

# **Ministerial Guidelines to the Queensland Parole Board**

**(Section 227 of the *Corrective Services Act 2006*)**

## **PAROLE ORDERS**

**(Chapter 5 of the *Corrective Services Act 2006*)**

2015

## **SECTION 1 – GUIDING PRINCIPLES FOR THE QUEENSLAND PAROLE BOARD**

- 1.1 Section 227(1) of the *Corrective Services Act 2006* (the Act) allows the Minister to make guidelines regarding the policy to be followed by the Queensland board in performing its functions. In following these guidelines, care should be taken to ensure that decisions are made with regard to the merits of the particular prisoner's case.
- 1.2 When considering whether a prisoner should be granted a parole order, the highest priority for the Queensland Parole Board ('the Board') should always be the safety of the community.
- 1.3 The Board should consider whether there is an unacceptable risk to the community if the prisoner is released to parole; and whether the risk to the community would be greater if the prisoner does not spend a period of time on parole.

## **SECTION 2 - SUITABILITY**

- 2.1 When deciding the level of risk that a prisoner may pose to the community, the Board should have regard to all relevant factors, including but not limited to, the following—
  - a) the prisoner's prior criminal history and any patterns of offending;
  - b) the likelihood of the prisoner committing further offences;
  - c) whether there are any other circumstances that are likely to increase the risk the prisoner presents to the community;
  - d) whether the prisoner has been convicted of a sexual offence listed in Schedule 1 of the Act;
  - e) the recommendation for parole, parole eligibility date, or any recommendation or comments of the sentencing court;
  - f) the prisoner's cooperation with the authorities both in securing the conviction of others and preservation of good order within the corrections system;
  - g) any medical, psychological, behavioural or risk assessment report relating to the prisoner;
  - h) any submissions made to the Board by an eligible person registered on the victims register;

- i) the prisoner's compliance with any other previous grant of community based release, resettlement leave program, community service or work programs;
- j) whether the prisoner has access to supports or services that may reduce the risk the prisoner presents to the community; and
- k) recommended rehabilitation programs or interventions and the prisoner's progress in addressing the recommendations.

2.2 A prisoner is not eligible for parole if under section 8 (1) of the *Dangerous Prisoners (Sexual Offenders) Act 2003* [DPSOA], a court has set down a hearing of an application for a Division 3 Order in relation to the prisoner and the application has not been discontinued or finally decided.

2.3 For serious sexual offenders who are not subject to a DPSOA application at the time of applying for parole, the Board should consider the likelihood of an application being sought in the future, prior to making a decision to grant parole. It is recommended that the Board apply the same criteria used by the Attorney-General in these instances.

### **SECTION 3 – DISCLOSURE**

3.1 Parole Board decision making is open to review by the Supreme Court of Queensland under the provisions of the *Judicial Review Act 1991*. During the decision making process, when considering which documents should be disclosed to a prisoner, a primary consideration for the Board is ensuring that the prisoner is afforded procedural fairness taking into account the requirements of the *Judicial Review Act 1991*.

3.2 At a minimum, the principles of procedural fairness require that the substance of the material or main factors adverse to the prisoner be disclosed (including the proper disclosure of documents to the prisoner which may be relied upon in coming to a decision), and the prisoner be given an opportunity to comment before a decision is made.

3.3 In determining how procedural fairness will be achieved, the Board should, where possible, also take account of the following factors:

- (a) Sensitive third party information, including information received in confidence, must not be disclosed to a prisoner where it may place another party at risk, or in instances where the third party has provided a valid reason for requesting that it not be disclosed to the prisoner, unless the information can be disclosed in a non-identifying way;
- (b) Correspondence from eligible persons as defined by the Act, or victims, must not be released to a prisoner;
- (c) Raw psychological assessment data, treatment plans, program screening tools and program case notes should not be released in that format. A report interpreting the data is appropriate for release, if available. Some psychological or psychiatric reports may require controlled release, to allow the writer or another qualified person to explain the report findings to the subject of the report, and
- (d) Legally privileged documents must not be released to a prisoner unless approval has been provided by the writer of the documents for the release.

#### **SECTION 4 – APPEARANCE OF AGENTS BEFORE THE PAROLE BOARD**

- 4.1 The Board may grant leave to a prisoner to appear before the Board. Alternatively, the Board may grant leave to a prisoner's agent to appear before the Board, and to make representations in support of the prisoner's application for Parole.
- 4.2 If a prisoner has been granted leave to appear before the Board and is likely to experience communication or comprehension difficulties due to cultural differences, intellectual or cognitive impairment, or other disabilities, or requests that another person make representations in support of their application for parole, leave may be granted for an agent to appear with the prisoner.
- 4.3 When determining whether the agent nominated by the prisoner is an appropriate person to make representations in support of the prisoner's application, the Board should consider:
  - (a) the agent's relationship to the prisoner;
  - (b) the agent's level of education, professional qualifications and experience;

- (c) the agent's membership, if any, of professional bodies that require their members to comply with a code of conduct;
- (d) if the agent is a public servant, whether they are appearing in their capacity as a public servant or as an individual, and any conflict of interest this entails;
- (e) fees charged by the agent to assist with the prisoner's parole application and to appear on the prisoner's behalf;
- (f) whether the agent has any convictions for indictable offences or offences of dishonesty; and
- (g) whether the agent is currently the subject of disciplinary or criminal proceedings.

4.4 The Board should not act solely upon information provided by the agent in relation to the prisoner, or the support available to the prisoner on release, and should confirm such information by reference to other reliable sources, including but not limited to, reports prepared by Queensland Corrective Services.

## **SECTION 5 – PAROLE ORDERS**

### **Release to parole**

- 5.1 Ordinarily, a prisoner should be classified as low security prior to parole being granted. However, at the Board's discretion, a prisoner may be approved for parole if—
- a) a parole eligibility date has been set by a court; or
  - b) exceptional circumstances exist, for example, the prisoner may have developed a serious medical condition that has been verified (see section 5.7).
- 5.2 When considering releasing a prisoner to parole, the Board should have regard to all relevant factors, including but not limited to the following—
- a) time spent in custody during the current period of imprisonment;
  - b) time spent in a low security environment or time spent in residential accommodation, and a history of positive institutional behaviour;
  - c) time spent undertaking a work order or performing community service;
  - d) appropriate transitional, residential and release plans; and
  - e) genuine efforts to undertake available rehabilitation opportunities.

- 5.3 If a prisoner applying for a parole order is likely to be deported, the Board should be aware that some forms of release may result in the prisoner being immediately taken into immigration custody or removed from Australia. Before making such an order, the Board should ensure that the Department of Immigration and Citizenship is contacted to confirm its intentions regarding the prisoner's release.
- 5.4 When the Board grants parole to a prisoner who is serving a life sentence, careful consideration should be given to the imposition of a requirement that the prisoner wear an electronic monitoring device as directed by the Chief Executive, and that the prisoner comply with a curfew direction by the Chief Executive to remain at a place during specified periods of time.
- 5.5 When the Board grants parole to a prisoner who was previously subject to an indefinite sentence for their offence/s, the Board must refer to Section 174 and Section 174A of the *Penalties and Sentences Act 1992* to determine the period of parole supervision.
- 5.6 When the Board grants parole to a prisoner, careful consideration should be given to the imposition of a requirement that restricts prisoner access to websites, technology, application or tools that enable active and participatory publishing and interaction between the prisoner and individuals over the internet. This may include forums, blogs, wikis, social networking sites, and any other websites that allow prisoners to easily upload and share content.
- 5.7 When the Board grants parole to a prisoner, careful consideration should be given to the imposition of a requirement that restricts prisoner access to any personal introductory system whereby the prisoner can find and contact individuals over the internet to arrange a date, with the objective of developing a personal, romantic, or sexual relationship.

### **Refusal to grant parole**

- 5.8 When an application is refused and reasons for the refusal are given, the response should also give an indication to both the prisoner and Queensland Corrective Services of improvements or activities that would be of benefit in reducing the risks posed to the community by the prisoner.

### **Exceptional circumstances parole**

5.9 The Board may release a prisoner on parole, if the Board is satisfied that exceptional circumstances exist in relation to the prisoner. If parole is granted, in the case of a prisoner claiming exceptional circumstances for serious medical reasons, the Board should first obtain advice from Queensland Health on the management of the prisoner's medical condition.

## **SECTION 6 – CONTRAVENTION**

### **Further offending**

6.1 If a prisoner on a parole order has been charged with a further offence, the Board should consider the suspension of the parole order and seek the prisoner's return to custody until a court determines the charge. Factors relevant to the exercise of any discretion may include the—

- a) seriousness of the alleged offence;
- b) circumstances surrounding the commission of the alleged offence;
- c) prisoner's personal situation, including employment status;
- d) prisoner's response to supervision to date; and
- e) length of time needed to determine the outcome of the charge.

### **Failure to comply**

6.2 If a prisoner has failed to comply with their parole order or the parole order has been amended or suspended by the chief executive under section 201 of the Act, the Board should consider whether to amend, suspend or cancel the prisoner's parole order or cancel the chief executive's amendment or suspension. In considering whether to do so, the Board may take the following into account, the—

- a) reasons for the chief executive's amendment or suspension (if applicable);
- b) seriousness and circumstances surrounding the prisoner's failure to comply;
- c) prisoner's home environment;
- d) factors outlined in section 6.1 (c) and (d); and
- e) whether the risk to the community would be greater if the prisoner does not spend a period of time on parole.

6.3 If the Board decides to amend a parole order, the Board may consider making additional conditions such as imposing curfew conditions.

### **Unlawfully at large**

6.4 If a prisoner on a parole order is unlawfully at large, every effort should be made to return the prisoner to custody. The Board should take any necessary steps to facilitate the prisoner's return to secure custody in accordance with Chapter 5, Part 1 of the Act.

6.5 If a prisoner on a parole order is unlawfully at large and the chief executive has suspended the parole order, the Board should consider cancelling the parole order if the prisoner is not returned to custody within the suspension period.

### **Suspension of parole orders**

6.6 A decision regarding whether or not to cancel a suspended parole order should be made by the Board as soon as practicable after the prisoner has returned to custody.

6.7 If the Board considers a prisoner suitable for release to parole, the Board should cancel the suspension of the prisoner's parole order.

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