

## Parole Board Proceedings

### Guidance on requesting a transcript of an audio recording

#### 1. Introduction

This document sets out the process for requesting a transcript of a digital recording of formal parole proceedings and the criteria for a request to be accepted.

For more detailed information on the digital recording of proceedings, including information on technology, and arrangements on the day of a hearing, please see the Parole Board's member guidance on the digital recording of proceedings, to which this information is annexed.

#### 2. Background

The High Court judgment in the case of *McIntyre*<sup>1</sup> clarified the duty upon the Parole Board to ensure that a proper record is made of formal proceedings.

The judgment said that:

- It is the responsibility of the Board to ensure that a proper record is made of each hearing and in particular the evidence given at it.
- The record of the proceedings and evidence before the panel may be required to assist the Court in any judicial review proceedings. But it can also be essential if the evidence given is relied on at a further hearing.

Digital audio recording of proceedings provides a way for the Parole Board to be fully compliant with its legal obligations. It enables the Parole Board to have an official record of proceedings, while negating the need for panel chairs to keep a full formal handwritten record of the proceedings.

Only formal proceedings should be recorded and, since the judgment in *McIntyre* was handed down, the Board now treats directions hearings and case management conferences as formal proceedings.

Transcripts can be requested for all formal proceedings, including directions hearings and case management conferences.

<sup>1</sup> *R (McIntyre) v Parole Board [2013] EWHC 1969 (Admin)*



### **3. Points to note**

**The full recording will not be made available in its digital format, but a transcript may be provided if necessary and where a request meets the criteria.**

Digital recordings are **audio only** and will not include video content.

Panel deliberations are not recorded and are not required as part of the official account of the proceedings.

Recording will be paused during any break in proceedings, for example a short adjournment or comfort break.

Victims that attend an oral hearing in person or via video or telephone to read out their Victim Personal Statement (VPS) are not part of the formal proceedings and so will not be recorded.

No party or attendee may use their own unofficial recording equipment in any parole proceedings room (either in-person or remote).

### **4. Exceptions**

There will be occasions where circumstances or restrictions relating to a case dictate that digital recording CANNOT be undertaken. This may be due to the availability of equipment, the location of the proceedings, the nature of the case, or the security level assigned to the case. There may also be occasions where technology failure occurs. In such circumstances the panel chair will take full handwritten notes which will stand in place of the recording as the official record of relevant parts of the proceedings.

### **5. How is the recording stored**

All digital recordings are stored as MP3 files within a secure cloud setting. MP3 files are retained for seven years in accordance with the Board's record retention schedule set out in the Information Assurance Policies, and in accordance with the General Data Protection Regulations and the Data Protection Act 2018.

### **6. Who can request a transcript?**

Only the parties to the proceedings can make a request for a transcript of the recording. The parties are: the Secretary of State and the prisoner.

- A request from any representative or witness of the Secretary of State for Justice (SSJ) must come from the Public Protection Casework Section (PPCS). Any other agent of the SSJ (for example an HMPPS psychologist or prison staff member) should not make a request directly to the Parole Board;

- It will usually be the prisoner's representative who makes a request on behalf of the prisoner. Any prisoner making a direct request to a panel or case manager should be encouraged to go through their instructed representative, where they have one.

Where the prisoner is unrepresented, the Parole Board will consider any direct request, or request from a third party, with the prisoner's written authority.

## **7. When can a request be made?**

A request for a transcript must be made within three months of the decision being issued, or within three months of the directions being issued following a directions hearing or case management conference. This is in line with the current timeframe for submitting a judicial review.

Panel chairs are advised not to accept any transcript requests at the formal proceedings on the day. Some flexibility may be exercised where the prisoner is unrepresented as they are unlikely to have access to the Board's website. The panel chair should encourage the prisoner to ask a friend or family member to make the request if possible but the prisoner will need to provide a notice of authority to this effect.

## **8. Criteria for accepting a request**

All requests must be sent to the Parole Board Litigation Team where they will be processed.

Email: [Litigation@paroleboard.gov.uk](mailto:Litigation@paroleboard.gov.uk)  
 Post: Litigation Team  
 3<sup>rd</sup> Floor  
 10 South Colonnade  
 London  
 E14 4PU

The audio recording will usually be the official record of the proceedings. However, if there is no audio recording for all or part of the proceedings, then the chair's notes will be the official record.

### If an Audio Recording exists

The Litigation Team will ascertain if a digital recording exists, and if so will then consider the following two points:

- a) What is the specific point/area of dispute or query?
- b) Is the reason for requiring a transcript sufficiently clear and precise?

If the reasons are weak or unclear, then it is likely that an application for a transcript of the hearing will be refused. As pointed out in *McIntyre*: "It would plainly be a wholly disproportionate burden for the notes by way of record to be transcribed and/or made available after each hearing".

However, if the reasons are unclear the Litigation Team will most likely request further information before making a decision.

A transcript may be provided **IF** proceedings for judicial review are intended, or if the evidence is to be relied on at further proceedings. A transcript may also be provided if there is a matter of dispute, or a point requiring clarification from the proceedings, that cannot be resolved by comparison with the note of record (e.g., adjournment of deferral directions or decision). A transcript may only be provided if the requesting party is prepared to cover the costs of transcription. In these cases the Litigation Team will usually secure an undertaking from a representative before commissioning a transcript.

Any **handwritten notes** made by the panel chair or the other panel members are **not** part of the record of proceedings and **will not** be disclosed.

#### If an Audio Recording does not exist

The panel chair's handwritten note of record may be provided **IF** proceedings for judicial review are brought, or if the evidence is to be relied on at further proceedings. A handwritten note of record may also be provided if there is a matter of dispute or a point requiring clarification from the proceedings. It will not usually be necessary for the requesting party to cover the costs of provision.

Any other handwritten notes made by the other panel members if made to assist their decision making are **not** part of the record of proceedings and **will not** be disclosed.

#### **POINT OF NOTE:**

The courts have suggested that, where there is an issue as to what was actually said, the panel chair should review the note of record with the reasons for the request in mind and ascertain whether the issue can be reconciled with the note.

- If it can, then the panel chair can confirm as such and there may not be a need to produce the written notes or a transcript;
- If it cannot, and the panel chair is confident that the note is an accurate record, then the transcript (or panel chair notes if appropriate) will stand as the official record of proceedings.

If the Litigation Team approve the request, the process, as set out in the process chart attached, is followed.

The Parole Board will only consider applications for transcripts when the requestor is prepared to meet the costs of the transcription (see below).

### **9. What is the process for approved requests?**

Transcripts are provided by a third-party supplier: Ubiquis Ltd.

The process chart attached sets out the approval steps.

The process is as follows where the Litigation Team approve the request:

- The Litigation Team approve the request;
- The Litigation Team will send the request to the panel chair who will be asked to review the recording with particular attention to:
  1. any missed sections of the formal proceedings. If this is the case, the panel chair will need to provide any handwritten notes to cover the missing content; and
  2. any recording of panel deliberations or other informal conversations, such as during a break, or the reading of a VPS. If this is the case, the panel chair will need to provide a note with the details.
- The panel chair confirms that the recording can be released, submits the file to the Litigation Team, providing handwritten notes if relevant, and highlighting if any informal conversations were recorded;
- The Parole Board Digital Support Officer (DSO) will then upload the file and the original timetable with attendees listed to the secure portal that Ubiquis Ltd has set up;
- Ubiquis Ltd will review the recording and provide an estimate of the cost and timeframe for the transcript to the DSO who will then pass it on to the requestor (Secretary of State or prisoner);
- If the fee is acceptable, the requestor will commission the service and will need to pay the full amount in advance directly to Ubiquis Ltd;
- Ubiquis Ltd will prepare the transcript and submit to the Parole Board DSO;
- The DSO will provide the transcript to the panel chair and Litigation Team to check and approve;
- If panel deliberations, informal conversations etc were inadvertently recorded and subsequently transcribed, the relevant section will be removed as part of the approval process. No other information will be changed, deleted, or doctored;
- If the panel chair approves the transcript, confirmation will be sent to Ubiquis Ltd who will release the transcript to the requestor; or
- If the panel chair amends the transcript, the amended transcript will be sent to Ubiquis Ltd to effect the changes after which it will then be released to the requestor.

## **10. Welsh language**

Prisoners whose first or preferred language is Welsh can request a transcript to be provided in Welsh. This should be stated clearly in the request.

## **11. What is the timeframe?**

From the point of the requestor commissioning the service, the Parole Board has eight working days to review the recording before it must be submitted to Ubiquis Ltd to commence transcribing.

Ubiquis Ltd has up to five working days to transcribe the recording and provide it to the Parole Board from the point of commission.

The Parole Board then has up to seven working days to confirm accuracy, make any changes required, and return to Ubiquis Ltd.

The final approved transcript will be sent to Ubiquis Ltd who will issue it to the requestor within two working days of receiving it.

The total timeframe should not exceed four weeks. However, the above timeframes are internal guidelines only and there may be occasions where these will vary. The Parole Board should notify the requestor if delivery will fall outside of the timeframes.

## **12. What is the cost?**

Ubiquis Ltd will assess the recording and provide a quote free of charge for the work.

As a guide they charge approximately £137 per hour of recording (as of May 2023).

If the quote is acceptable, payment must be made upon commissioning the request directly with Ubiquis Ltd.

The Parole Board cannot receive or process any monies in relation to transcripts.

## **13. Disclosure of transcripts**

Transcripts should only be used for the purpose as set out in the formal request from the requestor. Transcripts should not be disclosed to third parties or published, and anyone doing so is in contravention of the Parole Board Rules:

*Rule 27(5) Subject to paragraph (1) and rule 17, the Board chair may prohibit or permit the disclosure, recording or publication of proceedings or information about proceedings under these Rules.*

## **14. Making a complaint or appealing a decision**

The decision of the Litigation Team is final and cannot be appealed.

If you are unhappy with any aspect of this process, you can make a complaint through the Parole Board Complaints procedure. The Complaints Policy can be accessed here:

[Complaints procedure - Parole Board - GOV.UK \(www.gov.uk\)](http://www.gov.uk)