

6 July 2018

Rt Hon David Gauke MP
Lord Chancellor and Secretary of State for Justice
Ministry of Justice
102 Petty France
London
SW1H 9AJ

Reconsideration of Parole Board decisions: creating a new and open system

The Parole Board welcomes the current consultation and the proposal for a wider review of the rules. Public trust and confidence in the work we do on behalf of the public is fundamental to how we operate. The welcome rule change in May 2018, permitting us to disclose decision summaries, is seen by us as the start of greater transparency in how we undertake our responsibilities when determining parole requests.

In order to come to decisions on release, our trained members need to balance carefully the potential risk that release would pose to the public with the need to support offenders on their path to rehabilitation and leading productive lives. The ability to do this relies heavily on other parts of the system, as without their input our members will not be given the complete picture from which to make a judgement on risk.

The Parole Board accepts that there is a case for the introduction of a new power to reconsider a case. We would see it as better described as an internal appeals mechanism. However, we are concerned that a single problematic and complex case has precipitated a radical reform which has the potential to cause considerable uncertainty, delay and cost to the public purse. There is also the risk of unfairness and unnecessary prolonged incarceration of prisoners who have been assessed as not putting the public at risk of serious harm.

While we support the consultation's proposal for the establishment of this internal appeals mechanism, this is just one aspect of change we would seek to see. It was clear from the John Worboys case that victim engagement from the point of sentence and throughout the sentence needs to improve. Similarly, the engagement and dialogue with the victim through the parole decision process and the design of licence conditions also needs to improve.

The Board has set out its detailed responses to the questions raised by the consultation in the following pages. We believe that there are some overarching principles that need to play into how the process should operate:

- It needs to be timely and straight forward. We cannot risk creating a new process which creates delay and uncertainty for victims, prisoners and the public. Over the past two-years we have worked with the Department to remove the backlog of cases waiting for a parole hearing. The benefits of this are felt by all of those involved in a parole process. Benefits go wider, supporting our partners across the criminal justice system. We would not want the new process to put this at risk.
- Any new mechanism needs to be transparent. Public confidence and trust is paramount for the Board and so we would expect any new process to allow for the sharing of decisions at each stage of the process.
- It needs to offer certainty and control for those engaging in the parole process. Clarity around the test to be applied for an application for an internal appeal should be based on a limited set of grounds, broadly in line with judicial review. This enables the applicant to work from a set of well-established principles and allows scrutiny of decisions again based on these principles.
- It needs to maintain the independence of the Board. In order for us to undertake our statutory duties and operate as a quasi-court we need to remain free from influence as to how any new mechanism operates and how any internal appeals hearing are undertaken.

These four principles underpin the design of the reconsideration process, as attached.

In collaboration with our partners we have made good progress in improving the timeliness for parole hearings, benefiting all those involved. Our ambition is to build on this and through the forthcoming rule change enable the Board to be more transparent, engaging and responsive to the needs of those that come before our panels.

The landscape in which we work is constantly changing and a new internal appeal mechanism will form another part of our evolution. I want the Board to be the best it can be, ensuring our decisions are fair and robust. We are committed to listening to victims and protecting the public by risk assessing prisoners and, when right to do so, releasing prisoners into the community. I very much welcome this consultation and look forward to working with partners and the Department in implementing any future changes.

Caroline Corby
Interim Chair
The Parole Board for England and Wales

Annex A

A proposed mechanism could operate in the following way:

- A decision is made to agree or deny release.
- Parties are notified in writing of the decision. A summary is provided if requested within the same timescale.
- Parties then have a set number of days from the receipt of the decision/summary to submit a request for an internal appeal.
- The Secretary of State as a party to the proceedings will act as a conduit for any interested individual who wishes to appeal. The process can be triggered by anyone (victim, media outlet, member of the public), however, the Secretary of State, as one of the two parties, would need to decide whether to support the request.
- The prisoner as a party, will be able to make a request as of right.
- The Parole Board of its own motion could also request a review to amend an admin error or if new evidence became available.
- At the end of the designated period (running from the receipt of the decision) if a reconsideration application has not been received the only redress is to commence judicial review proceedings as an internal appeal will no longer be possible.
- **Process to be followed if an application is received in time by the Parole Board.**
- Application received.
- Within a set number of days Parole Board admin team request representations from the other party and from the original panel.
- The application plus representations are then considered (on the papers) by the Board. Decision to grant or refuse made, reasons provided to parties within a designated timescale.
- Application refused – no further action needed. Reasons provided.
- Application granted – member sets directions, agrees either for the case to be reconsidered by the original panel or for it to be reconsidered by a new panel.
- If the original panel is required to reconsider case, this should in the majority of cases be as a paper exercise. Only in exceptional circumstances should an oral hearing be required.
- If a new panel is required to reconsider the case it is likely that in the majority of cases this will be an oral hearing and by exception be a paper hearing.
- Decision letter provided.