence Recall Cases

Determinate sentence recall cases are prioritised lower down the LPF due to the sentence being determinate with a sentence expiry date. However, the Parole Board will, in the case of extended or standard determinate sentenced prisoners, aim to allocate them to vacated slots on scheduled panels, using the maximised listings approach. In particular, SDS recall cases will be prioritised under maximised listing, to fill these vacancies.

Prioritisation can be further refined within each category by the length of wait and whether there are any other factors to consider, most of these are noted below.

Once the initial list is produced (i.e., going by date order), where there is only one case listed on a particular day at a particular prison, other newer cases will be slotted in accordingly using the same order of priority according to the type of case.

The same approach will be used to fill slots vacated by cases that have been adjourned or deferred more than four weeks prior to the scheduled hearing date.

Exceptions to the LPF

There are some cases where the Parole Board has determined that they must be prioritised for listing irrespective of their due date. These cases will be given priority in the Board’s next listing exercise after they become suitable for listing.

Prisoners under 18 years old (children)

The Parole Board will automatically prioritise, irrespective of review/ sentence type, the listing of prisoners who are under the age of 18 at the point of referral. The hearing will be listed once the case is ready to list and will be listed according to the availability of the required witnesses.³

Prisoners serving a sentence of Detention for Public Protection (DPP)

The Parole Board will automatically prioritise, irrespective of the review status, the listing of prisoners serving a sentence of Detention for Public Protection (DPP), i.e. those prisoners who were sentenced as a young person. The hearing will be listed once the case is ready to list and will be listed according to the availability of the required witnesses.

Prisoners in a mental health setting

The Parole Board will automatically prioritise, irrespective of their review / sentence type, the following reviews:

- Any prisoner residing within a secure hospital setting or mental health unit
- Any prisoner where it is their first review by the Parole Board after discharge by a Mental Health Tribunal and they have been returned to prison

The hearing will be listed once the case is suitable to be listed and will be listed according to the availability of the required witnesses.

Exceptional Circumstances

The Parole Board recognises that it needs to take a flexible approach to managing its caseload, and that there may be exceptional circumstances in particular cases which mean they should be prioritised. Where exceptional circumstances are put forward by the prisoner for higher prioritisation, the case will be put before a duty member for assessment. The duty member may direct that a case has a higher priority than would normally be indicated by the list above and/or its current due date and should accordingly receive precedence. This should only be done in rare circumstances to ensure fairness to other prisoners awaiting an oral hearing.

The duty member can:

- Prioritise a case for listing – this is to give a case priority in the next bulk listings exercise e.g., in 3 months' time.
- Expedite a case - this is to list the case as soon as possible perhaps with a freshly commissioned panel at short notice.

Circumstances need to be sufficiently exceptional to warrant a case being given a higher priority in the listings process than a standard case. The first consideration is whether it would be appropriate to prioritise a case before considering an expedited listing. Both routes can have significant consequences for other prisoners in that their reviews may be unfairly delayed, despite their case having similar merits to the case being considered for prioritisation/expedition.

³ The Parole Board has a policy of a presumption of an oral hearing if release cannot take place on the papers and the prisoner is aged 18 – 21 (inclusive) at the point of their referral but these cases are not prioritised.

Examples of when prioritising would and/or would not be appropriate are set out on the table below:

Reasons to Prioritise	Reasons not to Prioritise
Case has been deferred several times and the prisoner's review has been unfairly delayed (through no fault of their own)	A determinate sentence recall prisoner has less than 26 weeks until their sentence expiry date
Serious concerns over the prisoner's mental health	Requests for prioritisation solely on the grounds of positive report recommendations
A complex release plan is time critical, and arrangements are likely to fall apart if the case is unduly delayed.	A case has been adjourned/deferred once before (even if the current situation is not prisoner's fault)
	A member or witness could not attend the oral hearing due to illness.

Examples of when expediting would and/or would not be appropriate:

Reasons to Expedite	Reasons not to Expedite
Terminal illness or other factors pointing towards compassionate release	A determinate recall prisoner has less than 26 weeks until their sentence is due to expire.
Compassionate reasons of close family members	A case has been adjourned once before and that the current situation is not prisoner's fault.
The original decision is the subject of an order for reconsideration or has been quashed by the High Court	Requests for prioritisation solely on the grounds of positive report recommendations (unless this is the only difference between two cases).
Prisoner's reviews where a reconsideration application has been granted following an oral hearing	It is taking a while to get listed and you feel it is 'unfair' on the prisoner
	A member or witness cannot attend on the day due to illness.