
STATUTORY INSTRUMENTS

2011 No. 2947

PRISONS, ENGLAND AND WALES

The Parole Board Rules 2011

Made - - - - *8th December 2011*
Laid before Parliament *12th December 2011*
Coming into force - - *3rd January 2012*

The Secretary of State, in exercise of the powers conferred by section 239(5) of the Criminal Justice Act 2003⁽¹⁾, makes the following Rules.

PART 1

Introduction

Title, commencement, revocation and transition

1.—(1) These Rules may be cited as the Parole Board Rules 2011 and shall come into force on 3rd January 2012.

(2) The Parole Board Rules 2004⁽²⁾ are revoked.

(3) The revocation of the Parole Board Rules 2004 does not affect anything done under those rules before 3rd January 2012.

Interpretation

2. In these Rules:

“Board” means the Parole Board, continued by section 239(1) of the Criminal Justice Act 2003;

“Chairman” means the chairman of the Board appointed under paragraph 2 of Schedule 19 to the Criminal Justice Act 2003;

“Chair” means a chairman of a panel appointed under rule 5(3);

(1) [2003 c.44](#).

(2) The Parole Board Rules 2004 were made under section 32(5) of the Criminal Justice Act 1991 ([c.53](#)) and were not made by statutory instrument. Section 32(5) of the Criminal Justice Act 1991 was repealed by sections 303(a) and 332 and Part 7 of Schedule 37 of the Criminal Justice Act 2003 and its provisions were re-enacted in section 239(5) of that Act. The Parole Board Rules 2004 were amended by the Parole Board (Amendment) Rules 2009 ([S.I. 2009/408](#)).

“Determinate sentence” means a sentence of imprisonment other than an indeterminate sentence;

“Indeterminate sentence” means a sentence of imprisonment listed under section 34(2) of the Crime (Sentences) Act 1997(3);

“Panel” means a panel appointed in accordance with rule 5(1) or (2);

“Oral panel” means a panel which determines a case or matter at a hearing;

“Party” means a prisoner or the Secretary of State;

“Prison” includes a young offender institution or any other institution where a prisoner is or has been detained; and

“Single member” means a member of the Board who has been appointed to constitute a panel in accordance with rule 5(1).

Application

3.—(1) These Rules apply where the Secretary of State refers a case to the Board relating to the release or recall of a prisoner.

(2) Rule 7(3) applies only where the Secretary of State refers a case to the Board relating to the initial release of a prisoner serving an indeterminate sentence.

(3) Part 3 of these Rules applies only where the Secretary of State refers a case to the Board relating to the release of a prisoner serving an indeterminate sentence.

(4) A reference to a period of time—

(a) in the case of the initial release of a prisoner serving an indeterminate sentence, applies as set out in the Rules; and

(b) in all other cases, applies as if it was a reference to such period of time as the chair shall in each case determine.

PART 2

General

Referral of cases

4. Where the Board is to consider the release of a prisoner serving a determinate sentence, the release following a recall of a prisoner serving an indeterminate sentence or is to advise the Secretary of State, the case is deemed to be referred to the Board on the date it receives the information and reports specified in rule 7.

Appointment of panels

5.—(1) The Chairman shall appoint a single member of the Board to constitute a panel to deal with a case where the Board is to consider the initial release of a prisoner serving an indeterminate sentence.

(2) The Chairman shall appoint one or more members of the Board to constitute a panel to deal with a case where—

(3) 1997 c. 43; section 34(2) was amended by section 165(1) and paragraph 183 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), section 230 and paragraph 3 of Schedule 18 to the Criminal Justice Act 2003 (c. 44) and by section 378 and Schedules 16 and 17 to the Armed Forces Act 2006 (c.52).

- (a) the case is to be heard in accordance with Part 4 of these Rules;
 - (b) the Board is to consider the release of a prisoner serving a determinate sentence; or
 - (c) the Board is under a duty to give advice to the Secretary of State.
- (3) The Chairman shall appoint one member of each panel to act as chair of that panel.
- (4) In respect of a hearing in the case of a prisoner serving a life sentence or a sentence during Her Majesty's pleasure—
- (a) an oral panel shall consist of or include a sitting or retired judge; and
 - (b) the sitting or retired judge shall act as chair of the oral panel.
- (5) A person appointed under paragraph (1) may not in the same case sit on a panel appointed under paragraph (2)(a).

Representation

- 6.—(1) Subject to paragraph (2), a party may be represented by any person appointed by 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(4);
 - (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(5).
- (3) Within 5 weeks of a case being referred to the Board, a party shall notify the Board and the other party of the name, address and occupation of any person appointed to act as their representative.
- (4) Where a prisoner does not appoint a person to act as their representative, the Board may, with the prisoner's agreement, appoint a person to do so.

Service of information and reports

- 7.—(1) The Secretary of State shall serve on the Board and, subject to rule 8, the prisoner or their 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; and
 - (c) in either case, any other information which the Secretary of State considers relevant to the case.
- (2) Where the Board has a duty to advise the Secretary of State, the Secretary of State shall serve on the Board and, subject to rule 8, the prisoner or their representative, any information or reports which the Secretary of State considers relevant to the case.
- (3) The Secretary of State shall serve the information and reports mentioned in paragraph (1) within 8 weeks of the case being referred to the Board.

(4) 1983 c.20.
(5) 1974 c.53.

Withholding information or reports

8.—(1) The Secretary of State may withhold any information or report from 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 any information or report is withheld, the Secretary of State shall—

- (a) record it in a separate document;
- (b) serve it only on the Board; and
- (c) explain to the Board in writing why it has been withheld.

(3) Where any information or report is withheld from the prisoner, the Secretary of State shall, unless the chair directs otherwise, serve it as soon as practicable on—

- (a) the prisoner's representative if the representative is—
 - (i) a barrister or solicitor;
 - (ii) a registered medical practitioner; or
 - (iii) a person whom the chair directs is suitable by virtue of their experience or professional qualification; or
- (b) a special advocate who has been appointed by the Attorney General to represent the prisoner's interests.

(4) A prisoner's representative or a special advocate may not disclose any information or report disclosed in accordance with paragraph (3) without the consent of the chair.

(5) Where the chair decides that any information or report withheld by the Secretary of State under paragraph (1) should be disclosed to the prisoner or their representative, the Secretary of State may withdraw the information or report.

(6) If the Secretary of State withdraws any information or report in accordance with paragraph (5), nobody who has seen that information or report shall sit on a panel which determines the case.

Representations by and evidence of the prisoner

9.—(1) A prisoner who wishes to make representations to the Board shall serve them on the Board and the Secretary of State within 12 weeks of the case being referred to the Board.

(2) Any documentary evidence that a prisoner wishes to present at their hearing shall be served on the Board and the Secretary of State at least 14 days before the date of the hearing.

Directions

10.—(1) Directions may be given, varied or revoked—

- (a) before the appointment of a panel, by a member of the Board; or
- (b) after the appointment of a panel, by the chair.

(2) Such directions may relate to—

- (a) the timetable for the proceedings;
- (b) the service of information or a report;

- (c) whether any information or report should be withheld;
 - (d) the submission of evidence;
 - (e) the attendance of a witness or observer.
- (3) Within 7 days of being notified of a direction under paragraph (2)(c), either party may appeal against that direction to the Chairman, who shall notify the other party of the appeal.
- (4) Within 7 days of being notified that a party has appealed under paragraph (3), the other party may make representations on the appeal to the Chairman.
- (5) A party may apply in writing for a direction to be given, varied or revoked.
- (6) An application under paragraph (5) shall—
- (a) specify any direction sought; and
 - (b) be served on the other party.
- (7) Where a party has applied in writing for a direction to be given, varied or revoked, either party may—
- (a) make written representations about the application;
 - (b) where the chair thinks it necessary, and subject to rule 11(4)(b), make oral submissions at a directions hearing.
- (8) The power to give directions may be exercised in the absence of the parties.
- (9) The Board shall serve notice on the parties of any directions given, varied or revoked as soon as practicable.

Directions hearing

- 11.**—(1) A chair may hold a directions hearing.
- (2) A chair shall give the parties at least 14 days' notice of the date, time and place fixed for any directions hearing.
- (3) A directions hearing shall be held in private.
- (4) At a directions hearing, unless the chair directs otherwise—
- (a) the chair shall sit alone; and
 - (b) a prisoner who is represented may not attend.

Adjournment

- 12.**—(1) A chair may adjourn proceedings to obtain further information or for such other purpose as the chair considers appropriate.
- (2) Where the chair adjourns a hearing without a further hearing date being fixed, the chair shall give the parties—
- (a) at least 3 weeks' notice of the date, time and place of the resumed hearing; or
 - (b) such shorter notice period as the parties agree.

Panel decisions

- 13.**—(1) Where a panel has been appointed under rule 5(2), a decision of the majority of the members of the panel shall be the decision of the panel.
- (2) A panel that is unable to reach a decision in accordance with paragraph (1) shall be dissolved by the Chairman, who shall then appoint a new panel.

Disclosure of information

14. Information about the proceedings and the names of persons concerned in the proceedings shall not be made public.

Release without a hearing

15.—(1) Where the Secretary of State refers a case to the Board relating to a prisoner serving a determinate sentence, the Board may make a decision without a hearing.

(2) Where the Board has a duty to advise the Secretary of State with respect to any matter referred to it by the Secretary of State which is to do with the early release or recall of a prisoner, the Board may advise the Secretary of State without a hearing.

PART 3

Proceedings without a hearing relating to the initial release of a prisoner serving an indeterminate sentence

Consideration by single member

16.—(1) Within 14 weeks of a case being referred to the Board, a single member shall consider the case without a hearing.

(2) The single member shall either—

- (a) decide that the case should be referred to an oral panel; or
- (b) make a provisional decision that the prisoner is unsuitable for release.

(3) The decision of the single member shall be—

- (a) recorded in writing with reasons for the decision; and
- (b) provided to the parties within a week of the date of the decision.

Provisional decision against release

17.—(1) Where a single member has made a provisional decision under rule 16(2)(b) that a prisoner is unsuitable for release, the prisoner may request that an oral panel hear the case.

(2) A prisoner who requests a hearing shall, within 19 weeks of the case being referred to the Board, serve notice giving full reasons for their request on the Board and the Secretary of State.

(3) If no notice has been served in accordance with paragraph (2) after the expiry of the period permitted by that paragraph, the provisional decision shall—

- (a) become final; and
- (b) be provided to the parties within 20 weeks of the case being referred to the Board.

(4) If notice is served in accordance with paragraph (2), a single member shall decide whether or not to hold a hearing.

(5) The single member who made the provisional decision under rule 16(2)(b) that a prisoner is unsuitable for release may not in the same case decide whether to grant a hearing requested by the prisoner under paragraph (1).

Consideration by an oral panel

18. Where a single member has referred a case to an oral panel for consideration under rule 16(2) (a) or where a hearing has been ordered pursuant to a request under rule 17(1), the case shall be considered by an oral panel within 26 weeks of the case being referred to the Board.

PART 4

Proceedings with a hearing

General provision

- 19.—(1) This Part of the Rules applies to hearings.
(2) Any reference in this Part of the Rules to a ‘panel’ is to an oral panel.

Notice of hearing

- 20.—(1) The hearing shall be held within 26 weeks of a case being referred to the Board.
(2) When fixing the date of the hearing the panel shall consult the parties.
(3) Within 5 working days of a case being listed, the Board shall notify the parties of the date on which the case is due to be heard.
(4) The panel shall give the parties—
(a) at least 3 weeks’ notice of the date, time and place scheduled for the hearing; or
(b) such shorter notice as the parties agree.
(5) If applicable, the panel shall also give the parties notice that the hearing will be held via video link, telephone conference or other electronic means.

Notification of attendance by prisoner

21. A prisoner who wishes to attend their hearing shall notify the Board and the Secretary of State within 23 weeks of the case being referred to the Board.

Witness

- 22.—(1) A party who wishes to call a witness at a hearing shall make a written application to the Board, a copy of which shall 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 shall—
(a) include the witness’s name, address and occupation; and
(b) explain why the witness is being called.
(3) A chair may grant or refuse an application to call a witness and shall communicate this decision to the parties.
(4) The chair shall give reasons in writing for any refusal to call a witness.
(5) Where the panel intends to call a witness, the chair shall notify the parties in writing within 21 weeks of the case being referred to the Board.
(6) Written notification from the panel that it intends to call a witness shall—
(a) include the witnesses’s name, address and occupation; and
(b) explain why the witness is being called.

(7) Where a witness is called under paragraph (1) or (5), it shall be the duty of the person calling the witness to notify the witness at least 2 weeks before the hearing of the date of the hearing and the need to attend.

Observer

23.—(1) A party who wishes to be accompanied by an observer shall make a written application to the panel, a copy of which shall be served on the other party, within 20 weeks of the case being referred to the Board.

(2) A chair may grant or refuse an application for a party to be accompanied by an observer and shall communicate this decision to the parties.

(3) Before granting an application under paragraph (2), the Board shall obtain the agreement—

- (a) where the hearing is being held in a prison, of the prison governor or prison director; or
- (b) in any other case, of the person who has the authority to agree.

Location and privacy of proceedings

24.—(1) Subject to paragraph (2), a hearing shall be held at the prison where the prisoner is detained or at such other place as the chair, with the agreement of the Secretary of State, directs.

(2) Where a hearing is held in accordance with paragraph (3), paragraph (1) shall not apply.

(3) A chair may direct that a hearing is to be held via video link, telephone conference or other electronic means.

(4) A hearing shall be held in private.

(5) In addition to any witness and observer whose attendance has been approved in accordance with rule 22 or 23, the chair may—

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

(6) At the hearing the parties may not challenge the attendance of any witness or observer whose attendance has been approved pursuant to rule 22 or 23.

Hearing procedure

25.—(1) At the beginning of the hearing the chair shall—

- (a) explain the order of proceeding which the panel proposes to adopt; and
- (b) invite each party present to state their view as to the suitability of the prisoner for release.

(2) The panel—

- (a) shall avoid formality in the proceedings;
- (b) may ask any question to satisfy itself of the level of risk of the prisoner; and
- (c) shall 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 shall be entitled to—

- (a) take such part in the proceedings as the panel thinks fit;
- (b) hear each other's evidence;
- (c) put questions to each other;
- (d) call a witness who has been granted permission to give evidence; and
- (e) question any witness or other person appearing before the panel.

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

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

(6) A 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 shall be 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 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.

(9) After all the evidence has been given, the prisoner shall be given an opportunity to address the panel.

The decision

26.—(1) The panel’s decision determining a case shall be—

- (a) recorded in writing with reasons;
- (b) signed by the chair; and
- (c) provided to the parties not more than 14 days after the end of the hearing.

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

PART 5

Miscellaneous

Time

27. Where the time prescribed by or under these Rules for doing any act expires on a Saturday, Sunday or public holiday, the act shall be in time if it is done on the next working day.

Transmission of documents etc.

28. Any document required or authorised by these Rules to be served or otherwise transmitted to any person may be transmitted by electronic means, sent by pre-paid post or delivered—

- (a) in the case of a document directed to the Board or the chair, to the office of the Board; or
- (b) in any other case, to the last known address of the person to whom the document is directed.

Error

29. Where there has been an error of procedure such as a failure to comply with a rule—

- (a) the error does not invalidate any steps taken in the proceedings unless the panel so directs; and
- (b) the panel may remedy the error.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by the authority of the Secretary of State

8th December 2011

J Djanogly
Parliamentary Under Secretary of State
Ministry of Justice

SCHEDULE 1

Rule 7

Information and reports for submission to the Board by the Secretary of State on a reference to the Board to determine the initial release of a prisoner

PART A

Information relating to the prisoner

1. The full name of the prisoner.
2. The date of birth of the prisoner.
3. The prison in which the prisoner is detained, details of any other prisons in which the prisoner has been detained and the date and the reason for any transfer.
4. The date on which the prisoner was given the current sentence, details of the offence and any previous convictions.
5. The comments, if available, of the trial judge when passing sentence.
6. If available, the conclusions of the Court of Appeal in respect of any appeal by the prisoner against conviction or sentence.
7. The parole history, if any, of the prisoner, including details of any periods spent on licence during the current sentence.

PART B

Reports relating to the prisoner

1. If available, the pre-trial and pre-sentence reports examined by the sentencing court on the circumstances of the offence.
2. Reports on a prisoner who was subject to a transfer direction under section 47 of the Mental Health Act 1983⁽⁶⁾.
3. Current reports on the prisoner's risk factors, reduction in risk and performance and behaviour in prison, including views on suitability for release on licence as well as compliance with any sentence plan.
4. An up-to-date risk management report prepared for the Board by an officer of the supervising local probation trust, including information on the following where relevant:
 - (a) details of the home address, family circumstances and family attitudes towards the prisoner;
 - (b) alternative options if the offender cannot return home;
 - (c) the opportunity for employment on release;
 - (d) the local community's attitude towards the prisoner (if known);
 - (e) the prisoner's attitude to the index offence;
 - (f) the prisoner's response to previous periods of supervision;
 - (g) the prisoner's behaviour during any temporary leave during the current sentence;

⁽⁶⁾ 1983 c.20; section 47 was amended by sections 1 and 4 of the Mental Health Act 2007 (c. 12) and by sections 49(3) and 56(2) and Schedule 6 of the Crime (Sentences) Act 1997 (c.37).

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- (h) the prisoner's attitude to the prospect of release and the requirements and objectives of supervision;
- (i) an assessment of the risk of reoffending;
- (j) a programme of supervision;
- (k) if available, an up-to-date victim personal statement setting out the impact the index offence has had on the victim and the victim's immediate family;
- (l) a view on suitability for release; and
- (m) recommendations regarding any non-standard licence conditions.

SCHEDULE 2

Rule 7

Information and reports for submission to the Board by the Secretary of State on a reference to the Board to determine the release of a recalled prisoner

PART A

Information relating to the prisoner

1. The full name of the prisoner.
2. The date of birth of the prisoner.
3. The prison in which the prisoner is detained, details of other prisons in which the prisoner has been detained and the date and reason for any transfer.
4. The date on which the prisoner was given the current sentence, details of the offence and any previous convictions.
5. The parole history, if any, of the prisoner, including details of any periods spent on licence during the current sentence.
6. If available, the details of any sentence plan prepared for the prisoner which has previously been disclosed to the prisoner.
7. The details of any previous recalls of the prisoner including the reasons for such recalls and subsequent re-release on licence.
8. The statement of reasons for the most recent recall which was given to the prisoner, including the outcome of any criminal charges laid against the prisoner prior to or subsequent to the point at which they were recalled.

PART B

Reports relating to the prisoner

1. Any reports considered by the Secretary of State in deciding to recall the prisoner.
2. If available, any pre-sentence report examined by the sentencing court on the circumstances of the offence.
3. Any details of convictions prior to the index offence.

4. A copy of the prisoner's licence at the point at which the Secretary of State decided to recall the prisoner.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules set out the procedure to be adopted by the Parole Board when dealing with cases referred to it by the Secretary of State.

Part 1 revokes the Parole Board Rules 2004 and contains provisions for the application and interpretation of the Rules.

Part 2 covers procedures which are required in Parole Board proceedings, including the appointment of panels, information and reports to be prepared by the Secretary of State and the giving of directions.

Part 3 sets out the timetable and rules for proceedings without a hearing where the Parole Board determines the initial release of a prisoner serving an indeterminate sentence.

Part 4 sets out the timetable and rules for proceedings with a hearing.

Part 5 contains miscellaneous provisions about time limits, the transmission of documents and procedural errors.

Schedules 1 and 2 set out the information and reports to be sent to the Parole Board by the Secretary of State.