

20/03/2024 Rules Committee Meeting Notes

ACTIONS:

- **The Group**: comments on the ToR due back to the Policy Team by 27/03/24.
- [REDACTED] to give the Parole Policy Team the PB's views regarding delegation, in writing.
- [REDACTED] to give the Parole Policy Team the PB's views regarding the backstop, in writing.
- **Policy Team** to have further discussions with the Parole Board and MoJ legal advisors about the proposed Rule changes regarding efficiency.
- [REDACTED] to set out the ask regarding Rules 20 and 28, to the Parole Policy team.

Agenda Item 1: Welcome

Agenda Item 2: Terms of Reference

- [REDACTED] presented the Rules Committee Terms of Reference.
- **ACTION** for the group: comments on the ToR due back to the Policy Team by 27/03/24.

Agenda Item 3: Summer rule changes

Delegation power

- [REDACTED] posed a question regarding whether we include exemptions to the delegation power in the primary legislation. The Rules control the list of what functions can be delegated, but we could include some exemptions in the primary legislation, to explicitly take some functions off the table.
- [REDACTED] set out that the [REDACTED] never asked for the ability to delegate substantive decisions regarding release or licence terminations, nor would they want to. Through their proposed Rule changes, their aim is to allow the secretariat to manage a case efficiently, and complete procedural functions.
- [REDACTED] is not opposed to the idea, in principle but we need to consider where the Parole Board's powers sit.
- [REDACTED] questioned whether it is necessary to put these exemptions in primary legislation, and whether this is merely presentational. The SI controls what is delegated, and the SI is subject to parliamentary scrutiny. The SI is also much easier to update in future.
- **ACTION** for [REDACTED] to give the Parole Policy Team the PB's views regarding delegation, in writing.

The backstop on the delegation power

- [REDACTED] set out that the backstop would allow a decision by PB secretariat staff to be reviewed by a PB Member if necessary. [REDACTED] posed a question to the Committee on whether this is necessary, whether it already takes place and if the PB is content to create a new operational process to support this.
- [REDACTED] is content to create a process to appeal a decision by secretariat staff. The SoS, prisoner, and legal rep could use this power. E.g. SoS could use it if they need extensions to produce reports ahead of hearings.
- [REDACTED] set out that this process exists in other courts. There wouldn't be practical issues, providing it can be managed well. The SoS is more likely to use this power.
- **ACTION** for [REDACTED] to give the Parole Policy Team the PB's views regarding the backstop, in writing.

Licence condition variations

- Currently prisoners cannot apply directly to the Board for variations. They do it via PPCS/the COM.
- Creating a new Rule, allowing the SoS to apply for licence variations may seem procedurally unfair, if the prisoner cannot also apply. A Rule change attracts attention to this.

- [REDACTED] set out that some applications are made using the SHRF form, and other templates. We will need to consider the process.
- [REDACTED] set out that the PB asked for the Rule change because the PB do not have a statutory footing for disclosure. Sometimes you don't want to disclose information to the prisoner, but you want the PB to take it into account. This new rule would give the PB a sound statutory footing, so they don't need to do this by analogy. However, the PB are currently we are doing this without statute and haven't yet been challenged, so it is not immediately pressing.
- **DECISION** to defer this Rule change until the Winter 2024 Rule changes.

Parole Board efficiency reforms

- [REDACTED] presented 3 proposed changes to support the efficiency work and welcomed views to support policy development:
 1. Explore options to make MCA a decision point, not just a referral to an OH. A Rule change or guidance changes could improve MCA to encourage more paper decisions.
 - [REDACTED] opined that the main legal issue is the Osbourne judgment. If the PB guidance is amended, it will lose against Osbourne. Only legislation has enough weight, but legislation can also be challenged.
 2. Introduce a process to close a decision at MCA, for sentences of 12 months or less. This would reduce the number of OHs.
 - [REDACTED] opined that it would be very challenging to draft this in time for the summer Rule changes.
 3. Introduce tiered expert PB Members to specialise in case types. E.g. a particular cohort can manage SDS recall cases. This change would speed up hearings. It is unclear whether a Rule change is necessary.
 - [REDACTED] set out that the PB already do this. Members are accredited to chair panels, to sit on reconsideration cases etc. We need to consider what is different about the decision-making between these cohorts of Members, as they are all applying the same release test.
 - [REDACTED] confirmed that the policy team's preference is to implement this without a Rule change, if possible.
- **ACTION** for Policy Team to discuss the potential changes and timing in more detail with Parole Board and MoJ legal advisors.
- [REDACTED] queried whether the wording under Rules 20 and 28 can be homogenised, to focus on cases being 'issued', not 'received' by the parties.
- [REDACTED] voiced that PPCS support this change.
- **ACTION** for [REDACTED] to set this ask out in writing, to the Parole Policy team.

Agenda Item 4: Winter Rule Changes

- [REDACTED] set out the planned Winter rule changes, (including allowing for Victim Submissions).
- [REDACTED] added that we need Rules to cater for the referral mechanism in the VAPB, tweak the MCA process, and changes to the listings model to increase efficiency and lower adjournments rates.

Agenda Item 5: AOB and close

- These meetings will be held quarterly, and the next meeting will be in June 2024.