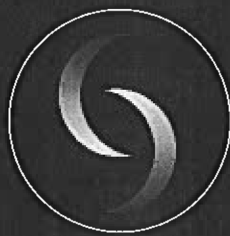

SENTENCE REVIEW

COMMISSIONERS

ANNUAL REPORT 1999

Sentence Review Commissioners

Annual Report 1999

30 July 1998 to 31 March 1999

Presented to Parliament pursuant to Schedule 1 (6)
to the Northern Ireland (Sentences) Act 1998

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Rt Hon Dr M Mowlam, MP
Secretary of State for Northern Ireland
Secretary of State's Private Office
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Dear Secretary of State

Sub-paragraph 6(1) of Schedule 1 to the Northern Ireland (Sentences) Act 1998 requires us as joint chairmen to make a report to you, as soon as practicable after the end of the financial year, on the performance of the Sentence Review Commissioners' functions during the year. We accordingly submit to you our report for the year ended 31 March 1999.

The report first sets out the background to the Commissioners' task and their approach to it and then describes in more detail, both in the text and in supporting Annexes, how that task was handled. There is, finally, a summary of the expenditure involved. Though this can, of course, be only an interim report, in fact a very high proportion of the applications likely to qualify for early release under the Act had already been dealt with by 31 March 1999. As you will see from figure 8 on page 33, 558 applications had been received by then of which 123 were not proceeded with, because they proved ineligible. Substantive determinations had been made in respect of 435 applications, with another 23 outstanding. The main change between 31 March and the preparation of this report has been the despecification of the Irish National Liberation Army. This has had the effect of adding 16 cases to the outstanding case load.

One important aspect of the Act was not called into play in the period covered by this report in that there were no recall cases. Otherwise, the main procedural provisions of the Act have been thoroughly tested and we believe that they have stood up very well. In particular, the fact that the Commissioners' preliminary

indications and substantive determinations were based on information equally available to themselves, to the applicant and to the respondent has, we believe, been very important in establishing the confidence of all three parties to the process. Second, the applicant and respondent both had, and took advantage of, the opportunity to challenge the Commissioners' preliminary indication and have the issues examined at an oral hearing. This too was an important safeguard for the parties. Finally, it was open to either party to seek leave for judicial review: this happened in one case.

It may be that the experience gained by the Commissioners could be of value to you and to your officials when the time comes to devise arrangements for reviewing life sentence prisoners' cases in the future. In the meantime, we, as joint chairmen, would like to place on record how much we have valued the contributions of our fellow Commissioners, to whom we are most grateful. All the Commissioners in turn wish to record their appreciation of the work of our secretariat, whose performance, particularly in the early hectic days of the process, has been quite exemplary in its efficiency, commitment and cheerfulness.

Yours sincerely

SIR JOHN BLELLOCH, KCB
Joint Chairman

BRIAN CURRIN
Joint Chairman

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Chapter One

Background

The Agreement

The work of the Sentence Review Commissioners has its origins in the Agreement reached on Good Friday (10th April) 1998 between the participants in the multi-party negotiations, subsequently endorsed by referendum.

The part of the Agreement dealing with Prisoners (Annex A) committed both Governments to putting in place mechanisms to provide for an accelerated programme for the release of prisoners convicted of scheduled offences in Northern Ireland or of similar offences elsewhere. The arrangements were to protect the rights of individual prisoners under national and international law.

Prisoners affiliated to organisations that had not established, or were not maintaining, complete and unequivocal ceasefires were to be excluded from benefiting from the arrangements.

The Act and Rules

The Government gave effect to this commitment through the provisions of the Northern Ireland (Sentences) Act 1998 ('the Act') and through various pieces of subordinate legislation made under it, most particularly the Northern Ireland (Sentences) Act 1998 (Sentence Review Commissioners) Rules 1998 ('the Rules'). Both were passed by Parliament in late July 1998, coming into effect on 28th and 31st July respectively.

The Act provides for the appointment of Sentence Review Commissioners and sets out the criteria that must be met for a prisoner to be eligible for early release. It also provides that the extent by which an eligible sentence is reduced shall be one-third of the time that the prisoner would otherwise have spent in prison. For a fixed-term prisoner this means release after one-third of the sentence pronounced by the court (since all such prisoners would, but for the Act, have been entitled to 50% remission).

The Rules set out in detail the procedures under which prisoners apply for early release and the Commissioners consider their applications. Within the terms of the Rules there is provision for the views of the Secretary of State (represented by the Prison Service) to be made known and taken into account by the Commissioners. The Rules normally give both parties access to the same information. However, in certain circumstances information certified by the Secretary of State as 'damaging' may be withheld from the prisoner (and any representative nominated by the prisoner). If this happens, there is provision for the Attorney General to appoint a person to represent the interests of the prisoner.

The papers submitted by the prisoner (known as the 'applicant') and the Secretary of State (known as the 'respondent') are considered by a panel of three Commissioners who give their initial view in writing in the form of a 'preliminary indication'. The Rules allow either party to challenge the preliminary indication and have the issues considered afresh at an oral hearing. If there is no such challenge (or after an oral hearing) the final decision of the Commissioners is given to both parties in the form of a 'substantive determination'. The Commissioners have no power to reconsider a substantive determination, so the only way in which either party can challenge the outcome is by way of judicial review.

The procedures are described in detail in Annexes B & C and their development is discussed in Chapter Two.

Eligibility for Early Release

The eligibility criteria laid down by the Act are that:

- the prisoner is serving a sentence of imprisonment in Northern Ireland;
- the sentence is one of imprisonment for life or for a term of at least five years;
- the offence was committed before 10th April 1998;

- if the sentence was passed in Northern Ireland, the offence:
  - was a scheduled offence; and
  - was not the subject of a certificate of the Attorney General that it was not to be treated as a scheduled offence;
- if the sentence was passed in Great Britain, the offence:
  - was committed in connection with terrorism and with the affairs of Northern Ireland; and
  - is certified as one that would have been scheduled, had it been committed in Northern Ireland;
- the prisoner is not a supporter of a specified organisation;
- if the prisoner were released immediately, he would not:
  - be likely to become a supporter of a specified organisation;
  - be likely to become involved in acts of terrorism connected with the affairs of Northern Ireland;
  - if a life-sentence prisoner, be a danger to the public.

Scheduled offences are defined in successive Northern Ireland (Emergency Provisions) Acts and comprise those most likely to be committed by terrorists. They include murder and manslaughter, kidnapping, serious assaults and armed robbery, and a wide range of firearms and explosives offences. Such offences are tried before a judge sitting alone in a non-jury ('Diplock') court.

It should be noted that the Act does not require offences in Northern Ireland to have been committed by or on behalf of a terrorist organisation but simply requires them to have been tried as scheduled offences.

The Specified Organisations

The Act requires the Secretary of State to 'specify' by subordinate legislation any organisation believed to be concerned in terrorism connected with the affairs of Northern Ireland which has not established or is not maintaining a complete and unequivocal ceasefire. Specification of an organisation means that its supporters are not eligible to benefit from the early release arrangements.

On 30 July 1998 the Secretary of State specified the following four organisations:

The Continuity Irish Republican Army

The Loyalist Volunteer Force

The Irish National Liberation Army

The "Real" Irish Republican Army

On 18 November 1998 the Secretary of State removed the Loyalist Volunteer Force from the list of specified organisations.

The Accelerated Release Date

The Act also provides that any prisoners given release dates after the second anniversary of the Act's commencement (viz 28th July 2000) will be released by the Secretary of State on that day, or when they have served two years in prison, whichever is the later. The Secretary of State is also empowered to vary the date and two-year period by subordinate legislation.

The Commissioners

The Secretary of State appointed two joint Chairmen and eight other Commissioners to serve from 30th July 1998 to 31st January 1999. They were:

Sir John Blelloch KCB

Joint Chairman

Permanent Under-Secretary of State at the Northern Ireland Office 1988 - 1990, having previously served as Belfast-based Deputy Secretary from 1980 to 1982. Between 1982 and 1988 successively Deputy Secretary (Policy) and Second Permanent Under-Secretary at the Ministry of Defence.

Mr Brian Currin

Joint Chairman

A South African lawyer working in mediation and institutional transformation. Founded the National Directorate of Lawyers for Human Rights in 1987 and headed it for eight years. Involved in political prisoner releases, amnesty and Truth and Reconciliation processes in South Africa. Has worked in Sri Lanka, Rwanda and the Middle East on political transformation and civil rights issues.

Mr David Bolton

Director of Community Care with the Sperrin Lakeland Health and Social Services Trust and past Chairperson of the Fermanagh District Partnership for Peace and Reconciliation. Experience of working with and supporting those affected by violence,

including the Enniskillen community following the Remembrance Day bombing in 1987.

Dr Silvia Casale	Independent criminologist, United Kingdom member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and a consultant to HM Chief Inspector of Prisons. Has worked in Sweden and the United States and as a member of the Parole Board for England and Wales. Has published extensively on prison issues.
Dr Peter Curran	Consultant psychiatrist based at the Mater Hospital, Belfast. Has an interest in the victims of violence and has lectured extensively on the psychological and social impact of civil disorder and political violence. Formerly a member of the Mental Health Commission for eight years.
Mr Ian Dunbar CB	Director of Inmate Administration and a member of the Board of HM Prison Service until his retirement in 1994. Previously Director of Prisons for the South West Region

and Governor of various prisons in England and Wales. Has worked for HM Inspectorate of Prisons and conducted the inquiry into disturbances at Risley Remand Centre.

Mrs Mary Gilpin	Former member of the Scottish probation service and social worker. Member of the Board of Visitors for HMP Maze 1985-1997, serving a term as Chairman. Former Secretary to the Northern Ireland Association of Members of Boards of Visitors. Involved in setting up Dismas House, a hostel for use by prisoners and their families.
Dr Adrian Grounds	University Lecturer in Forensic Psychiatry at the Institute of Criminology and Department of Psychiatry at the University of Cambridge since 1987. Honorary Consultant Psychiatrist at Addenbrooke's Hospital, Cambridge. A forensic psychiatrist with an interest in the effects of long-term imprisonment.
Ms Clodach McGrory	A Barrister with a particular interest in human rights work. Practised at the Bar of Northern Ireland from

	1990 to 1995. Subsequently worked at the Law Centre (Northern Ireland). Member of the Standing Advisory Commission on Human Rights 1998-99.
Mr Dave Wall	Chief Executive of the Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO) since 1987. Member of the Board of the Northern Ireland Partnership and of the sub-committee of the Northern Ireland Voluntary Trust responsible for allocating European Union Peace and Reconciliation funding to ex-prisoner organisations.

On 4th September 1998, Mr David Bolton resigned as a Commissioner because of exceptional pressure of work following the Omagh bombing. He was replaced by:

Dr Duncan Morrow	Lecturer in Politics at the University of Ulster and a member of the Community Relations Council. A member of the Corrymeela Community with a long-term interest in reconciliation and conflict resolution, he is the author of a number of reports into politics and community relations in Northern Ireland.

On 12th January 1999, the Secretary of State reappointed all ten Commissioners for the period 1st February 1999 to 31st July 2000.

All Commissioners serve on a part-time basis except Mr Brian Currin, who worked full time until 31st January 1999.

Standing: Dr Peter Curran, Mr Dave Wall, Dr Duncan Morrow, Mr Ian Dunbar, Dr Adrian Grounds
Seated: Ms Clodach McGrory, Mrs Mary Gilpin, Sir John Blelloch, Mr Brian Currin, Dr Silvia Casale

chapter two

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Chapter Two

Approach

As a new body charged with implementing one of the most sensitive parts of the Agreement, the Commissioners' first priority was to establish fair, independent and efficient procedures to give effect to the Act and Rules.

At a series of plenary meetings, involving all Commissioners, detailed procedures were developed to deal with applications by those seeking to benefit from the legislation and to ensure that applications were handled as efficiently as possible. These plenary meetings also addressed the approach that the Commissioners would take in considering the applications so as to ensure that they were handled consistently and that the eligibility of applicants would be fully and fairly examined. This planning took place under great pressure of time. The legislation was passed by Parliament on 28th July 1998. By mid-August application forms had been issued and over 400 returned. By the end of the month panels of Commissioners were meeting to consider applications.

At the same time they sought to ensure that their role was as well understood as possible. In the weeks immediately following the Commissioners' appointment, the joint Chairmen had a series of meetings with representatives of political parties, statutory and voluntary bodies dealing with prisoners, human rights organisations, the main churches and representatives of the victims of violence. A list of the organisations or individuals met appears at Annex D. The purpose of these meetings was to explain what the legislation required of the Commissioners and how they would be setting about their task.

As a means of conveying this information to the wider public, the joint Chairmen held two press conferences within a month of their appointment. They also announced that weekly statistics would be made available to the media covering the numbers of applications received and the progress made with processing them. It was however made clear that the Commissioners

would not be making any public statements about individual applications. In September the Chairmen wrote a feature article about the work of the Commissioners. This was published in the *Belfast Telegraph*. A Website was also established, carrying background information about the work of the Commissioners and up-to-date statistics.

Prioritising Applications

It was clear from the outset that a very large proportion of those eligible to benefit from early release would apply to the Commissioners at the earliest opportunity. It was therefore necessary to establish appropriate arrangements to determine the order in which they would be considered.

One of the Commissioners' first decisions was that they would, so far as was possible, consider applications in the order of their prospective release dates. This was to ensure that those whose recalculated release dates were in the past, thus entitling them to immediate release, would be considered first. This decision, together with a simplified guide to the procedures set out in the Act and Rules, was incorporated in a *Guidance for Applicants* leaflet (Annex B) that was distributed, along with application forms, to every prisoner in Northern Ireland in early August. In response, some 450 applications were received by the end of that month.

Following the decision that where release dates were likely to be in the past the applications should be dealt with as promptly as resources allowed, the Commissioners gave an estimate that these cases – about 240 in number – would have been dealt with by the end of October. This estimate proved to be accurate. Having set up the process they then maintained it for the rest of the year.

Incorrect or Incomplete Applications

One of the most persistent practical problems encountered became apparent when some of the earliest sets of response papers received from the Prison Service revealed substantial discrepancies between the offences and sentences listed by the prisoner on the application form and those indicated by the trial papers and criminal record.

It was recognised that in these circumstances a simplistic application of the legislation would have created practical difficulties. Had the Commissioners merely considered those sentences specified on the application forms, the applicants would, following receipt of the preliminary indication, have had to apply again in respect of those omitted. The Commissioners concluded that to proceed in such a manner would be neither efficient (in terms of being able to consider each applicant only once) nor in the spirit of the legislation, which aimed to facilitate rather than impede the early release of those so entitled.

Accordingly the approach adopted by the Commissioners, following plenary discussion, was to write to the applicant pointing out the nature of any deficiency as soon as it became apparent and to provide a supplementary application form on which it could be rectified. By this means optimal use was made of Commissioners' time whilst avoiding any unnecessary delay from the applicants' perspective.

Determining Eligibility

At an early meeting the Commissioners gave detailed consideration to the evidence that they would require in order to be satisfied that the eligibility criteria had been met. These criteria fall into two broad groups. The first comprised factual qualifying conditions – the length of the sentence and where it was being served, when the offence was committed, whether or not it was scheduled and whether or not it had been certified-out by the Attorney General. The second consisted of disqualifying conditions, where a judgement is required of the Commissioners – whether or not the applicant supports a specified organisation or would be likely to do so if released, whether or not he or she would become involved in terrorism and, for life sentence prisoners, whether or not they would be a danger to the public. Where the offence was committed in Great Britain, a judgement is also required as to whether or not it was committed in connection with terrorism and with the affairs of Northern Ireland.

The Commissioners decided that they would determine the qualifying conditions on the basis of the information provided by the applicant in the

application form, provided that it was consistent with the information about offences and sentences submitted by the Prison Service in the response papers.

On the disqualifying conditions the Commissioners concluded that they would be influenced primarily by the content of the response papers. Unless there was therein some evidence of linkage with a specified organisation or of other activity clearly indicative of a disqualifying factor, they would accept that the applicant qualified.

The type of information that the Commissioners deemed relevant to these decisions included any evidence from the trial papers of organisational affiliation at that time, the organisation, if any, with which the applicant had been accommodated in prison and the consistency of this association.

With regard to the standard of proof, the considered view of the Commissioners was that it would be appropriate to adopt the standard applicable in civil cases – proof on the balance of probabilities. They have accordingly sought to reach reasonable conclusions on the basis of the material put before them by applicant and respondent. This has been fundamental to the way in which the Commissioners have approached the judgmental aspects of their work.

Where it appeared to the Commissioners that either the application or response papers lacked some relevant information, they took the initiative in requesting it from the applicant or respondent, as appropriate.

Danger to the Public

The Commissioners gave particularly careful thought to the condition peculiar to life sentence prisoners – that the applicant, if released immediately, would not be a danger to the public. This condition is virtually identical to one that falls to be considered by the Parole Board in England and Wales when deciding whether or not to recommend the release of a prisoner convicted of a violent or sexual offence.

It seemed appropriate therefore for the Commissioners to be guided by the fuller definition used in the legislation governing such consideration. This defines 'protecting the public from serious harm' as 'protecting members of

the public from death or serious personal injury, whether physical or psychological, occasioned by further such offences committed by him'. On the basis of this definition the Commissioners concluded that it would be appropriate to interpret the term 'danger to the public' in the Act as 'death or serious personal injury, whether physical or psychological, occasioned to members of the public by further violent offences committed by the applicant'.

In considering whether or not an applicant's release would be likely to pose such a risk, the Commissioners have placed weight on the criminal record, circumstances of the offences, comments of the trial judge and any psychological or psychiatric evidence from the application or response papers or from reports requested by the Commissioners. The last of these is linked to the statutory requirement for any panel considering applications from life sentence prisoners to contain a psychiatrist or psychologist.

Arrangements were agreed with the Prison Service to enable the psychiatrist Commissioners to examine prison medical records (subject to the applicant's consent) where there was evidence that life sentence applicants had had contact with the psychiatric or psychology services whilst in prison. Where these records (or the circumstances of the offence) gave cause for concern, the Commissioners would generally request an independent psychiatric report on the applicant. This would be based on an assessment carried out either by a locally based consultant forensic psychiatrist or by a similarly experienced consultant from England or Scotland.

Setting a Date

Another task peculiar to the consideration of applications from life sentence prisoners is the requirement for the Commissioners to 'specify a day which they believe marks the completion of about two thirds of the period which the prisoner would have been likely to spend in prison under the sentence'.

The legislation provides that, before specifying a day, the Commissioners: must have regard to:

- information provided by the Secretary of State about the length of time served by life sentence prisoners in Northern Ireland released between 1982 and 1999; and
- previous decisions of the Commissioners; and

may take into account information provided by the Secretary of State about cases which he believes are particularly relevant to the applicant's case (known as 'comparator cases').

For applicants who were sentenced in Great Britain, the Commissioners must instead have regard to any order or certificate specifying a minimum period before the applicant would have been considered for parole, any other information submitted by the Secretary of State, and their own previous decisions.

In practice, information about comparator cases was provided only where the applicant's case had already been (or was about to be) considered by the Life Sentence Review Board (LSRB) – the non-statutory body, comprised mainly of Northern Ireland Office officials, that has since 1982 advised successive Secretaries of State on the release of life sentence prisoners.

In applying these requirements, the Commissioners have been able to take progressively greater account of their own previous decisions as their number and variety grew. Thus in early days, when most applicants were already quite close to release under LSRB arrangements, the Commissioners had access to comparatively full evidence as to the likely release date. This is because the LSRB would either have recommended a date or indicated that it did not recommend release within a set period. Later on, when the applicant had generally served an insufficient length of time to have been considered by the LSRB, the Commissioners have been able to be guided by their own precedents as well as by almost 450 LSRB precedents.

In determining the relevance of precedents, the Commissioners have followed the approach of the LSRB in considering the number of separate incidents covered by the sentences under review, the gravity of the offence or offences, the number of victims, the applicant's role and his or her age at the time. Applications from co-defendants have, wherever possible, been considered together.

Oral Hearings

An oral hearing is triggered whenever either the applicant or the Secretary of State challenges the Commissioners' preliminary indication. The basic

elements of the procedure to be followed are prescribed in the Rules. The Commissioners nevertheless developed detailed procedures that would underscore the principles of fairness, openness and independence that are fundamental to their role and set these out in Procedural Guidelines for Oral Hearings (Annex C). In drawing these up, the Commissioners closely studied the procedures of Mental Health Review Tribunals and of the Parole Board for England and Wales, sending observers to report on two hearings of the latter body. The closest analogy was found in the Parole Board's hearing of recall cases where, as with many of the Commissioners' oral hearings, the immediate liberty of the applicant was at stake, with both parties being legally represented. The Commissioners noted and adopted the inquisitorial rather than adversarial nature of Parole Board proceedings.

Damaging Information

The provisions enabling the Secretary of State to certify information as damaging were used only once during the period covered by this report. The oral hearing in question was immediately adjourned, the applicant having indicated an intention to seek leave to have the Secretary of State's decision judicially reviewed.

Transferee Cases

The procedures for cases where the applicant was sentenced in Great Britain and subsequently transferred to a prison in Northern Ireland are essentially the same as those for applicants sentenced in Northern Ireland. The respondent, however, is HM Prison Service (on behalf of the Home Secretary) or the Scottish Prison Service (on behalf of the Secretary of State for Scotland).

Because of the absence of scheduled offences in Great Britain, the application has to be accompanied by a certificate of the appropriate Law Officer stating that the offence would have been scheduled if committed in Northern Ireland. There is also an onus on the applicant to satisfy the Commissioners that the offence 'was committed in connection with terrorism and the affairs of Northern Ireland'.

An additional consideration with regard to life sentence prisoners convicted in England and Wales is the existence of the 'tariff' system, whereby the court

or the Home Secretary specifies a minimum term to be served before the prisoner's release may be considered by the Parole Board. The weight to be attached to the 'tariff' when considering the period likely to have been spent in prison by the applicant is therefore a key issue for the Commissioners in such cases.

In March 1999 the Home Secretary challenged, by way of judicial review, the Commissioners' determinations of 20 and 21 years in respect of four such applications, arguing *inter alia* that the Commissioners had failed to have regard to the current tariffs of 25 years and 50 years and that they had erroneously permitted political developments to colour their approach.

The Commissioners' determination had been based on their understanding of their duty under the legislation 'to specify a day which they believe marks the completion of about two thirds of the period which the prisoner would have been likely to spend in prison under the sentence'. They took the view that they were required to consider what would have been likely to happen to these applicants, had they continued to serve their sentences in Northern Ireland. The Commissioners concluded that it was likely that in the future there would be compelling reasons for the Home Secretary of the day to review the applicants' position, and that the periods they would have been likely to serve would have been at the upper limit of the terms served by paramilitary prisoners sentenced in Northern Ireland for the most serious offences – about 21 years. The High Court found that the reasoning of the Commissioners had not been demonstrated to be legally flawed and accordingly refused the Home Secretary's application.

Recall Cases

An additional duty placed upon the Commissioners by the legislation is to consider any case where the Secretary of State has suspended the licence of a prisoner released under the Act, believing him or her to have broken, or to be likely to break, one or more of its conditions. The conditions of the licences under which prisoners are released require them to refrain from engaging in any activity that would have disqualified them from release. They therefore relate to support for a specified organisation, becoming involved in terrorist

activity connected with Northern Ireland and, for life sentence prisoners, becoming a danger to the public.

Where a licence is suspended by the Secretary of State, it falls automatically to the Commissioners to consider whether the licence should be revoked or reinstated. The procedures mirror those for the initial application, with the prisoner applying to have the licence reinstated and the Secretary of State responding (through the Prison Service). The statutory timescales for each stage in the process are, however, appreciably tighter than for an initial application and the range of issues to be considered somewhat narrower (although potentially no less contentious).

The Commissioners have developed modified procedures (and a special application form) to be used for such applications. No licences had, however, been suspended up to the end of the period covered by this report.

Legal Aid

The Act and Rules provide for the Commissioners to put in place arrangements for awarding prisoners money for legal advice or representation. The Commissioners took an early decision that there would be a presumption in favour of granting such assistance.

After consultation with the Law Society, a scheme for the funding of legal aid or representation (Annex E) was promulgated. It has been availed of by some two-thirds of applicants.

chapter three

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CHAPTER THREE

Casework

This chapter describes the procedures at each stage in the processing of an application and shows how the levels of activity varied during the period covered by the report. It also shows the outcomes of the various decision-making processes.

Receipt of Applications

The applicant is required to submit two copies of the application, one for the Commissioners and one for the respondent. When an application is received a file is opened and a Commissioner (generally one of the Chairmen) is appointed to be the 'single Commissioner' responsible for taking administrative decisions about the application.

The application form is scrutinised by a caseworker. A letter acknowledging receipt is sent to the applicant: where there have been omissions these are drawn to the applicant's attention in the letter, with an invitation to rectify them on a supplementary form. Where the deficiency is fundamental – for example no scheduled offence or no sentence of five years or more - the applicant is advised that the Commissioners will be unable to consider the application unless a qualifying sentence can be put forward. Where no such information is provided in response to the letter, the application is classed 'not proceeded with' and the file closed.

FIG 1

APPLICATIONS RECEIVED

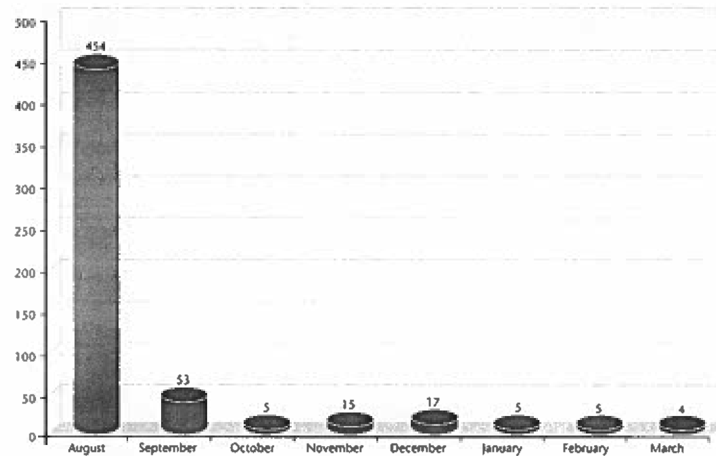

Fig 1 shows how applications came in over the 8-month period covered by the report. It indicates that 454 (over 81 per cent) of the 558 applications were received in the first month.

Within seven days of their receipt the copy set of application papers is sent to the Prison Service to enable the Secretary of State's response to be made.

Receipt of Response Papers

The Secretary of State is required to respond to the application papers within twenty-one days of receiving them. On some 20 occasions the Prison Service applied for an extension of time. Such ancillary applications were determined by the single Commissioner, key considerations being whether or not there were cogent reasons for the delay and whether or not the extra time sought would delay the applicant's release.

FIG 2

RESPONSE PAPERS RECEIVED

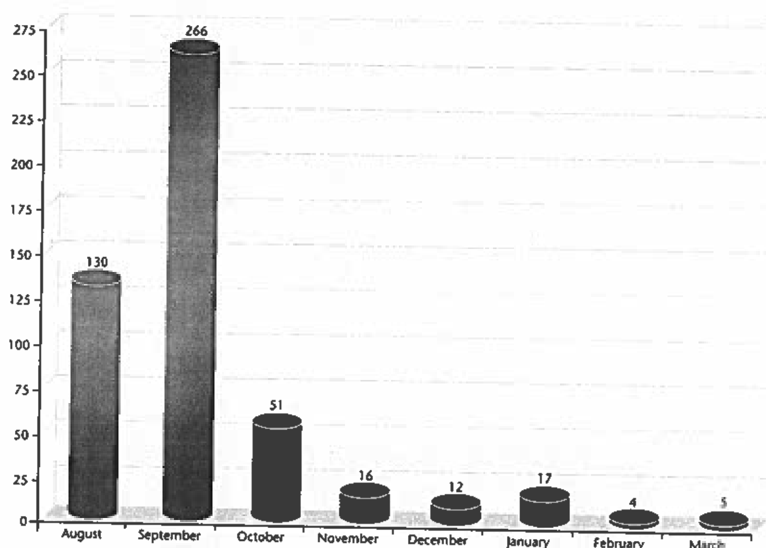

Fig 2 shows the numbers of sets of response papers received month by month.

When response papers are received they are checked against the application papers. If there are material discrepancies in the sentences or offences, or if the response papers show that scheduled offences have been 'certified out' by the Attorney General, the single Commissioner will write to the applicant inviting him or her to correct the application or indicating that the sentences appear not to qualify for consideration. This letter normally accompanies the applicant's copy of the response papers, which the Commissioners are required to send out within seven days of receiving them.

If the single Commissioner considers that the papers indicate that further information is needed before a panel can properly consider the application, he will at this stage write to the applicant or respondent requesting the information.

Consideration by Panel

Once satisfied that the application and response papers are complete and consistent, the single Commissioner assigns the application for consideration by a panel of three Commissioners. There is no time limit within which the panel must consider the application but the Commissioners have sought to progress applications as quickly as resources permit, taking account of the priority afforded to those whose likely release dates lay in the past (see Chapter Two).

Separate panels have normally been nominated to consider determinate sentence and life sentence applications, although mixed-case panels have occasionally been convened. The normal practice, where possible, has been for the same panel to consider co-defendants. Any panel considering life sentence applications is required by law to include a psychiatrist, because of the need to consider danger to the public.

The panel then considers the applications, recording in detail its conclusions on each of the criteria that have to be satisfied in order for the applicant to qualify for early release. Its overall conclusion is given in the form of a preliminary indication, which is issued in writing to both parties as soon as possible after the panel meeting.

FIG 3

PRELIMINARY INDICATIONS ISSUED

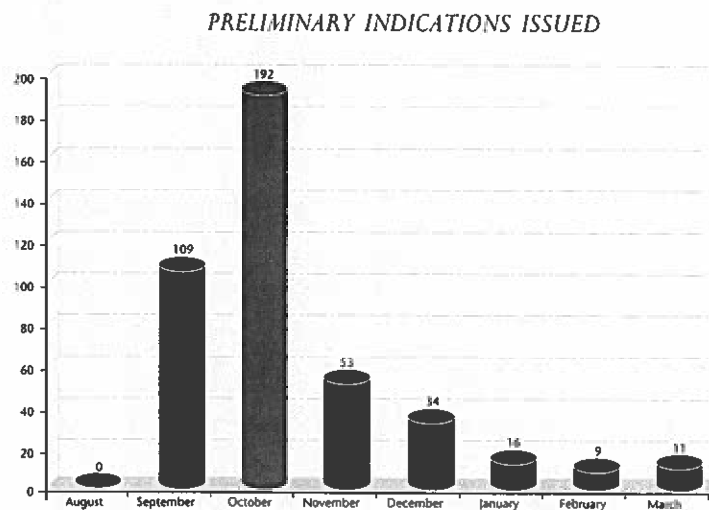

Fig 3 shows the numbers of preliminary indications issued in each month – it directly reflects the number of panel meetings.

Oral Hearings

Both parties are required to respond to the preliminary indication within fourteen days, indicating whether or not they wish to challenge it. If either (or both) of the parties challenges the preliminary indication it is set aside and the application is considered *de novo* at an oral hearing.

FIG 4

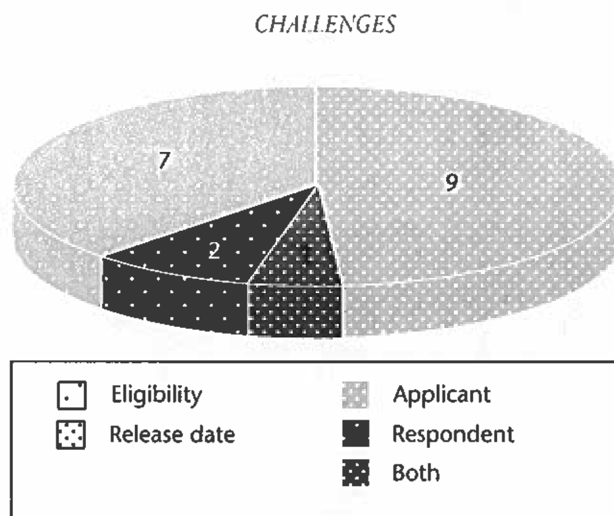

Fig 4 shows the source of the challenges that led to oral hearings and whether they were against the basic eligibility decision or against the release date given in respect of a life sentence applicant. It indicates that the largest number of challenges was by applicants against release dates.

A further four challenges were resolved without recourse to oral hearings and are therefore excluded from the figure.

FIG 5

ORAL HEARINGS

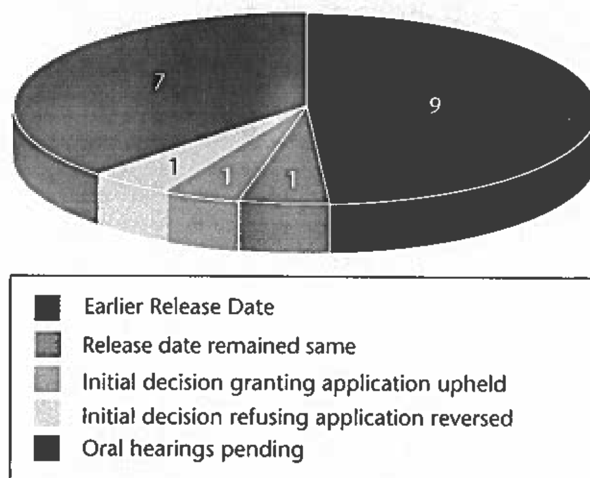

Fig 5 summarises the outcomes of oral hearings. It shows that the predominant result was an earlier release date.

Issue of Substantive Determination

The substantive determination is issued as soon as possible after both parties signify that they do not wish to challenge the preliminary indication or, where there has been an oral hearing, as soon as possible thereafter. There is no appeal against a substantive determination, although, as with any decision of the Commissioners, it is subject to judicial review.

FIG 6

SUBSTANTIVE DETERMINATIONS ISSUED

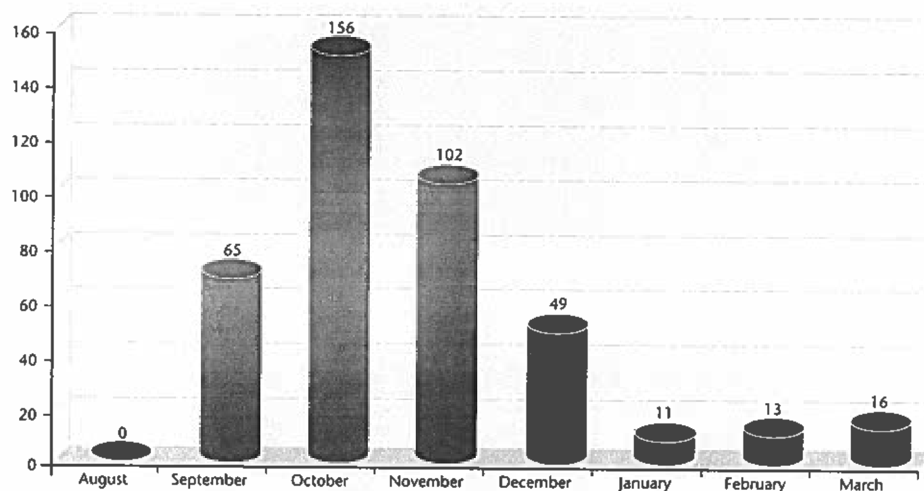

Fig 6 shows the numbers of substantive determinations issued in each month.

Legal Aid

Applicants have the option of applying for financial assistance to meet the cost of legal representation. They may do so at any time, although the majority who so chose made their application along with the main application papers. Applications are considered and approved by the single Commissioner. Additional money is available for oral hearings. Representation by counsel (as distinct from solicitor) must be applied for separately and has been approved only where evidential or legal issues of unusual novelty or complexity fall to be considered.

FIG 7

LEGAL AID

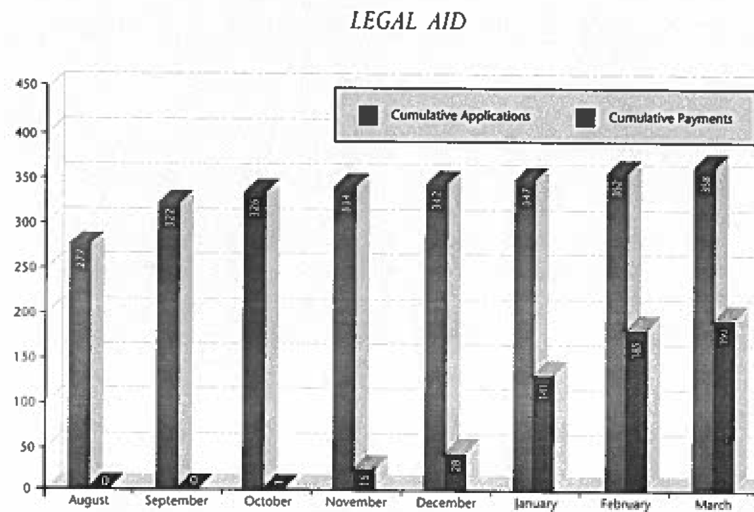

Fig 7 shows the numbers of applications for financial assistance, and subsequent claims from solicitors for payment, received from month to month. About two-thirds of applicants sought financial support: just over half of the associated claims had been received by the end of the report period.

CUMULATIVE BUSINESS TRENDS

FIG 8

	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Applications received	454	507	512	527	544	549	554	558
Cases not eligible	22	44	45	49	52	53	53	57
Applications sent to respondent	387	435	459	471	484	496	501	501
Responses received	130	396	447	463	475	492	496	501
Cases not proceeded with after response received	10	18	32	53	59	64	65	66
Preliminary indications issued	0	109	301	354	388	404	413	424
Challenges received	0	1	5	14	17	19	19	23
Oral hearings held	0	0	0	1	7	7	12	12
Substantive determinations issued	0	65	221	323	372	383	396	412
Applications under consideration	422	380	214	102	61	49	40	23

Fig 8 shows the cumulative state of business at the end of each month.

As fig 8 indicates, of the 558 applications received during the period covered by the report, 123 were deemed ineligible for want of a qualifying sentence and not proceeded with and 23 were still being processed as at 31st March 1999. Of the 412 applications determined, 411 were granted and 1 was refused.

chapter four

CHAPTER FOUR

Staff and Resources

The Commissioners have been supported and advised by a Secretariat comprising the Secretary to the Commissioners and a team of staff numbering 12 for the busiest period (up to Christmas 1998), reducing thereafter to 8 by the end of the period covered by this report.

Initially the Commissioners occupied temporary accommodation in Bedford House, Belfast, moving to permanent accommodation on the 5th floor of Windsor House, Belfast in October 1998. The use of a PO Box address for correspondence minimised the risk that the move would impede the processing of applications.

Expenditure incurred by the Secretary of State in providing for the work of the Commissioners in the year ended 31st March 1999 was:

	£000's
Programme expenditure:	
Commissioners' remuneration[1]	177
Commissioners' travel, accommodation and expenses	79
Legal advice or representation for applicants	35
Premises	285
General administration	114
Running costs:	
Staff salaries etc	176
Miscellaneous	3
Total Expenditure	**869**

Having decided that they required professional advice and assistance on the provision of information to the public and the handling of the media, the Commissioners conducted a tendering process based on a select list and appointed Burnside-Citigate Communications Ltd as their advisors. Mr Don

[1]Including payments to employers for time spent on Commissioner work.

Anderson (or Mr Alan Burnside) of that company has thereafter been the designated contact for media enquiries regarding the work of the Commissioners.

After a similar process the Commissioners also appointed Messrs Cleaver Fulton and Rankin, Solicitors, as their legal advisors.

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ANNEX A

The Agreement
Prisoners

1. Both Governments will put in place mechanisms to provide for an accelerated programme for the release of prisoners, including transferred prisoners, convicted of scheduled offences in Northern Ireland or, in the case of those sentenced outside Northern Ireland, similar offences (referred to hereafter as qualifying prisoners). Any such arrangements will protect the rights of individual prisoners under national and international law.
2. Prisoners affiliated to organisations which have not established or are not maintaining a complete and unequivocal ceasefire will not benefit from the arrangements. The situation in this regard will be kept under review.
3. Both Governments will complete a review process within a fixed time frame and set prospective release dates for all qualifying prisoners. The review process would provide for the advance of the release dates of qualifying prisoners while allowing account to be taken of the seriousness of the offences for which the person was convicted and the need to protect the community. In addition, the intention would be that should the circumstances allow it, any qualifying prisoners who remained in custody two years after the commencement of the scheme would be released at that point.
4. The Governments will seek to enact the appropriate legislation to give effect to these arrangements by the end of June 1998.
5. The Governments continue to recognise the importance of measures to facilitate the reintegration of prisoners into the community by providing support both prior to and after release, including assistance directed towards availing of employment opportunities, re-training and/or re-skilling, and further education.

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ANNEX B

Guidance for Applicants

Purpose

This leaflet gives an outline of –

- Who is eligible for early release.
- How to apply.
- What will happen next.

The Commissioners have issued this for guidance only. For complete information, you or your advisers should study the relevant legislation: the Northern Ireland (Sentences) Act 1998, the Northern Ireland (Sentences) Act 1998 (Sentence Review Commissioners) Rules 1998 and the Northern Ireland (Sentences) Act 1998 (Specified Organisations) Order 1998.

If you wish to use a lawyer to assist you in preparing your application, you can apply for money to pay for legal advice and/or representation. You do this by applying to the Commissioners for a 'legal aid direction', using FORM B.

Am I eligible?

You will be eligible to have your sentence reduced if all of these apply:

- you are serving your sentence in Northern Ireland;
- the offence in question was committed before 10th April 1998;
- the offence was a 'scheduled' offence and you were tried by a no-jury 'Diplock' court in Northern Ireland (or an equivalent offence if you were tried in Great Britain);
- you were given a sentence of five years or longer (including a life sentence);
- you are not a supporter of any of the following organisations[1]-
    - The Continuity Irish Republican Army
    - The Irish National Liberation Army
    - The Loyalist Volunteer Force
    - The 'Real' Irish Republican Army.

(This list may be changed at any time by the Secretary of State.)

- if you were released immediately, you would not be likely to become :
    - a supporter of any of the organisations listed above, or

[1]List as at August 1998

- involved in acts of terrorism relating to Northern Ireland.

- if you are serving a life sentence, you would not be a danger to the public if released immediately.

N.B. A series of sentences being served consecutively must include at least one of five years or more in order to fall within the scope of the legislation. No sentence imposed for a non-scheduled offence can be reduced.

When would I qualify for release?

- If you are serving a fixed-term sentence imposed before 28th July 1998, the earlier of:
  - the date where you have served one third of the sentence (plus any remission you have lost), or
  - 30th July 2000.

This date will be determined by the Prison Service, if the Commissioners allow your application.

N.B. The date 28th July 2000 and the two-year period referred to below may be changed by Parliament in the future.

- If you are serving a life sentence imposed before 28th July 1998, the earlier of:
  - a date which the Commissioners consider represents about two-thirds of that which you would otherwise have spent in prison, or
  - 28th July 2000.

This date will be determined by the Commissioners.

- If you were sentenced after 28th July 1998:
  - on the second anniversary of the date when you start to serve your sentence.

- All release dates are subject to the normal rule that where the calculated date falls on a Saturday, Sunday or public holiday, release will take place on the next normal working day.

- You cannot be released until after the Commissioners have made a substantive determination in respect of your sentence.

How do I apply?

You apply by sending to the Sentence Review Commissioners, P.O. Box 1011, BELFAST. BT2 7SR:

- a fully completed application form (FORM A);
- any supporting information or documents on which you wish to rely; and
- any decision notices and reasons previously given by the Commissioners or the Secretary of State in response to a previous application on your behalf.

It is important that all relevant information, including any upon which you might wish to rely at a subsequent oral hearing, should be provided at this stage if unnecessary delay and the need for further applications are to be avoided.

You must send the Commissioners two sets of these papers, one containing the original application form being marked 'ORIGINAL' and the other 'COPY'.

Who can help me apply?

- You can ask anybody to help you prepare your application.
- If you wish to use a lawyer you can apply for money to pay for legal advice and/or representation. You do this by applying to the Commissioners for a 'legal aid direction', using FORM B.

What will happen when I apply?

- As soon as we receive an application, we will send you a written acknowledgement.
- Your application will be allocated to a single Commissioner, who will be given responsibility for ancillary decisions on behalf of the Commissioners about your application (including any legal aid direction). He or she will also have the power to vary, on application, the time limits for particular actions.

- The Commissioners will send a copy of your application to the Prison Service within a week of receiving it.

- The Prison Service (acting on behalf of the Secretary of State) are required to give the Commissioners a written response within three weeks. The Commissioners will send you a copy of this response within a week of receiving it.

- In prioritising the consideration of applications, the Commissioners will take into account the date on which the applicant would be likely to be released if the application were successful. Those with the earliest dates will generally be given priority.

- A panel of three Commissioners will be appointed to consider the application and response and give a 'preliminary indication' of their decision. You and the Prison Service will be given written notice of the preliminary indication as soon as possible after the Commissioners have given it.

- If the preliminary indication is that the Commissioners are minded to refuse your application, you and the Prison Service will be given a written statement of the reasons.

- If the preliminary indication is that the Commissioners are minded to allow your application, you and the Prison Service will be given a written statement of the relevant sentences and, for any life sentence, the associated revised release date.

- You and the Prison Service must each indicate to the Commissioners in writing within two weeks whether or not you wish to challenge the preliminary indication.

- If neither of you challenges the preliminary indication within two weeks, the Commissioners will confirm it in the form of a 'substantive determination'. (See below for description.)

What happens if there is a challenge?

- The Commissioners will set aside the preliminary indication and convene a hearing prior to making a substantive determination.

- You will be given at least three weeks written notice of the date, time and place of the hearing.

- The hearing will normally be held in the prison where you are held and conducted in private unless the Commissioners decide otherwise.

Can I be represented by somebody else at the hearing?

- You will be able to be represented by your lawyer or another person of your choice.

- You may not, without obtaining the prior agreement of the Commissioners, be represented by anybody who is:
  - serving a sentence of imprisonment;
  - on licence, having been released from prison; or
  - has an unspent conviction for an imprisonable offence.

- You may not be represented by anyone who is liable to be detained under the Mental Health (Northern Ireland) Order 1986.

- You must give details of any representative on FORM A and notify the Commissioners and Prison Service within a week of any change in the name, address or occupation of your representative.

What will happen at the hearing?

- You and the Prison Service (on behalf of the Secretary of State) will be able to appear and speak at the hearing and may, in particular:
  - make opening and closing submissions (in person and/or through a representative);
  - hear each other's evidence and submissions;
  - put questions to each other;
  - call any witnesses authorised by the Commissioners; and
  - put questions to any witnesses.

- But may not rely on or refer to material that was not included in the application or response papers without the leave of the Commissioners.

- If you wish to introduce additional material, you will need to make an ancillary application to the Commissioners.

The substantive determination

- You will be given written notice of the Commissioners' substantive determination as soon as possible after it is made. This notice will include:
  - where your application has been refused, a statement of the reasons;
  - where your application has been allowed, a declaration will specify:
    - the sentence(s) in respect of which you have a right to be release under the Act;
    - in relation to a life sentence, the release date that the Commissioners consider appropriate; and
    - where a previous determination is being revoked, the reasons for this.

Can I appeal against a refusal?

- You can make a further application, but the Commissioners can consider it only if:
  - circumstances have changed since your most recent previous determinations; or
  - you submit new material that was not put before the Commissioners when they made that determination.

- The only other way of challenging a substantive determination by the Commissioners is by means of judicial review.

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ANNEX C

PROCEDURAL GUIDELINES FOR ORAL HEARINGS

These guidance notes have been drafted for the assistance of parties involved in the planning and conduct of oral hearings within the terms of the Northern Ireland (Sentences) Act 1998, (hereafter referred to as 'the Act') and the Northern Ireland (Sentences) Act 1998 (Sentence Review Commissioners) Rules ('the Rules').

The Commissioners are specifically required, within the terms of rule 6(1), to make available to applicants and their representatives information regarding any procedures they adopt in dealing with each case. These notes deal with the conduct of oral hearings arising out of a challenge to the preliminary indication by either party. These hearings are 'substantive hearings' within the context of the Act.

Preliminary Matters

Within the terms of rule 4, each case is allocated to a panel of three Commissioners. Where the applicant is a life sentence prisoner at least one of the panel members will be a psychiatrist. Each of the panel members is entitled to an equal voice on questions of law, procedure and substance. No decisions are reserved for any particular member. The functions of the panel include giving preliminary indications, making substantive determinations and holding hearings, where required. In each case, one of the panel members is appointed to act as the chair of the panel. At the oral hearing, the chair will take account of the views of the other members in making decisions.

The chair will introduce the panel and all other persons present at the hearing and will explain the roles of the various parties. It is the responsibility of the Secretariat to keep an accurate record and therefore notes will be taken during the proceedings.

Both parties have the right to be represented at the hearing. The applicant should normally indicate the name, address and occupation of his or her appointed representative on the initial application form. Otherwise, the applicant may make an ancillary application for the appointment of a representative. Where the applicant has not appointed a representative, the Commissioners may, with his or her consent, appoint an eligible person to act as such.

Other persons present at the hearing will include witnesses, who may be in attendance at the request of either of the parties or the panel, and anyone else, including other Sentence Review Commissioners, who may be there to observe the proceedings. Only the three panel members will play a role in the deliberations of the panel during and subsequent to the hearing.

Informality

In accordance with the requirements of rule 19(2) the hearing will be conducted in a fair manner, avoiding inappropriate formality and excessive length. The role of any lawyers present is a facilitative one. They are not the focus of the hearing and in this context legal language is to be avoided so far as is possible.

There is a fundamental difference between this type of inquisitorial hearing and judicial procedures which are generally adversarial by nature. The purpose of the oral hearing is to provide an opportunity for all available relevant evidence to be brought to the attention of the panel, as if for the first time, in order to assist them in coming to a determination on the issues. For this reason, 'neutral' language will be employed throughout the proceedings rather than the sort of terminology associated with adversarial judicial proceedings such as, for example, 'cross-examination' and 're-examination'.

The Issues

It is important to bear in mind the requirements of rule 15(3), namely that where either party indicates in accordance with rule 14(6) that she/he wishes to challenge the preliminary indication, the panel is obliged to disregard the preliminary indication and make the substantive determination pursuant to a hearing. This means that the oral hearing is not an appeal against the preliminary indication but is an entirely fresh hearing of the facts.

Technically, therefore, the onus is on the applicant to establish *de novo* that she/he satisfies each of the qualifying conditions and does not fall foul of any of the disqualifying factors. It is the responsibility of the respondent to provide the panel with any information relevant to the decisions which the panel will have to make. There will be no necessity for either the applicant or the respondent to present oral evidence at the substantive hearing in respect of non-contentious issues.

The chair will identify the non-contentious issues at the outset and indicate whether the panel accepts the evidence before it with regard to these matters.

This would essentially be the information provided on the application form and in the response papers. The acceptance of these documents as evidence in respect of the non-contentious matters will be noted in the record of proceedings, as will all other evidence. The chair will then identify the issues for consideration at the hearing.

All oral hearings will be triggered either by a challenge to a preliminary indication to grant or refuse an application or, for a life sentence prisoner, by a challenge in respect of the release date indicated in a preliminary indication. In the latter type of case the primary issue for consideration will be the length of the period which the prisoner would have been likely to have spent in prison under the sentence. In such cases, the previous indication of the panel would have been disregarded and the purpose of the oral hearing is a search for relevant information which will assist the panel in making a substantive determination with regard to this matter.

In all other life sentence cases the parties will also be given the opportunity to make submissions and present evidence on the issue of sentence length, in addition to other relevant issues. It will be a matter for the discretion of the chair whether this issue should be addressed separately after all other evidence in relation to the eligibility criteria has been presented.

Damaging Information

The chair will indicate whether there is any damaging information in the case. If so, in accordance with rule 19(7), the applicant, his/her representative and any witness appearing for him/her will be required to leave the hearing when argument is being heard or evidence is being examined which includes or relates to any such damaging information.

There is no provision in the Act or in the Rules for the Applicant to challenge a certification by the Secretary of State of any information, document or evidence as damaging information at the hearing. However, the applicant will be given an opportunity to indicate his/her view with regard to the appointment of a representative under Schedule 2, paragraph 7(2).

Ancillary Matters

Under rule 16(5) Commissioners may list ancillary and substantive hearings together. It is also possible that ancillary applications may be made at the

hearing itself [rule 11]. If an ancillary application is made during the course of the hearing the panel is obliged to consider whether to adjourn the hearing in order to allow the other party to respond to the application.

In the event of an adjournment, rule 20(2) requires the panel to give such directions as they consider appropriate for ensuring the prompt consideration of the case at a resumed hearing. In light of this provision the panel will specify a reasonable date within which the other party will be required to submit his response to any ancillary application made during the course of the hearing.

Under rule 11(6), any decision made by a panel at an oral hearing with regard to ancillary matters is a final decision.

The chair will indicate whether there are any outstanding ancillary matters and deal with these prior to the opening statements from the parties on the substantive matters.

Opening Statements

This is essentially an opportunity for each party to highlight the key points which they wish to draw out from the body of evidence before the panel. Where the parties have elected to be represented, the opening statements will be made by their representatives. There is no requirement to provide written submissions. However, any written submissions which the parties may wish to provide, either in advance or on the date of the hearing, would be welcomed. Written submissions received in advance of the hearing will be copied to the other party immediately.

In any event, the chair will ensure that each party has been made aware at the outset of all matters which the other party proposes to raise. This is important so that both parties have the opportunity to address all of the relevant issues when presenting their evidence. The parties, or their representatives, should also indicate in their opening statements the substance of the evidence which will be given by each witness whom they intend to call.

Presentation of Evidence

As stated above, the onus is on the applicant to establish *de novo* that she/he satisfies all of the criteria. However, as the fundamental nature of these proceedings is inquisitorial, in practical terms oral evidence need only be

presented in respect of the contentious matters as identified at the outset by the chair.

The applicant may or may not wish to give evidence and is under no obligation to do so. No adverse inference will be drawn from the failure of the applicant to give evidence. Where the applicant does choose to address the panel his or her evidence will usually be given before any other evidence is presented in the absence of any practical or other reason why not.

As a general rule the applicant may be led in evidence by his or her representative or by panel members. This principle also applies to the respondent and any other witnesses. Questions may be framed in such a way as to suggest a certain answer, affirmative or negative, from the witness. This departure from the normal procedure in judicial proceedings is in keeping with the emphasis on informality.

The order in which the parties will present their evidence, as set out at Annex A, follows the format for the presentation of evidence traditionally adopted in other proceedings. Each of the parties will be given the opportunity to present their case by giving evidence themselves and/or calling witnesses. The other party and the panel members may then ask questions. There will always be an opportunity for the party who introduced the evidence to ask further questions, if necessary, in order to clarify the evidence given. This format for the presentation of evidence is suggested as a guide to the panel and the parties recognising that not all of these steps will need to be followed in every case.

Each member of the panel will be entitled to ask questions of all witnesses and this will generally be done after the other party has had the opportunity to question the witness. However, a panel member may, with the permission of the chair, seek to clarify issues at any time during the proceedings, if appropriate.

Rule 19(6) specifically provides that the normal rules governing admissibility of evidence should not be applied. It will be a matter for the panel to decide what weight should be given to any evidence presented at the hearing by way of documents or information which would otherwise be inadmissible in a court of law. This will be a matter to be considered after the hearing and the view of the panel in relation to any such evidence will be recorded.

Within the terms of rule 19(2), the chair, on behalf of the panel, may curtail evidence which is not relevant or which is repetitive. The chair also has the

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ANNEX D

ORGANISATIONS AND INDIVIDUALS BRIEFED BY THE CHAIRMEN

Political Parties

Alliance Party
Progressive Unionist Party
Sinn Féin
Social Democratic and Labour Party
Ulster Democratic Party
Ulster Unionist Party
Women's Coalition

Statutory Bodies

Probation Board for Northern Ireland
Royal Ulster Constabulary
Standing Advisory Commission on Human Rights

Church Representatives

The Most Rev Dr Sean Brady (Catholic Church)
The Right Rev Dr John Dixon (Presbyterian Church in Ireland)
The Most Rev The Lord Eames (Church of Ireland)
The Rev Dr David Kerr (Methodist Church in Ireland)

Prisoner Organisations

EPIC
The Extern Organisation
Northern Ireland Association for the Care and Resettlement of Offenders
PAPCRG
Tar Anall

Victim Representatives

Families Against Intimidation and Terror
Victim Support Northern Ireland
WAVE

Others

Lord Chief Justice of Northern Ireland
Sir Kenneth Bloomfield
Anglo-Irish Secretariat
Committee on the Administration of Justice
The Law Society of Northern Ireland

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ANNEX E

LEGAL ADVICE OR REPRESENTATION

1. In accordance with paragraph 24 of The Northern Ireland (Sentences) Act 1998 (Sentence Review Commissioners) Rules 1998, the Commissioners have determined that the following terms and conditions will apply to money made available for legal advice or representation on foot of legal aid directions.

2. The fees payable under the scheme will be:

a) £150, plus mileage at 35.7 pence per mile, for the preparation of the first substantive application to the Commissioners. (This can be the initial application, a supplementary application citing additional offences, an ancillary application, or the response thereto, depending on the stage at which application for a legal aid direction is made.) Travelling time at £24.25 per hour is payable in addition where a return journey in excess of 40 miles is required in order to take instructions from the applicant. No fee is payable in respect of an application for a legal aid direction.

b) Up to £50 for the preparation of a further supplementary or ancillary application or the response thereto.

c) Where an oral hearing is required to determine a substantive application and/or ancillary appeal, payment for additional work (up to a maximum of 8 hours) at the rate of £100 per hour for professional work and £24.25 per hour for waiting and travelling time, plus mileage at 35.7 pence per mile.

d) In addition, outlay on commissioning an expert report will be reimbursed where the need for such a report has been accepted in advance by the Commissioners.

3. No solicitor will be paid travelling time or mileage in addition to a composite fee in respect of more than one visit to the same prison on the same day, regardless of the number of applicants seen.

4. Extension of costs (which will be at the rates set out in c) above) will be granted only where the Commissioners are satisfied that work in excess of the relevant composite fee or time allocation is necessitated by the particular

characteristics of the application. Application for extension of costs should be made by telephone to Mr Steven McCourt at Belfast 549421.

5. Solicitors will be reimbursed on foot of a duly completed claim form, which will normally be issued with the legal aid direction and should be returned within 6 months of the substantive determination.

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