



Ministry  
of Justice



HM Prison &  
Probation Service

**Her Majesty's Prison & Probation Service**

Public Protection Group

Level 14

Southern House

Wellesley Grove

Croydon

CR0 1XG

**DX Address:**

Her Majesty's Prison and Probation Service,  
DX 330701, Croydon 52

Telephone 07812760274 & 07812760582

Email: [MHCSMailbox@justice.gov.uk](mailto:MHCSMailbox@justice.gov.uk)

30 September 2019

Dear Colleague

**The Parole Board and Restricted Patients detained under ss47/49 MHA**

I am writing to inform you of recent changes to the Parole Board Rules that will have an effect on the small number of restricted patients who are subject to indeterminate sentences and certain determinate sentences where release from that sentence is at the discretion of the Parole Board.

In July 2019 the Parole Board, in conjunction with the Ministry of Justice, introduced the Reconsideration Mechanism. This new mechanism means that a decision by the Parole Board is provisional and can be reconsidered. Historically the decisions of the Parole Board were final and the only way to challenge those decisions would be to seek a judicial review of the decision in the High Court. This method of challenging a Parole Board decision is expensive and likely to be drawn out. The Reconsideration Mechanism facilitates a new administrative process for seeking a review of the Parole Board's decision in a more timely and effective way.

We have written directly to responsible clinicians in individual s47/49 or 45A cases that have been affected by this change since July and will continue to do so until at least the end of the year, so that we can be sure hospitals in the first few cases fully understand the change.

## The Reconsideration Mechanism Process

When the Parole Board issues a formal decision it will no longer be final, but will be provisional for 21 calendar days. As the Parole Board decision is provisional a restricted patient subject to a provisional release decision **must not be released and discharged from hospital until the 21 days have elapsed or the Parole Board has reconsidered its decision..**

You will wish to be aware of the following information about this new process:

- The Parole Board decisions issued after 22 July 2019 are now provisional for 21 calendar days and that a restricted patient must not be released during that period, or while an application for reconsideration of the decision is being considered.
- If the Parole Board has directed release and therefore discharge from hospital, then preparations for that should proceed as normal during the 21-day application window; the Ministry of Justice expects that reconsideration of a decision will be rare.
- If the decision by the Parole Board appears to be irrational or procedurally unfair then the patient or the Secretary of State may challenge the decision. An example of an irrational decision may be where the Parole Board directs the release of an offender who is still considered very dangerous by report writers, but the Board has not accounted for its differing opinion in the decision. Procedural unfairness can be in relation to important documents or reports not being available for the Parole Board to review. The reconsideration mechanism is not in place to challenge a decision someone does not agree with.
- Victims and other interested parties can apply to the Secretary of State to have a decision reconsidered. However, only where it is believed the criteria is met can the Ministry of Justice, on behalf of the Secretary of State, make an application to the Board. .
- If a reconsideration application is submitted then the decision remains provisional until the Parole Board have determined whether or not it needs to be reconsidered.
- A restricted patient and/or their legal representatives will be able to challenge a parole decision not to be released from their sentence. To do this they will need to apply directly to the Parole Board for reconsideration. The same criteria and threshold applies in those cases – the decision would have to be shown to be irrational or procedurally unfair. The Parole Board team can be contacted via: [reconsideration@paroleboard.gov.uk](mailto:reconsideration@paroleboard.gov.uk)

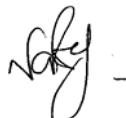
The process for reconsidering Parole Board decisions can be found at:

<https://www.gov.uk/guidance/apply-for-a-parole-decision-to-be-reconsidered#people-who-can-apply-for-reconsideration>

I understand that affected restricted patients may now have some concerns that they might not be released because of the introduction of the reconsideration mechanism. However, we are advised that the threshold for reconsideration will be necessarily high and it is expected that very few cases will result in an application to reconsider. Nevertheless, you will need to be aware that your patient cannot be discharged when the decision is initially made and that the patient may obviously be worried that they may not be released.

I have enclosed a leaflet that summarises this process for restricted patient and an article from Inside Times which sets out the reconsideration mechanism in more detail. If you or your patient have any further questions then please contact: [PPCSReconsiderationteam@justice.gov.uk](mailto:PPCSReconsiderationteam@justice.gov.uk). I have been advised that you can expect a response within 72 hours from this email address.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Natalya O'Prey', with a small horizontal line at the end.

Natalya O'Prey  
Head of the Mental Health Casework Section