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STATUTORY INSTRUMENTS

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**2016 No. 1041**

**The Parole Board Rules 2016**

**PART 4**

Proceedings before an oral panel

**Consideration by an oral panel**

**16.** Where a single member has directed a case to an oral panel or where a decision that the case should be determined by an oral panel has been taken in response to an application under rule 15(1), the case must be considered by an oral panel within 26 weeks of the Secretary of State referring the case to the Board.

**Oral panel decisions**

**17.—(1)** Where an oral panel has been appointed under rule 5(2), a decision of the majority of the members of the oral panel is the decision of the oral panel.

(2) An oral panel that is unable to reach a decision in accordance with paragraph (1) must be dissolved by the Board chair, who must then appoint a new oral panel.

**Notice of hearing**

**18.—(1)** Before fixing the date of the hearing the Board must consult the parties.

(2) Within 5 working days of a case being listed, the Board must notify the parties of the date of the hearing.

(3) The oral panel must give the parties notice of the date, time and place of the hearing at least 3 weeks before the day on which the hearing is due to be heard, unless both parties agree to a shorter period.

(4) If applicable, the oral panel must give the parties notice that the hearing will be held via video link, telephone conference or other electronic means.

**Notification by prisoner**

**19.—(1)** A prisoner must notify the Board and the Secretary of State if—

- (a) the prisoner does not want an oral panel to consider the case, or
- (b) the prisoner does not want to attend a hearing which has been listed.

(2) A hearing may take place in the absence of a prisoner where a prisoner has notified the Board in accordance with paragraph (1).

(3) A hearing may take place where a prisoner has not notified the Board in accordance with paragraph (1), but neither the prisoner nor the prisoner's representative are present at the hearing.

## **Witness**

**20.**—(1) A party who wishes to call a witness at a hearing must make a written application to the Board, a copy of which must be served on the other party, within 20 weeks of the case being referred to the Board.

(2) A written application to call a witness must—

- (a) include the witness's name, address and occupation, and
- (b) explain why the party wishes to call the witness.

(3) The member appointed by the Board chair for this purpose, being a panel chair, or duty member may determine an application to call a witness and must communicate this decision to the parties.

(4) The member appointed under paragraph (3) must give reasons in writing for any refusal to call a witness.

(5) Where—

- (a) a member of the oral panel intends to call a witness, or
- (b) the single member appointed under rule 5(1) has made directions to call a witness under rule 14(5), the member appointed by the Board for this purpose must notify the parties in writing within 21 weeks of the case being referred to the Board.

(6) Written notification from the member that it intends to call a witness must—

- (a) include the witness's name, address and occupation, and
- (b) explain why the witness is being called.

(7) Where a witness is called under these Rules, it is the duty of —

- (a) the party calling the witness in respect of a witness called by virtue of an application under paragraph (1), and
- (b) the member of the Board appointed for this purpose in respect of a witness called under paragraph (5),

to notify the witness at least 2 weeks before the hearing of the date, time and place of the hearing and the need to attend.

## **Observer**

**21.**—(1) A party who wishes to be accompanied by an observer must within 20 weeks of the case being referred to the Board—

- (a) make a written application to the Board, and
- (b) serve a copy of that application on the other party.

(2) The member appointed by the Board chair for this purpose, being a panel chair or duty member, may determine an application for a party to be accompanied by an observer and must communicate this decision to the parties.

(3) Before granting an application under paragraph (2), the member appointed under paragraph (2) must obtain the agreement of—

- (a) where the hearing is being held in a prison, the prison governor or prison director, or
- (b) in any other case, the person who appears to the panel chair or duty member to have the authority to agree to the admittance of the proposed observer to the premises.

### **Location and privacy of proceedings**

**22.**—(1) A hearing must be held via video link, telephone conference or other electronic means if—

- (a) the member appointed by the Board for this purpose (being either a panel chair or duty member) so directs, or
- (b) the single member appointed under rule 5(1) so directs under rule 14(5).

(2) In any other case, the hearing must be held at such place as the member appointed by the Board for this purpose, or the single member appointed under rule 5(1), with the agreement of the Secretary of State, direct.

(3) A hearing must be held in private.

(4) In addition to any witness who has been called under these Rules, and any observer whose attendance has been approved under rule 21, the panel chair or duty member may—

- (a) admit any other person to the hearing, and
- (b) impose conditions on that person's admittance.

(5) At the hearing the parties may not challenge the attendance of any witness who has been called under these Rules, or observer whose attendance has been approved under rule 21.

### **Hearing procedure**

**23.**—(1) At the beginning of the hearing the panel chair must—

- (a) explain the order of proceeding which the oral panel plans to adopt, and
- (b) invite each party present to state their view as to the suitability of the prisoner for release or for transfer to open conditions, as applicable.

(2) The oral panel—

- (a) must avoid formality during the hearing;
- (b) may ask any question to satisfy itself of the level of risk of the prisoner, and
- (c) must conduct the hearing in a manner it considers most suitable to the clarification of the issues before it and to the just handling of the proceedings.

(3) The parties are entitled to—

- (a) take such part in the proceedings as the oral panel thinks fit;
- (b) hear each other's witnesses and representations;
- (c) put questions to each other;
- (d) call a witness who has been called in accordance with rule 20, and
- (e) question any witness appearing before the oral panel.

(4) If, in the opinion of the panel chair, any person at the hearing is behaving in a disruptive manner, the panel chair may require that person to leave.

(5) The panel chair may permit a person who was required to leave under paragraph (4) to return on such conditions as the panel chair may specify.

(6) An oral panel may produce or receive in evidence any document or information whether or not it would be admissible in a court of law.

(7) No person is compelled to give any evidence or produce any document which they could not be compelled to give or produce on the trial of an action.

(8) The panel chair may require any person present to leave the hearing where evidence which has been directed to be withheld from the prisoner or their representative is to be considered.

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(9) After all the evidence has been given, if the prisoner is present at the hearing, the prisoner must be given an opportunity to address the oral panel.

**The decision**

**24.**—(1) The decision of the oral panel must be recorded in writing with reasons, and that record must be provided to the parties not more than 14 days after the end of the hearing.

(2) The recorded decision must refer only to the matter which the Secretary of State referred to the Board.