
STATUTORY INSTRUMENTS

2016 No. 1041

The Parole Board Rules 2016

PART 2

General

Referral of cases

4. A case is deemed to be referred to the Board on the date that the Board receives a referral letter from the Secretary of State.

Appointment of panels

5.—(1) For all cases which have been referred to the Board, the Board chair must appoint one member of the Board to constitute a panel to consider the release of a prisoner or advise the Secretary of State in accordance with Part 3 (proceedings on the papers).

(2) If following consideration on the papers under Part 3, a case must be considered by an oral panel under rule 16, the Board chair must appoint one or more members of the Board to constitute a panel to hear that case in accordance with Part 4 (proceedings before an oral panel).

(3) A panel appointed under paragraph (2) is to be chaired by—

- (a) where a panel is constituted of more than one member, the member of the panel appointed by the Board Chair for this purpose;
- (b) where a panel is constituted of only one member, that member.

(4) A person appointed under paragraph (1) may, in the same case, sit on an oral panel appointed under paragraph (2).

(5) The Board chair may appoint a member of the Board to carry out any function under rule 8, 9, 10, 12, 13, 15, 16, 20, 21, 22 or 26, or any other function as required, and such a member is referred to in these Rules as a “duty member”.

Representation

6.—(1) Subject to paragraph (2), a party may be represented by any person appointed by, or on behalf of, the party.

(2) The following may not act as a representative—

- (a) any person who is detained or is liable to be detained under the Mental Health Act 1983(1);
- (b) any person serving a sentence of imprisonment;
- (c) any person who is on licence having been released from a sentence of imprisonment, or
- (d) any person with a conviction for an offence which remains unspent under the Rehabilitation of Offenders Act 1974(2).

(1) 1983 c.20.
(2) 1974 c.53.

(3) Within 5 weeks of a case being referred to the Board, a party who has appointed a representative (or who has a representative who has been appointed on his behalf) must notify the Board and the other party of the name, address and occupation of the representative.

(4) If a prisoner does not have a representative, the Board may, with the prisoner's agreement, appoint a representative on the prisoner's behalf.

Service of information and reports

7.—(1) Subject to rule 8, within 8 weeks of a case being referred to the Board the Secretary of State must serve on the Board and the prisoner's representative (or the prisoner if there is no representative)—

- (a) where a case relates to the initial release of a prisoner, the information specified in Part A of Schedule 1 to these Rules and the reports specified in Part B of that Schedule;
- (b) where a case relates to the recall following release of a prisoner, the information specified in Part A of Schedule 2 to these Rules and the reports specified in Part B of that Schedule;
- (c) where sub-paragraph (a) or (b) applies, any further information or reports which the Secretary of State considers relevant to the case, and
- (d) where a case relates to a request for advice, any information which the Secretary of State considers relevant to the case.

(2) Subject to rule 8, the prisoner's representative may disclose information and reports served under paragraph (1) to the prisoner.

Withholding information or reports

8.—(1) The Secretary of State may apply to the Board for information to be withheld from the prisoner, or from both the prisoner and their representative, where the Secretary of State considers—

- (a) that its disclosure would adversely affect—
 - (i) national security;
 - (ii) the prevention of disorder or crime, or
 - (iii) the health or welfare of the prisoner or any other person, and
- (b) that withholding the information or report is a necessary and proportionate measure in the circumstances of the case.

(2) Where the Secretary of State makes an application for information or any report ("the material") to be withheld under paragraph (1), the Secretary of State must serve on the Board—

- (a) the material, or a separate document containing the material, and
- (b) a written application for non-disclosure, explaining why it is proposed to be withheld.

(3) On receipt of an application under paragraph (2)(b), the member appointed by the Board chair for this purpose (being either a panel chair, single member or duty member) must consider the application and may make directions as necessary to enable determination of the application.

(4) When the member appointed under paragraph (3) is satisfied that all relevant information has been served on the Board, that member must consider the application and direct that the material should be—

- (a) served on the prisoner and their representative (if applicable) in full;
- (b) withheld from the prisoner or from both the prisoner and their representative, or
- (c) disclosed to the prisoner, or to both the prisoner and their representative, in the form of a summary or redacted version.

(5) If—

- (a) a direction is given under paragraph (4)(a) and the Secretary of State intends to appeal against it in accordance with paragraph (8), or
- (b) a direction is given under paragraph (4)(b) or (c),

the Secretary of State must, as soon as practicable notify the prisoner and the prisoner's representative (if applicable) that an application has been made under paragraph (2)(b) and the substance of that direction.

(6) If the member appointed under paragraph (3) gives a direction under paragraph (4)(b) or (c) that relates only to the prisoner, and that prisoner has a representative the Secretary of State must, subject to paragraphs (7) and (8), serve the material as soon as practicable (unless the member directs otherwise) on the prisoner's representative, if the representative is—

- (a) a barrister or solicitor;
- (b) a registered medical practitioner;
- (c) a person whom the member appointed under paragraph (3) directs is suitable by virtue of their experience or professional qualification, or
- (d) a special advocate who has been appointed by the Attorney General to represent the prisoner's interests.

(7) The material must not be disclosed to the prisoner's representative under paragraph (6) unless they first give an undertaking to the Board that they will not, without the consent of the member appointed under paragraph (3), disclose it to the prisoner or to any other person.

(8) Within 7 days of notification by the Secretary of State in accordance with paragraph (5), either party may appeal against that direction to the Board chair, who must notify the other party of the appeal; and if the Secretary of State appeals against the direction, the Secretary of State need not serve the material under paragraph (4) or (6) until the appeal is determined.

(9) Within 7 days of being notified that a party has appealed under paragraph (8), the other party may make representations on the appeal to the Board chair.

(10) If—

- (a) the member appointed under paragraph (3) to determine an application under paragraph (1), or
- (b) the Board chair determining an appeal under paragraph (8),

decides that any material which is subject to the application by the Secretary of State under paragraph (1) should be disclosed to the prisoner (in full or in the form of a summary or redacted version), the Secretary of State may withdraw the material within 7 days of that decision.

(11) If the Secretary of State withdraws any material in accordance with paragraph (10), no one who has seen that material may sit on a panel which determines the case.

Representations by and evidence of the parties

9.—(1) A party who wishes to make representations to the Board must serve them on the Board and the other party within 12 weeks of the case being referred to the Board.

(2) Any documentary evidence that a party wishes to present at their hearing must be served on the Board and the other party at least 14 days before the date of the hearing.

(3) Any party that wishes to present at their hearing documentary evidence which has not been served at least 14 days before the date of the hearing, must serve the material together with an application to the panel chair or duty member (as applicable) for permission to do so and must, as part of that application, give reasons for late service.

Directions

10.—(1) Directions may be given, varied or revoked at any time by the member of the Board appointed for this purpose, being either the panel chair, single member or duty member.

(2) Such directions may in particular relate to—

- (a) the timetable for the proceedings;
- (b) the service of information or a report;
- (c) the submission of evidence;
- (d) the attendance of a witness or observer.

(3) A direction given under this rule may not relate to withholding information or reports; such directions are governed by rule 8.

(4) A party may apply in writing for a direction to be given, varied or revoked.

(5) An application under paragraph (4) must—

- (a) specify any direction or variation sought, and
- (b) be served on the other party.

(6) Where a party has applied for a direction to be given, varied or revoked, either party may—

- (a) make written representations about the application;
- (b) where the application is being determined by panel chair or single member and that person thinks it necessary, make oral submissions at a directions hearing.

(7) The power to give directions may be exercised in the absence of the parties.

(8) The Board must serve notice on the parties of any directions given, varied or revoked as soon as practicable.

Directions hearing

11.—(1) A panel chair or a single member may hold a directions hearing.

(2) A panel chair or a single member must notify the parties at least 14 days before the day of the directions hearing of the date, time and place fixed for the hearing.

(3) A directions hearing must be held in private.

(4) At a directions hearing, unless the panel chair or single member directs otherwise, the panel chair or single member must sit alone.

(5) A directions hearing may proceed in the absence of a prisoner who is represented.

Adjournment and deferral

12.—(1) Any member of the Board who is conducting proceedings under these Rules may adjourn or defer the proceedings to obtain further information or for such other purpose as they consider appropriate.

(2) Where a member of the Board who is conducting an oral hearing adjourns or defers a hearing without a further hearing date being fixed, they must give the parties at least 3 weeks' notice of the date, time and place of the resumed hearing (unless the parties agree to shorter notice).

(3) Any decision to adjourn or defer an oral hearing must be recorded in writing with reasons, and that record must be provided to the parties not more than 14 days after the date of the decision.

Time

13.—(1) Where the time prescribed by or under these Rules for doing any act expires on a Saturday, Sunday or public holiday, the act is deemed to be in time if it is done on the next working day.

(2) The panel chair, single member or duty member may change any time periods where that member considers that it is appropriate to do so.