

POLICY NOTE

THE PAROLE BOARD (SCOTLAND) AMENDMENT RULES 2021

SSI 2021/4

The above instrument was made in exercise of the powers conferred by section 20(4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993. The instrument is subject to negative procedure.

Summary Box

The SSI amends the Parole Board (Scotland) Rules 2001 to set out new procedures in relation to victims and the parole process. The amendments are being made to improve the victim's experience and to increase transparency and openness in parole procedures and decisions.

Policy Objectives

The provisions amend Rule 8 to make it clear that the Parole Board for Scotland (“the Parole Board”) may take into account the safety or security of a victim, or the family member of a victim, where a person is released on licence, remains on licence or is re-released on licence. Rule 8(e) is added to increase transparency as to how victims (and their families) may be considered when the Parole Board is making a decision.

New Rule 26A sets out an explicit procedure for a victim (or family member of a victim), who is registered with the Victim Notification Scheme (VNS) as established under the Criminal Justice (Scotland) Act 2003, to request to attend a parole hearing in a case considered under Part IV¹ of the Rules. It also sets out the manner by which attendance will be permitted or otherwise not permitted by the Parole Board. This rule stipulates that any request to attend must be made in writing within timescales set out by the Parole Board. The rule also stipulates that a registered victim cannot participate in the hearing and is there as an observer only. The effect of this is that the victim is not a party to the case. The intention of this is to avoid, potential re-traumatisation, for example if the victim were able to be cross examined as a party at the hearing. Further the new rule allows a supporter or supporters to accompany the registered victim with permission from the Parole Board. The rule also reserves the right for the Parole Board to exclude any victim, family member, or supporter from any part of the hearing if it is in the public interest or the interests of justice to do so. This is intended to balance the ability of victims to observe hearings, in the interests of transparency, against other important considerations such as the need for certain information to remain confidential.

New rule 28A provides that the Parole Board must, when it has decided to release a prisoner in a Part IV case, publish, by whatever means it thinks appropriate, an anonymised/redacted summary of the decision setting out the reasons the decision was made. The decision summary will also be shared with any victim registered with the VNS in relation to the case,

¹ Cases considered under Part IV include consideration of: recalled extended sentence prisoners (where the prisoner is serving their extension period); and life sentence and OLR prisoners (release and re-release on licence).

unless they have opted not to be sent such summaries. This new rule also allows for the publication of any other decision of the Parole Board should the Parole Board consider that it is of interest.

Consultation

A public consultation, *Transforming Parole in Scotland*², took place between December 2018 and March 2019. Ninety-two people/organisations responded to the consultation. These included: individuals (60); Local Government (11); Third Sector (6); and Others (15).

A majority of respondents thought that the victim's safety should be paramount in the Parole Board's considerations. It was felt that victim's safety planning should be a more specific consideration along with recognition by the prisoner of the impact the crime has had on the victim.

Most respondents thought that victims and/or their families should have a greater role in the parole process. The majority thought that victims should be allowed to participate in some way at a parole hearing. Some suggested that the decision on participation should be made on a case-by-case basis and that all parties should agree. It was also felt attendance should not be compulsory as it was not appropriate for everyone.

A few respondents also felt that the publication of decisions and reasons behind them would help with accountability.

The current amendments to the Parole Board (Scotland) Rules 2001 are being made as a result of the consultation.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website at:

<https://www.gov.scot/publications/transforming-parole-scotland-consultation-report/pages/1/>

Impact Assessments

A Data Protection Impact Assessment has been completed on the draft SSI and is attached.

Financial Effects

The Cabinet Secretary for Justice confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government, the third sector or on business.

Scottish Government
Justice Directorate

January 2021

² *Transforming Parole in Scotland*: Scottish Government 2018:
<https://consult.gov.scot/justice/transforming-parole-in-scotland/>