



HM Prison &
Probation Service

Changes to the open test for Indeterminate Sentence Prisoners (ISPs) and changes to recommendations in parole reports, oral hearings and recall reports Parts B and C

This guidance is to inform all staff involved in writing parole and recall review reports, or who are attending oral hearings, about recent significant changes to the parole and recall process. These changes are ministerially driven and therefore the timing of these changes is outside of the control of the organisation.

This guidance explains:

- [Summary](#)

Recommendation changes

- [What are the changes to recommendations](#)
- [In which circumstances the changes apply](#)
- [Where to find the new report templates](#)
- [Language guidance for report writers and witnesses](#)

Open Test Changes

- [What the changes are to the new test for open conditions](#)
- [When the new test applies](#)
- [Which cases the new test applies to](#)
- [How do I evidence the second test about open being 'essential'?](#)
- [What you need to do now](#)
- [Checklist for report writers](#)

It also provides Frequently Asked Questions for both the

- [recommendation changes](#) and the
- [open test](#),
- and a list of links to further [resources](#) staff may find helpful.

Separate guidance is being issued to Victim Liaison Officers (VLOs).

There will be staff briefings via MS Teams on

[Tuesday 12th July 11am - 12.30am](#)

[Tuesday 12th July 1.30pm - 3pm](#)

[Tuesday 12th July 3pm - 4.30pm](#)

[Wednesday 13th July 12.30pm - 2pm](#)

[Wednesday 13th July 2.30pm - 4pm](#)

[Thursday 14th 9.30am - 11am](#)

[Thursday 14th July 11.30am - 1pm](#)

[Friday 15th July 10am - 11.30am](#)

[Friday 15th July 12 noon - 1.30pm](#)

[Monday 18th July 10am - 11.30am](#)

[Monday 18th July 12noon - 1.30pm](#)

[Tuesday 19th 9.30am – 11am](#)

[Tuesday 19th July 11.30am - 1pm](#)

[Wednesday 20th July 9.30am - 11am](#)

[Thursday 21st July 10am - 11.30am](#)

And then

[Every Tuesday starting 26th July from 1-2.30pm](#) until further notice

Email [REDACTED] to book on to a briefing or click on a link above to join. We will record briefings in order to get a recording to publish as a video staff can view at their own convenience.

We strongly encourage all staff who have reports due to be submitted, or those staff due to attend an oral hearing on or immediately following July 14 to attend.

Further support will be available through learning and development and further staff guidance will be published in the coming weeks. We anticipate that further issues will need to be resolved and will keep the FAQ section of this document updated.

Please note that separate guidance will be sent to psychology staff.

Summary

Recommendations

- From 14 July, on and after, views or recommendations about suitability for release or open conditions will no longer be allowed in parole reports and recall review reports
- From 21 July, on and after, views or recommendations about suitability for release or open conditions will no longer be allowed in oral hearings, unless the report was submitted prior to 14 July
- This means we cannot comment on whether the release test has been met, whether the risk management plan (RMP) would protect the public or whether risk is manageable in the community
- We must provide enough evidence about manageability of risk to allow the Parole Board to assess whether the release/open test is met

Open Test

- There is a new test setting out the requirements for suitability for a move to open conditions for ISPs
- It has three criteria, but HMPPS and the Parole Board are no longer required to assess the third criteria about public confidence
- We must provide evidence on all three to allow others to assess whether the criteria are met

Single Secretary of State View

- In a small number of cases, a view about suitability for release or open conditions will be provided solely by the Secretary of State to the Parole Board

What are the changes to recommendations?

Reports and oral hearing evidence to the Parole Board must no longer contain a view or recommendation about the suitability of release or a move to open conditions. For certain complex and noteworthy cases, the Secretary of State will provide a single view.

Amendments to the Parole Board Rules will be formally introduced on 21 July 2022. One very significant change means that authors of parole reports and recall review reports are not required to provide a view or recommendation to the Parole Board Panel, as to whether the prisoner is suitable to be released or moved to open conditions. To accompany that change, the Generic Parole Process Policy Framework and all associated report templates and processes are being amended so that report authors will not be permitted to provide a view or recommendation.

For HMPPS report writers, this change will apply to reports submitted to Public Protection Casework Section (PPCS) on and after 14 July 2022. Reports for the

Parole Board from HMPPS will still provide an assessment of risk, using professional judgement, based on the facts of the case. They will not contain an assessment of whether the release test is met, whether custody is necessary to protect the public, whether the risk management plan is sufficient or whether the risk is manageable in the community.

From 21 July HMPPS witnesses in oral hearings must no longer provide a view or recommendation about suitability for release or a move to open conditions, unless they have submitted a report with a recommendation before 14 July.

From 21 July, in certain cases, the Secretary of State may choose to provide the Parole Board with a single Secretary of State view which takes account of all of the evidence. The Public Protection Group will agree with the Secretary of State which cases meet the criteria for a Secretary of State view. Where a Secretary of State view is provided, the Secretary of State will be represented at any oral hearing by either a Secretary of State representative from PPCS or by counsel.

In cases where a single Secretary of State view is provided, HMPPS report writers must not speak against it at oral hearings. We estimate that a Secretary of State view will be provided in approximately 150 cases per year, and PPCS will work closely with the witnesses to prepare them for the sensitivity and nuance of the oral hearing in these cases.

Transitional Arrangements

There will be a significant period where oral hearings take place based on reports submitted prior to July 14. It will not be necessary to remove the recommendations from the reports. Report writers can expect panels to question them on their views or recommendations and can answer, having provided the recommendation prior to the change on and after 14 July. Witnesses are able to provide a recommendation in these hearings.

For hearings on and after 21 July, where reports were submitted after 14 July, witnesses will no longer be able to provide a view or recommendation about the suitability of release or a move to open conditions.

For cases whereby a report has been submitted prior to July 14 containing a recommendation, followed by an addendum submitted after July 14 without a recommendation, the witness at the oral hearing can discuss the recommendation as it has been provided within that parole review window.

In which circumstances do these changes apply?

From 14 July onwards, all HMPPS staff must not offer a view or recommendation about suitability for release or a move to open conditions **in all cases** in:

- Pre-tariff PAROM1;
- Pre-tariff PAROM1+ addendum;
- On/Post Tariff PAROM1;
- On/Post Tariff PAROM1+ addendum;
- Recall - Part B Post Recall Risk Management Report;
- Recall - Part C Ongoing Reviews – Release and Risk Management Report;
- Psychology Risk Assessment; and

- Any reports commissioned on behalf of HMPPS.

From 21 July onwards, all HMPPS staff must not offer a view or recommendation about suitability for release or a move to open conditions **in all cases** in:

- Oral Hearings, unless the report was submitted prior to July 14

There are no changes to any other reports including On/Post Tariff Parole Custody reports, On/Post Tariff Parole Custody addendum reports, suspension of supervision reports, termination reports, Part A recall reports, HDC reports, pre-sentence reports or breach reports. The changes are only relevant to reports subject to decision-making by the Parole Board in relation to release or suitability for open conditions. They do not apply to professional assessments about risk, responsivity, desistance or reoffending.

Where can I find the new reports?

The new templates are available on nDelius from 8 July for parole reports and from 13 July for Part B and C recall reports. The templates are also available on EQuIP here: [Parole \(justice.gov.uk\)](https://justice.gov.uk). The templates were recently revised to take into account the new test for open conditions and the single Secretary of State view. The new template is currently a Microsoft word IWP template linked to NDelius. This replaced the previous Digital Tool which has been decommissioned. In due course, the new template will be embedded into the Digital Tool once again.

Language guidance for reports and attendance at oral hearings

We understand that, following the introduction of this new policy, staff will be uncertain about what they can and cannot include in both reports and as witnesses in oral hearings. If HMPPS staff tell the Parole Board that in their professional assessment, the prisoner's risks are / are not manageable in the community, we appear to be telling the Parole Board in terms that the prisoner should remain in custody, in order for protection of the public. This would be providing a view on whether the release test is met, which we are no longer allowed to do. We cannot provide an assessment on whether the RMP would protect the public or say whether we think it is sufficient to manage the risks. It appears we must provide the evidence neutrally without providing an assessment of whether we consider release to be safe.

The following examples are suggested ways of expressing professional assessments about risk and are **acceptable** under the new policy:

- 'I have concerns about whether / I do not assess that Mr/Ms X would be likely to comply with the risk management plan on release because...'
- 'There is little evidence that that Mr/Ms X has addressed the following areas of risk.... Therefore, it is my assessment that the following work remains on the sentence plan for completion.'
- Identifying where specific assessed risks are / are not likely to be managed by the plan without explicitly stating this e.g. 'Risk X requires A, B and C in order to be managed. The RMP provides A and B'.
- 'The following risk reduction work in closed has been completed / remains outstanding'

- 'There is [some/significant] evidence that Mr/Ms X has addressed outstanding risks and must now develop their resettlement plans as follows'
- 'My assessment is that it in order to reduce these risks that Mr/Ms X complete 'prison only intervention' which is only available in custody'

If you are asked the following, or similar questions, in the oral hearing:

Q: 'Do you consider the risks posed by Mr/Ms X to be manageable in the community?' OR 'Do you consider that this risk management plan is sufficient to protect the public?'

You should respond:

"That is a judgment for the Parole Board to make. The risk management plan I have prepared is my proposal as to how to manage the prisoner's risk, should the Panel conclude that the statutory release test is met."

If you are asked whether any risk reduction work remains outstanding, you **can** answer this question.

If you are asked any questions either by the panel or the legal representative, and you consider that you are being asked to provide a view or recommendation about suitability for release or for a move to open conditions, you should respond:

- 'It is not my role to provide a view on the suitability of [prisoner name] release or open conditions, but I am able to answer any questions you may have otherwise'
- I / the Probation Service / Prison Service cannot provide a view/recommendation on whether or not to release / a move to open conditions
- Where appropriate and relevant: A single view has been provided by the Secretary of State in this case and I refer you to it
- I cannot provide a view / recommendation on that I'm afraid, but I can provide my assessment of risk and my plan to manage that risk should release be directed

The language below would constitute a 'view or recommendation about suitability for release or open conditions' and **must be avoided**:

- 'My assessment is that Case X should / shouldn't be released'
- 'My view is that further time in open conditions is required prior to release'
- 'I recommend that Case X is released'
- My assessment is that risk is / is not manageable in the community
- My assessment is that custody is / is not required to protect the public
- My assessment is that the current risk management plan is / is not sufficient in this case to manage the risks posed by Mr/Ms X
- 'My assessment of the likely outcome should Mr/Ms X be released is'
- 'If you directed release / recommended open conditions for Mr/Ms X, this is what in my view would be essential to manage their riskand this is what is currently available in this setting

What is changing now with the open test?

With immediate effect: HMPPS staff and the Parole Board are no longer required to assess whether the third criteria of the open test, the public confidence criteria, has been met. Information to allow others to make this assessment can still be provided.

HMPPS report writers including Prison OMs, Psychology staff and Probation Practitioners must continue to provide evidence relating to all three criteria of the new open test to allow the Parole Board and Secretary of State to reach a decision on whether all three criteria are met.

As above, **from July 14** (on and after July 14) views or recommendations must not appear in reports and **from July 21** views or recommendations must not be made in oral hearings, unless the report was submitted prior to July 14.

The Parole Board will now also only be considering whether the first two criteria apply when making their recommendation. The third element of the new test will be a matter solely for the Secretary of State or his delegated official.

On **6 June 2022**, the new test for open conditions was introduced which states that:

The Secretary of State (SoS), or an official with delegated responsibility, will accept a recommendation from the Parole Board (approve an ISP for open conditions) only where:

1. the prisoner is assessed as low risk of abscond; and
2. a period in open conditions is considered essential to inform future decisions about release and to prepare for possible release on licence into the community; and
3. a transfer to open conditions would not undermine public confidence in the criminal justice system.

Staff are still able to say whether a prisoner is assessed as being a low risk of abscond or not. Staff cannot say whether a move to open conditions would be essential, or whether a move to open conditions would undermine public confidence. Instead, they should provide the evidence needed to enable the Parole Board and Secretary of State to reach this decision.

In individual cases, where the report writer assesses it as relevant to the risk assessment, details of anything relating to the media should be included in the report and evidence in an oral hearing.

REMEMBER: Terrorist and Terrorist Connected Prisoners are presumed to be unsuitable for open conditions, unless exceptional circumstances can be evidenced. Alternate options should be considered e.g., a Progression Regime. It is for PPCS to determine whether the circumstances are exceptional.

Before recommending that an ISP be transferred to open conditions, the Parole Board must be satisfied that the exceptional circumstances have been evidenced, and that the first two criteria of the open test are met.

When does the new open test apply from?

The new test applies immediately to any oral hearings and to any reports that are currently being drafted, including:

- Pre-tariff PAROM1
- Pre-tariff PAROM1+ addendum
- On/Post Tariff PAROM1
- On/Post Tariff PAROM1+ addendum
- Recall - Part B Post Recall Risk Management Report
- Recall - Part C Ongoing Reviews – Release and Risk Management Report
- Psychology Risk Assessment; and
- Any reports commissioned on behalf of HMPPS.

Reports already submitted will not need to be amended, unless requested by PPCS.

Which cases does this new open test apply to?

All ISPs. This test does not apply to determinate sentence prisoners who will continue to be reviewed under the categorisation process.

It also applies to pre-tariff sifts and reviews.

Pre-Tariff Sifts:

As part of the Sentence Planning Review Meeting (SPRM), staff must obtain, examine and provide evidence about all three criteria of the open test. Report writers will also need to provide evidence and information about all three criteria where relevant but must not provide views or recommendations about suitability for a move to open conditions, including whether they believe any of the criteria are met. In individual cases, where the report writer assesses it as relevant to the risk assessment, details of anything relating to the media should be included in the report.

This should be outlined within the SPRM minutes which are provided to PPCS as part of the pre-tariff sift process.

In line with the current pre-tariff sift policy, PPCS remain responsible for deciding whether the case should proceed to a pre-tariff review. Cases will only progress to a pre-tariff review where PPCS decide that we have evidence to suggest that all three of the criteria in the current test for open conditions have been met **and** that there is a reasonable prospect of the Parole Board recommending a move to open conditions. This view cannot be explicitly stated in reports on and after 14 July.

Ongoing Pre-Tariff Reviews:

Report writers will need to provide **evidence and information** about all three criteria where relevant but must not provide views or recommendations about suitability for a move to open conditions or whether the criteria are met.

There is no requirement for Prison OMs to provide a further PAROM report, where one has already been submitted, unless it is directed by the Parole Board or requested by PPCS.

How do I evidence whether a move to open conditions is “essential” – the second criteria?

It is important that you first consider whether the prisoner can access the necessary risk reduction and rehabilitation opportunities within the closed estate, such as employment or volunteering roles and Progression Regimes.

You should also consider how the prisoner can evidence their ability to act responsibly, comply with prison regimes and engage with sentence plan objectives within the closed estate. As part of this, it is also important to encourage active participation with their Probation Practitioners and family support networks to aid resettlement in readiness for release.

REMEMBER: The Parole Board can direct the release of ISPs from the closed estate. As part of the decision-making process for the Parole Board, assessments provided by the Probation Service will help to evidence the prisoner’s suitability for release into the community.

Where there are opportunities for development within the closed estate, these should be clearly outlined within the report, including timescales for completion.

You may also wish to consider any relevant evidence including:

- any opportunities for the prisoner that will only be available in open conditions;
- the benefits a move to open conditions would provide the prisoner, particularly where they have served a significant period of time in custody; and
- whether the level of need for a move to open conditions would change should the Parole Board refuse release into the community, for example there may be opportunities available in the community and open conditions which are not available in a closed prison.

What do you need to do now?

In reports on and after 14 July, HMPPS report writers including prison OMs, Psychology staff and Probation Practitioners must

- Provide enough **information and evidence** about all three criteria of the open test and the release test so as to allow the Parole Board / Secretary of State to assess whether the tests are met
- **No longer provide a view or recommendation** about the suitability of release or a move to open conditions – this includes providing your view on whether the criteria of the open test are met or whether the release test is met

In oral hearings from 21 July, HMPPS report writers including prison OMs, Psychology staff and Probation Practitioners must

- Provide enough **information and evidence** about all three criteria of the open test and the release test so as to allow the Parole Board / Secretary of State to assess whether the tests are met
- **No longer provide a view or recommendation** about the suitability of release or a move to open conditions, **unless the report was submitted prior to July 14.**

Report writers – Prison POMs and Probation Practitioners

1. Identify cases where a PAROM1 or PAROM addendum, Part B or Part C report is due **on or after 14 July.**
2. **If you are submitting it to PPCS on or after 14 July** and have started your report on an old template, transfer the content to the new template.
3. **If you are submitting it to PPCS on or after 14 July** and have not yet written the report, use the new template.
4. Make sure that that no recommendation or view about suitability for release or open conditions appears in the report.
5. Include evidence that would enable the Parole Board and / or Secretary of State to assess whether the release / open test has been met.
6. Do not change or redact any reports **submitted prior to July 14 unless requested by PPCS.**
7. Consider who you need to discuss these changes with, including the prisoner.

Staff attending an oral hearing on or after July 21

1. Identify whether the case involves a current parole report submitted before 14 July. If so, **there is no change to the expectations at the oral hearing.**
2. If the hearing relates to reports submitted on or after 14 July without recommendations, present evidence that would enable the Parole Board and / or Secretary of State to assess whether the release / open test has been met.
3. Do not provide a view or recommendation about suitability for release or a move to open conditions in the oral hearing, unless you have submitted a report with a recommendation before 14 July.
4. Review the [language guidance](#) below to help you prepare.
5. If you have submitted a report containing a recommendation before the 14 July, but the oral hearing occurs on or after 21 July, do not change your report.
6. Consider who you need to discuss these changes with, including the prisoner.

Senior Probation Officers (SPOs), Heads of Offender Management Delivery

- Be satisfied that the report contains sufficient evidence about the three criteria for the open test and the release test to allow the Parole Board and Secretary of State to assess whether the open test and release test are met.
- When countersigning all parole reports and addendums due for submission on or after July 14, including pre-tariff reports, and all Part B and C recall reports, check that they are on the new templates whereby the recommendation section has been removed.
- Check that they contain no recommendations or views about suitability for release or open conditions.

- Do not countersign unless you are satisfied that the report complies with this requirement.
- Make an entry on NDelius using the parole management oversight entry (Management Oversight – Parole/ General/MAPPA’ - ‘Pre-release discussion’).
- Be clear in the entry that you have checked that the report is free from a view or recommendation about suitability for release or open conditions.
- Check that staff are clear and feel prepared for an oral hearing, including the language staff are planning to use.
- Make an entry on NDelius using the parole management oversight entry (Management Oversight – Parole/ General/MAPPA’ - ‘Pre-release discussion’).
- Be clear in the entry that you have checked that the report is free from a view or recommendation about suitability for release or open conditions.
- Consider what support staff require to debrief following an oral hearing.

Checklist for report writers

- Before writing: What reports do you need to submit on or following 14 July ?
- Before writing: Are you using the new templates for those reports?
- Before writing: Are you familiar with the language that is acceptable to use?
- Before writing: Do you have the evidence and information you need about the criteria for the open test, where relevant, and the release test?
- Have you spoken with the prisoner about the changes?
- Checking report: Have you checked the report to make sure it has no recommendation or view about suitability for release or open conditions?
- Checking report: Have you provided evidence and information about all three criteria for the open test, where relevant, and the release test?

Frequently Asked Questions – Recommendation Changes

Q: Why is this change happening?

Following the [Root and Branch Review of the Parole System](#) which concluded in March this year, the Deputy Prime Minister decided to change the way in which recommendations are made to the Parole Board – that HMPPS report writers would not provide a view or recommendation in any cases where the Parole Board are asked to consider release or to recommend a move to open conditions. In certain cases, a single Secretary of State view will be provided to the Parole Board which will take into account the full evidence and risk assessments provided by report writers. This is to ensure that staff providing evidence on behalf of the Secretary of State do not offer an alternative view of a prisoner's suitability for release or progression to open conditions.

Q: What happens if I submit a report with a recommendation in after 14 July?

Any reports that include a view or recommendation submitted on or after 14 July will be rejected by the Parole Board and will need to be rewritten. Where this happens, PPCS will request that the report writer amends the report and resubmits it to PPCS so that the case can be referred again to the Parole Board.

Q: What about the open test? Do I still have to provide a recommendation?

From 14 July onwards, you must not provide a view or recommendation about the suitability of a move to open conditions. However, staff can still provide the **information and evidence** in respect of all three criteria of the test in order that the Parole Board or Secretary of State can reach a decision on whether open conditions are suitable.

Q: I am worried that because I am no longer allowed to say whether I assess someone as being unsafe to be released, that people who otherwise would have been kept in custody will now be released. What should I do?

If you are concerned that release has been directed for someone who presents a public protection risk, and you believe that the Parole Board's decision was irrational, in that there was no evidence presented to support the decision, or it was procedurally unfair, a request for reconsideration can be made. (Reconsideration Mechanism Guidance - GOV.UK (www.gov.uk)). This enables the Secretary of State to ask the Parole Board to reconsider the decision in certain circumstances. If you think this may apply to your case, or you have significant concerns about the possibility of release and think we may need to use this mechanism, please speak to ppcs.policy@justice.gov.uk as soon as possible.

Q: Does this have anything to do with the 'Johnson' judgement?

No. Separate communications will come to staff about that judgement, and staff do not need to do anything differently in relation to the Johnson judgement.

Q: Are HMPPS staff allowed to express a view about suitability for release outside of the report and oral hearing – for example, are we allowed to express a view in a MAPPA meeting?

Yes. There is nothing preventing you from discussing your professional assessment and views outside of the parole reports or oral hearings, including in any kind of professionals meeting and including in conversation with the prisoner. Having an honest and transparent relationship with the individuals we supervise is crucial to assessing and managing risk and enabling people to change.

One of the concerns staff may have is that if they express their view about the suitability of release to the prisoner, this could be repeated by the prisoner in the hearing and staff could be questioned whether this was the case. If this happens, staff should respond by explaining that they are no longer allowed to provide a view or recommendation in the hearing.

As part of preparation for the hearing, HMPPS staff should discuss the process with the prisoner; it will also be important for staff to explain these changes to prisoners. This could include explaining that in their evidence, staff will advise whether risks have reduced, what the sentence and risk management plan is and what, if any, further measures are required to reduce risk. Staff should explain that they won't be able to express a view or recommendation about suitability for release, and that if questioned about their view, they will have to politely decline to answer. Staff should tailor their approach to each individual they work with in order to establish what would be helpful to explain and how.

Q: What should I tell the prisoner?

It will be important as part of your ongoing conversations with the prisoner to discuss this change. We are planning to ensure that information provided to the prisoner about parole and recall reports includes information about these changes. It may be that we are not able to produce these new leaflets prior to 14 July. You can and should talk about release and have a full and frank conversation as you normally would. It would be helpful to reassure prisoners that any progress they have made in custody will be properly reflected in the reports and hearings. You may wish to consider whether they would benefit from any additional support and what the impact of these changes will be on their wellbeing.

Q: What does this mean for executive release?

This is one of the issues that the central policy team are looking at urgently. We will be able to update staff in due course. We will be updating this document so please save the link.

Q: I sent my report off before the 14 July – why am I being asked for it to be re-written without a recommendation?

PPCS are not able to refer your report to the Parole Board unless other mandatory documents are also able to be sent. Where these mandatory documents are outstanding, this may prevent PPCS from sending the dossier, including your report, to the Parole Board prior to 21 July. In these cases, PPCS will contact the Probation Practitioner and request that the report is amended to remove the recommendation.

Q: Where can I find the new reports?

The new Part B and C templates will be on NDelius where you would usually find them. The On/Post tariff PAROM1 templates and addendums will no longer be on the digital platform, but will be available in a Microsoft word IWP template linked to NDelius. The location for the pre-tariff PAROM1s and addendums will not change, but they will be replaced with new templates to reflect the changes. All the new templates are on nDelius here: [Parole \(justice.gov.uk\)](https://www.parole.justice.gov.uk)

Q: What is the Parole Board doing about recommendations from previous parole reviews in dossiers?

The Parole Board are aware of the changes and have agreed that previous recommendations will not be removed from dossiers. The Board will make their decision based on all of the evidence before them. Specifically, it will not be necessary to remove the recommendations from the reports, and report writers can expect Panels to question them on their recommendations. If your report was submitted prior to July 14 with a recommendation, it is fine to continue as normal and discuss your recommendation.

Q: What if a Parole Board panel member or solicitor / barrister asks me for my view on suitability for release during the oral hearing?

The Parole Board is aware of these changes. It is very likely that Panel Members and the prisoner's legal representative will ask you whether you assess the risk to be manageable in the community, whether your risk management plan is considered sufficient to protect the public, whether the prisoner is safe to be released or is suitable for transfer to open conditions. You cannot answer as it would constitute a view on suitability for release/open and instead should politely tell the Panel Members and/or the prisoner's legal representative that your role is not to provide the Panel with a recommendation but rather your assessment of the prisoner's risks. If this does happen, you may wish to speak to your line manager following the hearing.

Please see the [Language Guidance](#) above for further assistance.

Q: Are lawyers allowed to ask our opinion about release in an oral hearing?

The Parole Board rule changes do not bind legal representatives for the prisoner in the same way that they do HMPPS and Parole Board panels, so yes, they could ask this question in a hearing. As stated above, and in the same way that other inappropriate questions to witnesses that are beyond their professional remit are handled, you will need to respond by politely declining to answer. You should explain that you cannot provide a view on suitability for release and that you are able to answer other questions within your remit.

Q: What language would constitute a 'view or recommendation about suitability for release or open conditions?'. How can I check whether what is in a report is allowed?

We have set out some examples of language above – [click here](#) - but we recognise that there may be uncertainty as this policy is embedded. If you are a report writer, you can ask your manager to have oversight of the language. You can review your reports in line the Parole Quality Assurance Framework tool when it is published , check with your line manager if you are a report writer or check with the

ppcs.policy@justice.gov.uk who can help check whether the language in the report is within the policy.

Q: How will I know if my case is a ‘noteworthy’ case where a single Secretary of State view is being provided?

PPCS have a list and will inform those staff involved. For those cases due to be heard imminently, the staff involved have already been told. PPCS will provide additional support to these staff in what we anticipate will be a very small number of cases.

Q: What are the consequences if it is judged that a practitioner has provided a ‘view or recommendation’ to the Parole Board?

It is possible that the decision by the Parole Board could be reconsidered, set aside or legally challenged and possibly changed. During this transition period try not to worry as it is going to be difficult to balance all the changes. Prepare for each case and be ready for what you can/cannot comment on. We know all staff will make every effort to implement this change at short notice, but we also appreciate that there may be cases where a recommendation has been provided in error. If staff think this may be the case, they should discuss this with their line manager and let the PPCS Case Manager know.

Q: Should practitioners be providing information to PPCS prior to writing a parole report or Part B / C to inform decision-making about cases being ‘top tier’ or ‘Single Secretary of State view’ cases?

PPCS work with the Secretary of State to initially identify cases considered to be noteworthy. If circumstances arise where practitioners think a case should be considered for a ‘Secretary of State view’ process, they should contact PPCS immediately. We anticipate that there will be very few cases in this category.

Q: Will there be recommendations about suitability for release or open conditions in psychology reports?

Where psychology reports are written by HMPPS staff or external staff commissioned by HMPPS, they will no longer contain recommendations about suitability for release or a move to open conditions from 14 July onwards. Psychology staff and Probation Practitioners can discuss and record in case notes their professional views about suitability, but these views must not be provided to the Parole Board.

Q: Does anything need to change about the rest of the report now that a recommendation about suitability for release or a move to open conditions is no longer allowed?

Not necessarily. The rest of the report should remain the same. The analysis of risk and what is best required to reduce risk, factual information as well as analysis about offending behaviour patterns, information and analysis about risk management and sentence planning should all remain the same. We do need to be confident that we are providing all of the evidence that would enable the Parole Board / Secretary of State to assess whether the release / open test is met. It will be important to be as

specific as we can about what the risks are and how best we intend to manage them in various scenarios. We will need to adopt a 'show, don't tell' approach whereby our analysis can inform decision-makers in the absence of us being explicit about our own conclusions.

Q: Will the rest of the oral hearing be any different?

Yes. Witnesses should expect Panels to question them even more closely on their risk assessment. Prepare in your usual way and seek support from your line manager if you need to.

Q: Does the Parole Board know about these changes?

Yes, and HMPPS staff have been working closely with them to ensure that we can continue to deliver our service without disruption.

Q: Will other witnesses be able to provide a view?

Yes, for example psychology reports commissioned by the legal team of the prisoner, or witnesses attending from outside of HMPPS. We must not comment on an external recommendation. We are not able to say whether we agree or disagree.

Q: Do the legal representatives of the prisoner know about these changes?

Yes, communications are being sent to legal representatives outlining these changes.

Q: I have started my report in the template in NDelius that has the recommendation section. Do I need to move everything on to a new template?

Report writers should use the new templates for all parole reports, Part B and Part C reports **for all reports due for submission on or after 14 July**. If you previously began these reports on the old template, you need to move the content over to the new report in order to submit it on or after 14 July. In the rest of the report, you must not provide a view or recommendation about the suitability of release or a move to open conditions.

Q: Is the Parole Quality Assurance Framework changing?

There will be changes to the questions in the quality development tool. The tool was due to be refreshed in the next couple of months with changes relating to the EPF2 tool, the new open test and questions relating to mental capacity now included. We are now bringing forward the publication of the latest version to coincide with these changes in order to include a new question relating to changes to recommendations.

The process whereby practitioners no longer require the tool applied to their reports following 3 successive 'Good' ratings is not changing. With all parole reports, the SPO is expected to have a Touch Points Model conversation with the Probation Practitioner. This should now always include a check by the SPO for any language in the report which could be considered a 'view or recommendation about suitability for release'.

Q: Am I allowed to include in the report any views from the prisoner on release?

This would mainly be the remit of the prisoner or their representative rather than for HMPPS to provide. Report writers can include information about whether a prisoner has expressed intentions regarding compliance with a release plan, or other information and analysis pertinent to risk and how it might be managed. This might include assertions by the prisoner that they are worried they would go on to commit an offence upon release for example, or they have expressed concerns that they will not cope in an approved premises.

Q: If an addendum parole report is due after 14 July, can it refer to what the recommendation was in the original report that was submitted prior to 14 July?

No. You cannot make any reference in an addendum report to a view or recommendation about suitability for release that you made in the PAROM1.

Q: If I've submitted a parole or recall report previously with a recommendation, but the oral hearing is after 21 July, can I repeat the recommendation I have already given in the hearing?

Yes. If the report was submitted before July 14 and contained a recommendation, you can discuss it. See the [transitional arrangements](#) for more advice.

Q: Recall cases – for determinate cases that go to oral hearing, is the practitioner allowed to repeat the recommendation they make in the part B / C?

Yes. If you have written the report and submitted it before 14 July, you can repeat that view or recommendation **in hearings** on and after 21 July. **Reports** submitted on and after 14 July should not contain a recommendation about the suitability for release or move to open conditions.

Q: If the POM and COM have different views about risk and progress etc, will that be allowed, or will there still be a requirement to align your views prior to writing a parole report, if there is no clear recommendation?

There is still a requirement for reports by POMs and COMs to align.

Q: If I am in an oral hearing for a case where there is a single Secretary of State view provided, and I am asked whether I agree with the SoS view, what do I say if, in my professional assessment, I disagree?

You should say politely that it is not within your remit to answer and that you can answer questions about your own assessment.

Q: How will it be possible for the panel or the legal representative to challenge my professional views in an oral hearing if I can no longer provide a recommendation?

The responses from the witness can always begin 'I cannot provide a view on suitability for release, but in respect of that question about risk.....'. A witness can

always ask for the question to be repeated, or to check the understanding of the question again by asking for further clarification.

It is right that legal representatives and the panel can challenge professional assessments in hearings. As always, witnesses will need to be prepared to evidence their assessments, but this will no longer involve them expressing a view about the suitability of release.

It is possible that Panel Members and, very likely that the prisoner's representative, will ask report writers for their view as to whether the prisoner is safe to be released or suitable for transfer to open conditions. When answering these questions, report writers should tell the Panel Members and/or the prisoner's legal representative that their role is not to provide the Panel with a recommendation but rather their assessment of the prisoner's risks.

Q: Will there be a change to ability to request fixed term/standard recalls?

No, this process will remain the same.

Q: Will the Parole Board still set targets for prisoners within their decision letters?

Yes, nothing about the decision letters will change for now.

Q: Can I recommend a fixed or standard term recall in a Part A recall report still?

Yes. There are no changes to Part A recall reports. This is because Part A reports do not go before the Parole Board for a decision to be made. The changes in this document only affect those decisions relating to the Parole Board.

Q: What will this mean for Victim Liaison Officers (VLOs) who won't be able to advise victims of recommendations being made?

The way VLOs communicate the parole and recall processes to victims will change and the victims' team are issuing specialist guidance separately to VLOs. It will continue to be important for POMs and COMs to liaise regularly with VLOs at all key points in the sentence.

Q: Can we confirm whether or not our risk management plan is robust enough to manage a prisoner on release?

No, this is not allowed.

Q: What do I need to do if a panel member wants me to answer a question that is now outside my remit?

You must reaffirm that you cannot provide a view or recommendation about suitability for release or a move to open conditions. If you feel you were put under undue pressure to answer a question outside of your remit, you may then wish to inform your line manager of the incident, following the hearing.

Frequently Asked Questions – Open Test

Q: I thought we're not supposed to talk about the third criteria for the open test anymore?

Decisions about whether the third element of the new test applies in individual cases will now be a matter solely for the Secretary of State or his delegated official. However, HMPPS must still provide **information and evidence, where available**, to enable that decision to be made. This could include information about media interest, impact on the local community or other information relevant to the issue. What HMPPS staff and the Parole Board are no longer required to do is **assess or analyse** whether a move to open conditions would undermine public confidence.

Q: When discussing the open conditions test could witnesses be asked to provide a yes or no response as to whether the prisoner is, for example, at low risk of abscond? Will this mean that the witness is providing a view about the suitability for a move to open conditions?

The witness could be asked a question like that, yes. We do not consider responding truthfully to that question to constitute 'providing a view'. The witness is providing their professional assessment to an issue of risk and how it is managed and not stating whether they think the prisoner ought to move to open conditions.

Q: What about reports that have already been written without reference to the new open test?

There is no requirement for the Prison or Probation Service to provide a further report, where one has already been submitted, unless it is directed by the Parole Board or requested by PPCS.

Where an oral hearing is underway and reports have been submitted, practitioners should be mindful that they may be asked about the case in the context of the new test at the oral hearing, particularly where the Parole Board is considering recommending a move to open conditions. Where the Parole Board directs an update, this must be provided.

Q: Is there still a presumption that Terrorist and Terrorist Connected Prisoners are unsuitable for open conditions?

Yes. Terrorist and Terrorist Connected Prisoners are presumed to be unsuitable for open conditions unless exceptional circumstances can be evidenced. Alternative options should be considered e.g., a Progression Regime. It is for PPCS to determine whether the circumstances are exceptional.

Q: How do I apply the new open test?

We no longer apply the test and instead provide evidence and information to allow others to assess whether the test has been met. This is a professional judgement and will depend on the specifics of the case.

Q: Do I need to evidence whether the prisoner meets the new open test?

You must provide the evidence and information about the criteria to allow the Parole Board / Secretary of State to assess whether the new open test criteria have been met.

Q: How much evidence does the Parole Board need to establish whether someone is a low risk of abscond?

The new open test has not changed the process for assessing a prisoner's risk of abscond, and the assessment remains one based on professional judgement. This should continue to be completed by prisons in the normal way. In terms of the amount of evidence the Parole Board will require, this will be different depending on the nature of the case.

Q: I have a high-profile case where there was a significant impact on the community. Am I allowed to put this in the report?

Yes. When analysing the impact of the offending behaviour or providing analysis on the risk management plan, including issues relating to the local community, you should provide this information as part of the report. You are no longer required to specifically assess whether a move to open conditions would undermine public confidence.

Q: What criteria will the Parole Board apply when considering whether a prisoner should move to open conditions?

From 28 June 2022, the Parole Board will only be deciding whether the first two aspects of the new open test criteria have been met. The Secretary of State Directions to the Parole Board have been updated to confirm this. A copy of these is available via this link: [Secretary of State's Directions to the Parole Board - Transfer of ISPs to open conditions.](#)

Q: How will the third criteria of the open test be applied by the Secretary of State?

The third part of the open test is to evidence that 'a transfer to open conditions would not undermine public confidence in the criminal justice system'. Where the Parole Board recommends a move to open conditions, the Secretary of State is responsible for deciding whether to accept or reject this recommendation. As part of this, the Secretary of State will consider whether all three parts of the new test have been met.

Q: Do I need to automatically move an ISP currently in open conditions back to closed based on the new test?

No. The new test should not be used as a reason for a prisoner's removal to closed conditions where an adverse development has NOT occurred. If an open prison considers that prisoners no longer meet the new criteria, this cannot be used as a reason to remove them to closed conditions. Where an adverse development has occurred, the new test should be applied when completing a LISP4 i.e. they have

absconded, assaulted someone etc. or there are changes in behaviour which the prison assesses results in the ISP's risk being unmanageable in open conditions.

Q: Should I apply the new test for a move to open conditions when completing the LISP4 for an adverse development?

Yes. As part of the recommendations within the LISP 4 to PPCS, practitioners should now only consider the first two aspects of the new test for open conditions. PPCS remain responsible for reviewing the case and deciding whether the prisoner should be issued with a warning letter, remain in closed until the next scheduled parole review or refer the case to the Parole Board for advice on their continued suitability for open conditions/refer the new information to the Parole Board where there is an ongoing parole review underway.

REMEMBER: When considering whether to raise an adverse development and move a prisoner back to the closed estate, prisons should consider whether the behaviour displayed by the prisoner can be managed within open conditions i.e., does not present an escalation of risk, and should be dealt with in line with local prison processes. In these cases, the LISP 4 does not need to be submitted to PPCS.

The new test should not be the reason for an ISP's removal to closed conditions, but it should be taken into consideration as part of the LISP 4 where removal to closed has happened and continued suitability is being considered.

Please send any further questions to ppcs.policy@justice.gov.uk and we will endeavour to respond as quickly as possible as well as updating the guidance regularly.

Resources

Staff may wish to view the below when considering the impact of these changes. Please note, amendments are still being made to policy documents to reflect these changes.

- [Guidance: Enabling effective progressive transfers for indeterminate sentenced prisoners](#)
- [A Guide for the families and significant others of those serving indeterminate sentences](#)
- [Generic Parole Process Policy Framework](#) amendments are being made urgently to this document to account for the recent changes but may not go live at the time we publish this guidance – we will update accordingly
- [Managing parole eligible offenders on licence policy framework](#)
- [Root and Branch Review of the Parole System](#)
- [Indeterminate Sentence Operational Support HMPPS Intranet page](#)
- [Parole - HMPPS Intranet](#)
- [Recall, review and re-release of recalled prisoners](#)
- [Alternatives to ROTL - Guidance](#)