

insideinformation – fact sheet

Licence information for Indeterminate Sentenced Prisoners

Re-produced courtesy of the Parole Board

There are a lot of different types of prison sentence that you can receive and how you are released depends on what type of sentence you get. If this is your first prison sentence, or you are serving one of the new sentences that came in 2005, you may find it confusing. These pages will tell you the basics about Life Licence and how it works.

Information about sentence, tariff and applying for Licence

What type of sentence do I have?

There are three types of life sentence for adult offenders:

- The mandatory life sentence - the only sentence available to the courts for persons over the age of 21 found guilty of murder.
- The discretionary life sentence - may be imposed for a violent or sexual offence, the sentence for which is not fixed by law (for example rape, manslaughter, arson). It is generally passed because it is not possible to determine at the time of sentence whether the offender would be safe to be released at the end of a determinate sentence.
- The automatic life sentence - must be passed under section 2 of the Crime (Sentences) Act 1997 for a serious sexual or violent offence committed on or after 1 October 1997 by an offender who was over 18 at the time and had a previous conviction such an offence. This sentence is abolished by the Criminal Justice Act 2003.

The equivalent life sentences for people under the age of 21 are:

- Detention during Her Majesty's Pleasure – the only sentence available to the courts for a person convicted of murder who was under 18 at the time of the offence
- Detention for Life (equivalent to a discretionary life sentence)
- Custody for Life - the sentence for a person aged 18 or over but under 21 at the time of the offence who is convicted of murder and sentenced while under 21.
- Where a person aged 18 or over but under 21 at the time of the offence is convicted of any other offence for which a life sentence maybe passed on an adult the court shall, if it considers that a custodial sentence for life is appropriate, sentence him or her to custody for life.

Other indeterminate sentence prisoners

The Criminal Justice Act 2003 has introduced the following sentence in respect of offences committed on or after 4 April 2005:

a maximum of life imprisonment, where the court is of the opinion that the offender poses a significant risk of serious harm to others. All of these cases are dealt with by the Board in the same way and the test for release is the same.

What is the tariff?

The tariff is the term used to describe the period that must be served in prison in order to satisfy the requirements of retribution and deterrence. Life sentence prisoners become eligible for release when they have completed this period in custody, but not before.

When is my case referred to the Board?

The Secretary of State normally first refers a lifer's case to the Board approximately three years

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before tariff expiry; again shortly before tariff expiry; and subsequently at intervals of no more than two years. Where the sentencing court has imposed a short tariff, this will usually preclude the possibility of a pre-tariff review. The earliest date will be at the half-way point of your sentence.

How do I apply to the Parole Board?

You do not have to apply. About six months before the Parole Board is due to consider your case, the prison will start to write reports on you. The prison will then put the reports into a file known as the dossier which will cover your time in prison and your plans for release. When this dossier is ready you will get a chance to read it and add anything you want to it in writing. You may want to get a solicitor to help you with this. When your dossier is ready, a member of the Parole Board will read it and decide whether you should be released, or whether you should be asked to come to a hearing with your solicitor. This hearing is called an Oral Hearing. At an Oral Hearing, three members of the Parole Board (called a 'panel') will come to your location. You can also have your solicitor present at this hearing, and there might be other witnesses such as your Offender Manager and possibly your prison psychologist. The Parole Board is not part of the Prison Service and will make its own decision. The panel will be looking at how high they think the risk is that you might commit serious offences on licence.

What is in the dossier?

The Board reviews each case on the basis of a dossier prepared by and submitted to it by the Secretary of State. The key elements of this dossier are:

- An outline of the offence(s) for which the life/indeterminate sentence was imposed
- A list of previous convictions
- Any pre-sentence medical reports
- Any pre- and/or post-sentence probation reports
- An outline of the sentence to date, including summaries of progress and any disciplinary problems
- Summaries of previous Board reviews, including its reasons at the last review
- Evidence from programmes or interventions aimed at addressing risk
- Current reports, including; reports from prison staff; a report from probation staff; a psychological assessment (where available); a psychiatric assessment (where appropriate)
- The prisoners representations (where made) and any independent reports he or she has commissioned
- A recommendation from the Secretary of State.

Is anything in the dossier kept secret?

In almost every case, you will see everything in the dossier before the Parole Board. It is your legal right to full disclosure. But, sometimes the Secretary of State will ask the Parole Board to decide that something may be kept from you. This is only done very rarely, however, and most prisoners will see all the papers. Papers that can be kept from you might include a victim's statement or a security report. If something is kept from you, your solicitor will normally be allowed to see it as long as they do not show it to you or discuss it with you.

How does the Board makes its decisions?

Decisions about indeterminate sentence cases may be taken on the papers; or by way of an oral hearing. Before a case is assigned to a panel it is considered by a single member who is authorised to make a preliminary decision based on the papers in the dossier. The member may make a decision, or decide that an oral hearing is needed. If the member makes a decision, you will see it and you can ask for an oral hearing if you are not happy with it. Many lifers who are at

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or past their tariff expiry appear in person before the Board. Such Oral Hearings normally take place at the prison in which the lifer is held. They will often be chaired by a judge or by a legally qualified member. Where the circumstances of the case warrant it the panel will include a psychiatrist or psychologist. The third member will be an independent, criminologist or probation member.

What are the tests that the Board will apply?

The test for release

The Board is empowered to direct the release of those life sentenced prisoners who have served the period of imprisonment necessary to satisfy the requirements of retribution and deterrence. In order to direct release the Board must be satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined. The test to be applied is whether the lifer presents a risk of committing serious offences. There is a presumption that release will not be directed unless the evidence demonstrates to the Boards satisfaction that the level of risk is acceptable for release. The Board should refuse to direct release unless it is satisfied that there is no risk of serious violent or sexual offending (including arson) irrespective of the precise nature of the index offence. The test for transfer to open conditions If the Secretary of State asks it to, the Board is empowered to recommend that a lifer be transferred to open conditions. In making such a recommendation the Board must take into account:

- The extent to which the lifer has made sufficient progress in addressing and reducing risk to a level consistent with protecting the public from harm, in circumstances where, in open conditions, the lifer would be in the community, unsupervised, under licensed temporary release
- The extent to which the lifer is likely to comply with the conditions of any such form of temporary release
- The risk of absconding. Risk must be weighed against the benefit to the lifer of being able to address areas of concern and of being tested in a more realistic environment than is provided by closed conditions. However, the Boards consideration must emphasise risk reduction and the need for the lifer to have made significant progress in changing attitudes and tackling behavioural problems.

The Parole Boards policy on open conditions The Home Secretary regards it as essential that most lifers spend a period in open conditions. The purposes of a period in open conditions are:

- To allow areas of concern to be tested in conditions more closely resembling those to be found in the community
- To mitigate the effects of institutionalisation consequent on the lifer having spent a lengthy period in closed conditions
- To allow lifers the opportunity to take more responsibility for their actions
- To develop or advance the release plan

Core risk reduction work is not generally available in open conditions and is not expected to be undertaken there. Rather, the purpose of open conditions is to test the efficacy of risk reduction work that has already been completed.

How do I get the decision?

Once the Parole Board has made its decision, you should get it in writing within a week or two. In the case of a review three years before tariff expiry, where the Secretary of State makes the decision, it may take a little longer. Also, if the Board does not release you but recommends your transfer to open conditions, you will get the Boards letter within a week or two but you will wait a

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little longer for the decision on transfer to open conditions. Every decision is in a letter with full reasons given. If you do not get release (often called a 'knockback') you will want to read the reasons carefully to see if there is anything you want to challenge. You cannot get the decision changed just because you disagree with it, but in some cases the Parole Board can be made to re-consider its decision. Many prisoners ask their solicitor to help decide if this can be done.

Will I find out the reasons for the Board's decision in my case?

The Board is required to give full written reasons for its decisions. The reasons must cover all relevant issues and leave the prisoner in no doubt as to how the panel arrived at its decision. In addition, reasons must identify the issues that argue for and against release and deal with those issues and specify what remain as outstanding concerns to the Board. Reasons in oral hearings must address submissions made and evidence heard. The reasons will be the only record of why the panel came to the decision that it did and they must explain this clearly, both for the benefit of the prisoner and of any subsequent panel.

What happens if I am going to be deported?

If you have been told that you will be deported at the end of your time in prison, you will be released in the same way as everyone else, although it is possible that you will be held in custody by the Immigration Service, while arrangements for you to be deported from the United Kingdom are put in place. Once you are released, you will be handed over to an Immigration Officer who will take you to a port or airport for you to be sent back to your own country.

Can I get release on compassionate grounds?

Under section 30 of the Crime (Sentences) Act 1997 the Secretary of State may at any time release a prisoner on licence if he is satisfied that exceptional circumstances exist which justify release on compassionate grounds. Before exercising this power the Secretary of State is required to consult the Board unless the circumstances make this impracticable. The Secretary of State has exercised his power of compassionate release only where medical evidence has shown the prisoner to be suffering from a terminal illness and where life expectancy is judged to be very short. The Board will only recommend release where the circumstances satisfy it that the risk of serious offending is acceptable.

How long will I be on licence?

A Life Licence remains in force throughout the individual's life although consideration may be given to cancelling the supervision element of the licence after a minimum of four years. Someone who has received an IPP sentence can apply to have their licence cancelled after 10 years. (In the case of sex offenders, cancellation will not normally be considered before 10 years have elapsed.) The Secretary of State normally seeks the Board's advice before cancelling the supervision requirement.

Can I be recalled to prison?

The Secretary of State may revoke a Life Licence at any time and return the lifer to prison. Such cases must then be referred to the Board for confirmation of the recall. Such cases are considered by the Board at an Oral Hearing.

IMPORTANT NOTICE

Information is given on a strictly 'without-liability' basis, and should be considered for use as guidance only. If you propose taking further action based upon this information you are strongly advised to take further and more specific legal advice before doing so.

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