

HMPPS Parole Reform: Practice Guidance for Psychological Risk Assessment (PRA) Reports and Oral Hearings¹

V1: 13th of July 2022

1. Background

1.1 This document is linked to the document HMPPS Parole Reform Notice: Psychological Risk Assessment Reports V1: 13th July 2022 which provides an overview of recent changes to the Parole Board Legislation.

1.2 This document is intended as a practice guide and describes how these changes should be reflected in the Psychological Risk Assessment (PRA) report and within Oral Hearings.

1.3 This guidance **replaces** the guidance contained in the Open Test for Parole Boards, June 2022.

2. General/Principles

2.1 Whilst the pace of change around Parole Board decision making process appears fast and presents some challenges to us as psychologists, the changes sit well alongside our position of neutrality and our well embedded assessment and report writing processes. The changes reinforce the focus on the use of the full Structured Professional Judgement (SPJ) structure for PRA reports and draws on our understanding of the changing nature of risk and how to apply this to decision making.

2.2 It is not yet clear whether the concerns around possible impact on prisoner progression will materialise. The changes may provide opportunities to increase collaboration between psychologists and prisoners who have previously been reluctant to engage due to the old requirement of psychologists to make recommendations.

2.3 Psychology Services Group (PSG) will provide psychologists with support to enable them to navigate the changes which are happening at pace, whilst continuing to work in an ethical and professional manner, holding this as a central principal to all our work. Further details regarding the ethical requirements of our profession can be found at <https://www.hcpc-uk.org/standards/standards-of-conduct-performance-and-ethics/>.

2.4 In other settings, a precedent has been set for psychological practice when recommendations are not made. Expert witness Psychologists provide reports for court proceedings where findings are presented but a final recommendation is not. Psychological

¹ This guidance has been reviewed in consultation with PPCS – Public Protection Casework Section and received consultation via MOJ Legal. It has been shared internally with staff within HMPPS and with the Parole Board.

advice is highly regarded in this setting where the approach has not been found to diminish the value of the opinion being provided.

2.5 The changes apply to reports for the Parole Board only. Reports for other processes such as MAPPA, Risk Management Boards and re-categorisation board can still contain recommendations. However, psychologists should note that the Parole Board may have access to the minutes from such processes.

2.6 PSG will continue to monitor and discuss any challenges created by the change and find appropriate ways to support both prisoners and staff through this to provide ethical and defensible reports for the Parole Board.

3. Engagement Factors

3.1 Consent. The consent process should include a full explanation of the recent parole board changes to ensure that prisoners are informed. Report writers should ensure that the Single SoS View and the Open Test conditions consideration is incorporated into the consent process. This should include making them aware of the potential outcome/s of the psychological assessment and report process and how this may have changed since previous PRA reports. It should be made clear that, whilst reports will no longer make a final recommendation for open conditions or release, they will still be required to demonstrate a clear understanding of the open and release tests. A consent form example can be found in Annex 1.

3.2 Motivation to engage with assessment. It is important to bear in mind that the recent changes may impact on a prisoner's motivation to engage with the assessment and report process. More time may need to be allocated to the consent and engagement process and to respond to questions prisoners may have. There should be an acknowledgment of the shifting power dynamic that these changes have brought, and, in some cases, this could be emphasised to encourage prisoner engagement. The impact could be positive or negative depending on the prisoner. Prisoners who have previously declined to engage with the assessment process should be spoken to, to check whether recent changes have altered this position.

3.3 Distress. Consideration should be given to the impact of the changes on all those eligible, but specific consideration should be given to those populations where the changes are likely to have more impact, including individuals serving an Indeterminate Sentence for Public Protection (IPP), women and young people with indeterminate sentences. The number of ISPs and determinates being released² (and ISPs moving to open conditions) may reduce as a result of the changes and therefore greater levels of distress, despair and hopelessness are likely to be experienced by these groups and as psychologists we will be expected to notice and respond to these experiences whilst remaining neutral and within the requirements of our report writing role.

4. Collateral

4.1 The changes should not result in changes to the collateral process. Although a final recommendation is no longer necessary it is still a requirement to liaise with the Community

² In view of the impact of the Johnson Ruling relevant for cases reviewed by the Parole Board from the 27th of May 2022

Offender Manager (COM) in advance regarding risk management options. Several risk management options will need to be discussed in reports and specific details of each covered.

4.2 To comply with legislative changes, reports in the current review cannot include a recommendation and nor can a recommendation be discussed in hearings. However, if a historical report contained a recommendation we are able to discuss this and why the recommendation may have been made at that time.

5. Assessment Principles/Process

5.1 SPJ processes are already well embedded within our working practises. These recent changes require us to be even more explicit regarding our understanding and use of SPJs to guide risk assessment. The following risk assessment principles apply to all reports and should be made explicit within the relevant sections of the report (see section 6). These principles will allow us to build our understanding of the changes into our reporting process.

- Risk is a fluctuating concept. We should highlight this at all stages of the risk assessment and move away from absolute statements of risk where possible.
- All steps of the SPJ process should be applied and reflected in reports as the most helpful way to assist the Parole Board make recommendations.
- SPJs allow us to assess the presence and relevance of risk management items in all settings: closed, open, community (based on a specific time period). These should be presented in full within reports.
- Scenario planning provides the opportunity to review risk in a variety of settings and environments and should be presented in full within the report. Scenario planning should always include a best case or improvement scenario (sometimes referred to as a desistance scenario³).
- SPJs should be used to develop case management plans for each setting which include monitoring, treatment, supervision, victim safety planning and any other considerations.
- Most SPJs conclude with a final step that summarises action priority, risk of harm, imminence and when the risk assessment should be reviewed. Reference to the lifespan of the risk assessment and the appropriate date/scenario for re-assessment/review should be explicit within reports.
- To ensure that risk is described in each context, report writers should use the full sub-headings of the SPJ they have applied. This section is based around the HCR-20 and terms may differ slightly across tools.

6. Report Template

6.1 This section describes how the Parole Board changes should be reflected in each section of the PRA report template. Details have been provided below on the sections that require

³ Desistance is the process of abstaining from crime amongst those who have previously engaged in a sustained pattern of offending. It is best seen as a process rather than an event or decision. This focuses attention from trying to understand turning points in a person's life (why did they desist) to instead thinking about how people desist from crime. Maruna, S (2010).

change. Headings and section numbers may be slightly different depending on which version of the template you are using.

6.2 The PRA report template is being reviewed and an updated version will shortly be available but will be similar to:

Section 1: Author Credential

Section 2: Issues to be addressed

Section 3: Executive Summary

Section 4: Method of Assessment

Section 5: Background History

Section 6: Psychological Assessment: Summary of risk factors (risk management items rated for different settings), formulation, risk scenarios, case management plans for each risk scenario and case prioritisation.

Section 7: Conclusion

6.3 The following section outlines how the sections listed above should be amended as a result of recent Parole Board changes.

Section 1: Introduction/Author Credentials

Minimal change. An additional line should be added which demonstrates that the report author is aware of and has incorporated parole board changes into their report. Such as:

“I am aware of recent changes to Parole Board Legislation and have incorporated these into my report”.

Section 2: Executive Summary

Minimal change. This section should provide a summary of the full report, making brief reference to the directions and/or the terms of the referral to the Parole Board. If it is a Psychology Note Advice (P-CAN) case there will be no directions, so refer only to the terms of referral⁴ to the Parole Board. If it is an ISP referral it will outline the tests to be considered within the terms of referral. Refer to these in the Executive Summary to assure the reader that the nature of the tests are understood by the report author and have been incorporated into the report. A final recommendation/preferred option should no longer be presented in this section.

⁴ The terms of referral will only be available for cases that have been referred to the Parole Board by the Secretary of State and the by the time the report is being written. Within these, the specific considerations the Parole Board can make are outlined – i.e., consideration for release/open conditions etc.

Section 3: Issues to be Addressed and Context of Report

Minimal change. An additional paragraph should be added to demonstrate the report author's understanding of the parole board changes and how these have impacted the context of the report. Such as:

"I am not able to make comment upon Mr/Ms suitability for release into the community or for a move to open conditions/or continuing suitability for closed/open conditions. I have however, assessed their risk of serious harm, both physical and psychological in closed/open and community settings"

If applicable *"As Mr/Ms is subject to a determinate sentence, I am aware that the Parole Board are required to consider the risk period beyond the conditional release/end of sentence date. The tools applied in this report are only designed to assess risk for a defined time-period and not across an individual's life span (these time periods are identified in Section 6 of the report).*

Section 4: Methods of Assessment

Minimal change. Add an additional line to make it clear that the consent process has covered the recent parole board changes. Also add an additional line to make it clear that the risk of abscond has been considered as part of the assessment. An example is:

"In the absence of a validated tool I have assessed the risk of Mr/Ms absconding by referring to a range of information sources, including OASys and relevant items on risk assessment tools (such as prior supervision/treatment response, stability, mental health, problem solving and future-plans). I have also referred to protective factors and the Presence of factors that are likely to reduce risk of abscond."

Section 5: Background Information

Minimal change. The background information should include specific reference to the prisoner's abscond/escape/response to supervision history and the push and pull factors associated with these. This provides clear signposting for the evidence provided regarding the risk of abscond in Section 6 and ensures the reader knows that you are aware of the requirements of the open test.

Section 6: Psychological Assessment

Moderate changes. This section should include an overview of the outcome of the SPJ/s conducted including all the key principles referred to in Section 5 of this guidance. As this section is now expected to be longer given the different contexts in which risk will be explored, less time should be given to a description of the presence and relevance of each of the risk factors. Rather than presenting the evidence for each item and the coding, this could be presented as a coherent narrative that emphasises the mechanisms between items and the functional link to risk.

The new Open Test (which is the new test for the Parole Board) has no impact on the expectation that psychologists will consider the static, dynamic and risk management items relevant to the specific tool being applied, alongside protective factors, to help assess the likelihood of abscond were the prisoner to be transferred to open condition. It is important to ensure that the assessment is formulation-led and specific to the individual factors relevant to

the prisoner being assessed in conjunction with the likely open prison the individual could be moved to. It is important for the PRA to include evidence relating to the risk of abscond in relation to the specific risk management options available in open conditions.

A PRA report will need to demonstrate psychological understanding of the case in relation to the different 'conditions' the prisoner could be managed under including the specific setting. It should be based on the risk assessment in each environment and the options available in that setting to manage any such risk. When considering open you are only setting out why it is essential that an individual needs to go to open and not what the benefit might be to them.

The PRA report may consider presenting risk scenarios associated with direct release from a closed setting and release following a period in open conditions to assist the Parole Board in their recommendation regarding whether a period in open conditions is essential. The report writer needs to consider the essential and necessary elements of the risk reduction and risk management plan in conjunction with the presented risk, alongside a consideration of availability of services also.

The PRA report should also emphasise a best case or improvement scenario, by providing management strategies that would be needed to move the individual towards desistance. Reference to protective factors and strengths may be particularly relevant when discussing best case scenarios.

Report writers need to be aware that whilst recommendations for release cannot be made for any case, in view of the Johnson Ruling⁵, for determinate cases (including extended determinate and recall cases) panels may ask for judgements on risk beyond the CRD/SED. In this instance Psychologists should emphasise that assessments of risk are time bound and scenario based in accordance with the appropriate SPJ tools and guidance and advise when and in what circumstances re-assessment should take place. Scenarios for a time-period over the usual 6-12 months may be beneficial if possible and with clear limitations noted.

A structured assessment of protective factors must be included in PRA reports and woven into the formulation and final risk judgement. Given that ISPs may remain in closed conditions for longer and are likely to be impacted upon by the changes, protective factors in a variety of settings should be considered. Additional consideration should be given to the internal protective factors that are linked to resilience and coping and how these can be strengthened/drawn upon to.

Section 7: Conclusion

Moderate change. The title of this section must be changed to **Conclusion**. No final recommendation should be made in relation to the test for release or open.

Psychologists should include information within PRA reports to assist the Parole Board in **their** recommendations relating to the new Open Test. This is to be done without making a recommendation for open/closed conditions or release.

Final conclusions should be succinct and clear. They should summarise the main body of the report without including any recommendations.

⁵ Johnson [EWHC 1282 (Admin)]

It is not simply a matter of removing the word recommendation from your usual conclusions, as this will be too directed towards a course of action and will make an implicit recommendation. It is important to remain neutral.

In the conclusion Psychologists should provide information relevant to the new Open Test as far as:

- The risk level relating to abscond were they to be moved to open conditions regarding the first two elements of the test for open;
- The level of risk and risk management plan if the individual was moved to open and whether the elements of this are available.

The following are examples of how to conclude the PRA report in a way that assists the Parole Board in their decision making. They should outline all options available including a summary of risk and risk management in each.

Based on the assessments completed within this assessment it is my opinion that if Mr/Ms were in the community at the current time, they would be X risk of sexual/violent re-offending. Essential risk management factors that would need to be in place to maintain/reduce this risk include xx. I have rated Mr/Ms risk of abscond in this setting as X due to The following could help manage this risk To my knowledge these are/aren't available at this current time within this setting."

Based on the assessments completed within this assessment it is my opinion that if Mr/Ms were in open conditions, they would be X risk of sexual/violence re-offending. Essential risk management factors that would need to be in place to maintain/reduce this risk include xx. I have rated Mr/Ms risk of abscond in this setting as X due to The following could help manage this risk To my knowledge these are/aren't available at this current time within this setting."

Based on the assessments completed within this assessment it is my opinion that if Mr/Ms remained in closed conditions, they would be X risk of sexual/violence re-offending. Essential risk management factors that would need to be in place to maintain/reduce this risk include xx. To my knowledge these are/aren't available at this current time within this setting."

If the panel decide to release Mr/Ms it will be important for risk management to include.... if the panel decide to recommend open conditions, Mr/Ms will be able to access the following in order to X.....If the panel decide Mr/Ms should remain in closed conditions, consideration can be given to available treatment options for risk reduction...

7. Report Disclosure

7. 1 Extra consideration should be given to the **report disclosure** process on the basis that this has changed from the previous focus upon recommendations for release or open conditions. There is no change however, to the importance of focusing upon risk reduction and risk management including desistance strategies to support safe progression. Additional time may need to be allocated to the disclosure process. The usual support processes available to prisoners in custody should be offered to those prisoners who experience distress as a result of report disclosure.

7.2 The following form of words can be used within the disclosure session to explain the change to prisoners.

“As you will see in the report, as a result of amendment to the Parole Board Rules we are now no longer able to provide a recommendation or comment on your suitability to closed and open conditions, or release into the community. Therefore, this will not be included within your report. The focus of the conclusion includes what the risk reduction/management plan requires in my opinion, within the different settings. We understand the anxiety this may cause, however please be assured that we have assessed your case to the best of our ability and have based the assessment on the most up to date assessment tools. If you do have further questions, please kindly raise these via your legal representative.”

7.3 For cases that are midway through the report writing process, consideration should be given to informing the prisoner of the change at the most appropriate time, i.e., at the next interview or at the point of disclosure.

8. CPD/Training Requirements

8.1 **The Open Estate.** Under the Single SoS View whilst HMPPS report writers cannot make a recommendation for release into the community or for a move to open conditions, it is important that psychologists have a good working knowledge of open conditions and understand the opportunities available as part of the open regime, alongside the factors that help manage risk and strengthen the desistance pathway. The first two aspects of the Open Test still need to be applied for ISPs despite a specific recommendation (for a transfer to open conditions) not being part of the parole report.

8.2 Not all psychologists who write risk assessments for the Parole Board have experience of working in an open prison and may have limited understanding of the open provision/regime. Teams should consider opportunities to increase awareness of the open regime for psychologist report writers, including the general living conditions, arrangements, access to the community, monitoring, and supervision as well as support arrangements for ISPs. This will help ensure that risk scenarios and risk management plans for location in the open estate are based on an informed consideration of the two aspects of the new Open Test and are robust and defensible.

8.3 ISPs are classed as restricted RoTL prisoners and automatically receive an **Enhanced Behaviour Monitoring (EBM)** Case File Review (CFR) when they transfer to the open estate. As part of the current policy framework, psychologists will write the CFR prior⁶ to or once the prisoner has moved to open conditions to consider the benefits of EBM (please see the policy framework for further details⁷). Decisions as to whether individuals would benefit from EBM are made based on the degree of presence of risk-related behaviours, as well as focusing on broader compliance behaviours, and the extent to which EBM would be helpful in the risk management of the case.

8.4 The policy framework focuses on the factors that may lead to EBM, which involves regular multi-disciplinary meetings with relevant staff within the open prison. To assist in applying the

⁶ It is good practice to begin the CFR when the prisoner is in closed conditions, following the completion of the PRA and for it to be completed were the prisoner to be transferred to open conditions. This is essential for noteworthy cases.

⁷https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804415/enhanced-behaviour-monitoring-pf.pdf.

new Open Test, report writers must be familiar with the EBM policy framework and guidance to help consider relevant factors and the availability of services identified to help manage the risk. Further information about what is available in Open Conditions will be available shortly.

9. Questions regarding/within Oral Hearings

Q1. How to present our risk assessment reports/have do we discuss it?

Use the SPJ's structure to guide your evidence in the Oral Hearing. Scenario planning will be particularly important to describe the risk level and imminence in each different context and the risk management plan associated with each.

Q2. How can I prepare for the Oral hearing?

Use the issues, facts and opinions sheet provided in the professional witness training. This format lends itself well to this. Use the worksheet to summarise these three primary areas from the PRA.

Q3. What happens if a report includes a recommendation?

If it is erroneously in the report do not refer to it. You are not able to discuss this recommendation or answer any questions about it in the Oral Hearing.

If the report was submitted prior to 14th July, you can discuss a recommendation

Q4. How do I respond to tricky questions from the solicitors/panel about recommendations especially if the external psychologist has given a recommendation?

This is a likely scenario. We are unable to provide comment on an external Psychologists recommendation. We are not able to say whether we agree or disagree. As above, go back to your risk assessment and your scenarios in this situation.

Q5 What happens if I say or do something wrong (accidentally refer to a recommendation for example).

These are legal changes therefore it could lead to grounds for reconsideration of the decision, but that is unlikely. During this transition period try not to worry as it is going to be difficult to balance all the new change. Prepare for each case and be ready for what you can/cannot comment on. Try to correct yourself is possible but if not let it go and move on. Let your supervisor/Lisa Smith know of any problems, it will be followed up by PPCS/SoS rep's who will provide support. It is better to let us know if you inadvertently say something.

Q6. How do I respond if I'm asked whether someone's risk is manageable in open conditions?

You need to reframe this question so that you do not offer a recommendation. You could reply as follows:

“As you are aware I cannot make a recommendation or comment on suitability for open. However, if you recommended Mr/Ms for open conditions this is what would be essential to manage their risk xxxxx and this is what is currently available in this setting.

If you have assessed Mr/Ms as a raised risk of abscond in open conditions in your report, you could reply as follows:

“If you recommended Mr/Ms for open conditions their risk of abscond would be raised for the following reasons xxxx. This risk could be reduced by xxx”

If you have assessed Mr/Ms as a low risk of abscond in open conditions in your report, you could reply as follows:

“If you recommended Mr/Ms for open conditions their risk of abscond would be low for the following reasons xxxx. This could be maintained by xxx”

Q7. How do I respond if asked whether the risk management plan is robust and can manage the risk in the community?

Your job is to give an opinion on risk and whether there is anything that could manage that risk in the different environments. You are not giving a view on whether that means a person can or should be managed in the community. You could respond by saying “the risk is x and if in the community it would be possible to put XX measures in place to manage that risk” or “the risk is X and there would be no measures to manage that risk in the community” or “the risk is X and some of measures could be put in place to manage it, but not all of them.”

Q8. How would I respond if the Panel asked for me view in relation to the public’s confidence in the CJS if the prisoner was moved to open conditions?

You are not required to give an opinion on this aspect of the Open Test within your report. If you are asked during the oral hearing, you could respond as follows: *“I do not have a professional view as to whether the public’s confidence in the CJS is undermined as a result of the prisoner being moved to open conditions”.*

Q9. What do I do if I submitted a report before 14th July and my recommendation has now changed as a result of recent legislation changes.

As the report was submitted before 14th July, during the Oral Hearing you **can** say this is now my assessment and spell out where things have changed.

Annex 1 Consent Form

HMPPS Psychological Services Group

Consent for Psychological Assessment

Name	
Number	
Establishment	

1. A psychological risk assessment has been requested as part of the parole process. To help you decide whether you agree to participate in this assessment, you need to understand what this will involve.
2. Please read the following information to help you decide whether you consent to participate.
3. The person conducting this risk assessment is a Registered Psychologist or a Forensic Psychologist in Training under the supervision of a Registered Psychologist.
4. Separate information will be provided by the Psychologist for specific assessments or questionnaires that you are asked to complete as part of this risk assessment.
5. The outcome of any assessment will be fed-back to you before it is submitted to the Parole Board. Any report completed will be available to any individual involved in your sentence, including yourself. In very rare cases it is not possible to feedback the report before it is submitted, but we do everything in our power to not let this happen.
6. You do not have to take part in any assessment or interview. If you choose not to participate, the assessment will be based on reports from other professionals who have had contact with you, including from the wing/unit, your core records, sentence plans, OASys, and any psychology records (however some assessments cannot be conducted without your involvement, we will let you know which these are separately).

7. If you give consent to take part in an assessment, you can withdraw from this process at any point. However, information gathered before you withdraw (such as interview notes) can still be used to contribute towards an assessment. You can withdraw consent in person or in writing to the Psychologist.
8. Any information you disclose to the Psychologist is not confidential. However, the information will be treated with respect and shared with others on a need-to-know basis. This will include your POM and COM. Psychologists may also discuss your case with other psychology colleagues to assist with their assessment.
9. The Psychologist must report information in the following circumstances:
- If you disclose information regarding a potential risk of harm to yourself or others.*
- If you disclose information relating to threats to the security of the prison (including substance misuse or thoughts of escape).*
- If you disclose offences which you have not previously discussed or have not been convicted for.*
- If you disclose information relating to sexual abuse you experienced as a child in an institutional setting (like a care home, school, hospital, or a religious or state organisation) or where you first came into contact with an abuser whilst in an institutional setting.*
- If you disclose that you were sexually abused as a child and reported this to a person in authority, such as the Police, a Social Worker, or a Teacher where the report was either ignored or not properly acted upon.*
10. There have been some recent changes to parole legislation that we need to make you aware of as the assessment is being submitted to the Parole Board.
11. A new test has been introduced for the Secretary of State to consider recommendations made by the Parole Board for a prisoners' suitability for open conditions. This test will be applied in Parole reviews for all those serving indeterminate sentences, who are eligible to be considered for a move to open conditions, from 6 June onwards.

12. The new test for open conditions⁸ states that:

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

- *the prisoner is assessed as low risk of abscond;*

⁸ 'Open Test' (Senior Leaders Bulletin – 1 June 2022)

- *and 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 a transfer to open conditions would not undermine public confidence in the criminal justice system.*

13. Psychologists, as with other HMPPS report writers, will assist the Parole Board with any recommendation they make about your suitability for open conditions against the new test.

14. If you are a determinate sentence prisoner, the Parole Board now must consider the level of risk you pose beyond your conditional release and sentence end date. Psychologists will make it clear within their reports the specific period of risk they are assessing using their risk assessment tools.

15. On the 21 July 2022, another change is being introduced that means HMPPS reports cannot provide a view or recommendation for suitability for release or open conditions. Your psychology report will therefore **not** contain a recommendation, although the assessment will consider the serious risk of physical and/or psychological harm within different settings. This will form the psychological assessment of your case.

16. Information from the assessment with the Psychologist will be retained in the Psychology (paper) file and saved electronically. These files are stored securely in accordance with the Data Protection Act 2018 and PSI 2018-03. If you transfer to another establishment, these files will be forwarded to the new Psychology Team. Psychology files are destroyed in accordance with the timescales stipulated in PSI 2018-03.

17. Please indicate to confirm:

I have read the information above	Yes	No
I have been given the opportunity to ask questions relating to the information above	Yes	No
I consent to participate in the psychological assessment	Yes	No

Signed	
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Date	
Psychologist name	
Signed	