
STATUTORY INSTRUMENTS

2019 No. 1038

The Parole Board Rules 2019

PART 2

General powers and provisions

Delegation and appointment of functions

4.—(1) The Board chair may delegate any of the Board chair's functions as set out in these Rules to any other member of the Board.

(2) The Board chair may appoint a member of the Board to carry out any function as required by the Rules.

(3) The Board chair may delegate the following functions to the Board's members of staff—

- (a) the appointment of panels under rule 5;
- (b) only where it is necessary to allow for a third party to comply with a deadline, and not where it would result in the adjournment or deferral of a listed hearing, the variation of—
 - (i) the timetable for proceedings under rule 6(3)(a), including deadlines set in directions;
 - (ii) the deadline for representatives to submit written representations and evidence as set in rule 18(1).

Appointment of panels

5.—(1) For all cases which have been referred to the Board, the Board chair must appoint one or more members of the Board to constitute a panel to consider, in accordance with rule 19, the release of a prisoner on the papers, or to advise the Secretary of State.

(2) If, following consideration on the papers under rule 19, a case is directed to be considered at an oral hearing, the Board chair must appoint one or more members of the Board to constitute a panel to hear that case in accordance with rules 22 to 26.

(3) If following consideration of whether a case should be decided on the papers following receipt of further evidence, in accordance with rule 21, a direction is made for the case to be decided by a panel on the papers, the Board chair must appoint one or more members of the Board to constitute a panel to make a decision on the release of the prisoner on the papers.

(4) For any application made for reconsideration of a provisional decision under rule 28, the Board chair must appoint one or more members of the Board to constitute an assessment panel to consider the application.

(5) For any application made for the Board to consider the termination of an offender's licence under rule 31, the Board chair must appoint one or more members of the Board to constitute a panel to consider the application.

(6) Any panel or assessment panel appointed under paragraphs (1) to (5) is to be chaired—

- (a) where a panel or assessment panel is constituted of more than one member, by the member of the panel appointed by the Board chair for this purpose;

(b) where a panel or assessment panel is constituted of only one member, by that member.

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

(8) A person appointed under paragraphs (1) to (3) to consider a case on the papers or at an oral hearing must not subsequently be appointed to an assessment panel for reconsideration of that case under paragraph (4).

Case management and directions

6.—(1) A panel chair or duty member may be appointed in accordance with rule 4 to carry out case management functions and may at any time make, vary or revoke a direction.

(2) The panel chair or duty member appointed under paragraph (1) may make any direction necessary in the interests of justice, to effectively manage the case or for such other purpose as the panel chair or duty member considers appropriate.

(3) 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.

(4) A direction given under this rule may not relate to withholding information or reports; such directions are governed by rule 17.

(5) A party or third party who is subject to a direction may apply in writing for a direction to be given, varied or revoked.

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

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

(7) Where a third party makes an application under paragraph (5), the Board must serve the application on the parties under paragraph (6)(b).

(8) Where a party, or third party, has applied for a direction to be given, varied or revoked under paragraph (5), either party or the third party (if applicable) may—

- (a) make written representations about the application;
- (b) where the panel chair or duty member thinks it necessary, make oral submissions at a directions hearing held under rule 7.

(9) The power to give, vary or revoke directions may be exercised in the absence of the parties.

(10) The Board must serve on the parties, and third party (if applicable), any directions given, varied or revoked as soon as practicable.

(11) The panel chair or duty member may adjourn or defer the proceedings to obtain further information or for such other purpose as they consider appropriate.

(12) Where the panel chair who is conducting an oral hearing adjourns or defers proceedings under paragraph (11) 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).

(13) 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 that decision.

(14) Where a prisoner's case has previously been referred to the Board, in making any decision under this rule to adjourn or defer proceedings, the panel chair or duty member must take into account the date of the decision of that prisoner's previous review.

Directions hearings

7.—(1) A panel chair or duty member may hold a directions hearing.

(2) A panel chair or duty member may direct that a third party attends a directions hearing for any purpose as the panel chair or duty member considers appropriate.

(3) The panel chair or duty member must notify the parties at least 14 days before the day of the directions hearing of the date, time, place and method fixed for the directions hearing.

(4) In specifying the method fixed for the directions hearing, the panel chair or duty member may direct that the directions hearing is to take place at a specified location or via video link, telephone conference or other electronic means.

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

(6) A directions hearing may proceed in the absence of a prisoner who is represented at the hearing, or an unrepresented prisoner who chooses not to attend.

Time

8. 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.

Time limits

9. A panel chair or duty member may alter any of the time limits prescribed by or under these Rules where it is necessary to do so for the effective management of the case, in the interests of justice or for such other purpose as the panel chair or duty member considers appropriate.

Representatives

10.—(1) Subject to paragraph (2), a party may appoint a representative (whether a solicitor or barrister or other representative) to represent that party in the proceedings.

(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 or a sentence of a detention;
- (c) any person who is on licence having been released from a sentence of imprisonment or a sentence of detention, or
- (d) any person with a conviction for an offence which remains unspent under the Rehabilitation of Offenders Act 1974(2).

(3) If a party appoints a representative, that party or the representative must notify the Board and the other party of the name, address and occupation of the representative at the same time as the case is referred to the Board, or as soon as reasonably practicable.

(4) Where the Secretary of State receives due notification of the appointment of a representative under paragraph (3), the Secretary of State—

(1) 1983 c. 20.

(2) 1974 c. 53.

- (a) must provide both the prisoner and the representative with any document which is required to be provided, and
 - (b) may assume that the representative is and remains authorised as such until they receive written notification that this is not so from the representative or prisoner.
- (5) Subject to paragraph (2), a person whose name, address and occupation has not been notified under paragraph (3) may act as a representative if authorised by the panel chair.
- (6) If the prisoner has not appointed a representative, the panel chair or duty member may appoint a representative (solicitor or barrister or other representative) for the prisoner—
- (a) with the prisoner’s agreement, or
 - (b) where the prisoner lacks the capacity to appoint a representative and the panel chair or duty member believes that it is in the prisoner’s best interests for the prisoner to be represented.

Method of service

11.—(1) Where a party or other person is required to serve documents on the Board or parties under these Rules, the documents must be served by being—

- (a) sent to a secure electronic address where one has been provided by the Board and/or a party;
- (b) deposited to a digital repository specified by the Board, or
- (c) sent to the office of the Board and/or the party’s last known address by secure post or courier.

(2) Where the Secretary of State is required to serve documents on a prisoner who is not represented, the documents must be served by handing them to the prisoner in person.

(3) The custodian who serves documents under paragraph (2) on a prisoner who is not represented must—

- (a) endorse the documents with the time and date of service on the prisoner, and
- (b) record that the prisoner has been served with the documents.

(4) Where a prisoner who is not represented refuses to receive documents under paragraph (3), the custodian must record the time and date that service was attempted.

(5) Any documents required to be provided to the Board and served on the Secretary of State by a prisoner who is not represented may also be served by handing the documents to a custodian addressed to the person to be served.

(6) Where a prisoner serves any documents under paragraph (5), the custodian must—

- (a) endorse the documents with the time and date of receipt;
- (b) record the receipt of the documents, and
- (c) forward them promptly to the addressee.

Date of service

12.—(1) Unless the panel chair or duty member direct otherwise, any documents served under rule 11(1)(a) or (b) are deemed served on the next working day after the documents were transmitted.

(2) Any documents served under rule 11(1)(c) are deemed served on the second working day after the day on which the documents were posted or despatched.

(3) Any documents served under rule 11(2) or (5) are deemed served on the day the documents were handed over.

(4) Where a prisoner who is not represented refuses to receive documents under rule 11(3), the documents will be deemed as served on the day service was attempted.

Witnesses

13.—(1) A party who wishes to call a witness at an oral hearing must make a written application to the Board but such an application may not be made later than 12 weeks before the date for the oral hearing notified to the parties under rule 22.

(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) A party who makes an application to call a witness under paragraph (1) must, at the same time, also serve a copy of the application on the other party.

(4) A panel chair or duty member must determine an application to call a witness and must communicate this decision to the parties.

(5) The panel chair or duty member who determines the application under paragraph (4) must give reasons in writing for any refusal to call a witness.

(6) Where a panel chair or duty member makes a direction for a witness to be called, the Board must notify the parties in writing within 14 days.

(7) Written notification from the Board 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.

(8) 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 Board, in respect of a witness called under paragraph (6),

to notify the witness no later than 2 weeks before the date of the allocated oral hearing of the date, time, place of the hearing and the need to attend.

(9) Where a panel chair or duty member has directed that a witness is to be called, the panel chair or duty member may direct that it is suitable for a witness to attend via video link, telephone conference or other electronic means.

Observers

14.—(1) A party who wishes to be accompanied at an oral hearing by an observer must make a written application to the Board but such an application may not be made later than 12 weeks before the date allocated for the oral hearing under rule 22.

(2) A party who makes an application to be accompanied by an observer under paragraph (1) must, at the same time, also serve a copy of the application on the other party.

(3) Within 14 days of the receipt of the application under paragraph (2), the other party may make representations to the Board on the application.

(4) After the 14-day period for the other party to make representations under paragraph (3) has expired, the panel chair or duty member must determine the application for a party to be accompanied by an observer and communicate this decision to the parties.

(5) Before granting an application made under paragraph (1), the panel chair or duty member must obtain the agreement of—

- (a) the prison governor or prison director, where the hearing is being held in a prison, or
- (b) in any other circumstance, 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 oral hearings

15.—(1) An oral hearing must be held via video link, telephone conference or other electronic means if the duty member or panel chair so directs.

(2) In any other circumstance, the oral hearing must be held at such a place as the duty member or panel chair, with the agreement of the Secretary of State, directs.

(3) An oral hearing (including a directions 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 14, the panel chair or duty member may—

- (a) admit any other person to the oral hearing as an observer, and
- (b) impose conditions on that person’s admittance.

(5) At the oral 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 14 or under paragraph (4).