PAROLE REFORMS

I wrote to you in February before I published the findings of the *Review of the Parole Board Rules*. At that time, I also published the Government's response to the consultation on creating a new Reconsideration Mechanism for Parole Board decisions which confirmed my intention to proceed to introduce such a mechanism. I write now to advise you that the new Parole Board Rules 2019 have today been laid in Parliament and will come into force on 22 July.

The Reconsideration Mechanism will be the most significant change to the parole process that these Rules will introduce. We had a useful exchange of correspondence about this and you raised some important concerns the Committee had about how the mechanism will operate. You also discussed these concerns and other issues at an informal briefing with my officials in April. I hope my earlier letter and the informal briefing were helpful in addressing the issues you raised. I would like to update you further on how we have set up the reconsideration process, with regard in particular to the areas we have discussed previously.

I also summarise below some of the other changes that the new Rules introduce that seek to further improve the efficiency and fairness of the parole process.

*Reconsideration Mechanism for Parole Board decisions*

The new Rules provide that decisions by the Parole Board in cases eligible for reconsideration are provisional for 21 calendar days. After this period, the decision becomes final, unless the Parole Board receives a reconsideration application or agrees to an extension to the time limit for an application to be submitted.

While a decision is provisional, parties to the hearing (the prisoner and the Secretary of State) can apply for reconsideration if a decision appears to be irrational or procedurally unfair (i.e. on grounds similar to bringing a judicial review).

Victims will be able to access the reconsideration process by raising their concerns through the Secretary of State. I know that you have previously expressed reservations about the practicality of allowing victims only 21 days within which to make representations to the Secretary of State about an offender’s release. The ability to reconsider a decision must be balanced against the need to comply with Parole Board release directions without undue delay. I know that we both appreciate the importance of avoiding a new
system that creates unnecessary and disproportionate delays for the majority of prisoner releases where reconsideration would not apply. I am confident that the process we have devised will provide victims with sufficient time to raise their concerns. Below, I have set out how the process will deliver on this.

Once fully up and running, victims in the Victim Contact Scheme (VCS) will be made aware of the possibility of reconsideration and the timescales involved well in advance of the Parole Board reaching a decision to release an offender. The main vehicle for raising awareness with victims is through their Victim Liaison Officers (VLO). We have, therefore, put in place guidance and training for VLOs to include the possibility of reconsideration as part of their communications with victims well before a hearing takes place. Face-to-face training sessions will also take place with Victim Liaison Units across the country to make sure they are equipped to guide and support victims through the reconsideration process. Furthermore, online guidance about parole will be changed to reflect the new processes once the Rules come into force.

If, after a decision has been made, a victim wishes to ask the Secretary of State to make a reconsideration application we have worked to ensure that this process is as simple and accessible as possible. The decision will be communicated to the VLO as soon as it has been issued to allow the victims to be informed and give them the maximum amount of time to consider whether they wish to challenge it. We have conducted some user-testing with VLOs and from this we have produced application materials and information that our research indicates best meets the needs of victims and the most effective ways of communicating with them about making a reconsideration request.

Using a simple form that can be submitted by e-mail, either directly by the victim themselves or via their VLO, victims will be able to raise their concerns with the Secretary of State without the need for formal legal advice or representation. A dedicated ‘reconsideration team’ in the Public Protection Casework Section (PPCS) of HMPPS, acting on behalf of the Secretary of State in the reconsideration process, will undertake the detailed work required to put an application together and make the legal arguments (if necessary) to submit to the Parole Board as to why a case meets the required threshold for reconsideration.

This dedicated team will screen all parole decisions eligible for reconsideration, ensuring that all cases are checked as quickly as possible, acting on behalf of victims and the public regardless of whether the victim themselves submits a request. This means that the team will be able quickly to take the victim’s views into account if the victim does raise concerns about the decision. This team will also be trained to respond sensitively to representations submitted by victims, with research we have carried out informing how the team might best communicate with victims.

We have also made provision in the Rules that allows the Parole Board to grant an extension to the 21-day application window. Such an extension would be granted in exceptional circumstances where it may be in the interests of fairness and justice for the Board to do so. If there is good reason why it is not possible for a victim to submit a request within the application window – for example if they are not available to be told about the decision or if there has been a failure to communicate with them in line with agreed processes – this provision would allow for them to be given more time.

Another area the Committee was interested in was the impact of the new mechanism on victim liaison time and resources. Along with the new Rules we have published a detailed Impact Assessment which sets out who will be affected by the changes and the estimated costs / resources involved. We have included in this some analysis of how much additional time and resource it is estimated may be required by VLOs to explain the Reconsideration Mechanism and to support victims who may wish to make use of it. In the majority of parole cases in which reconsideration is not pursued, this will not add much to the work VLOs are already undertaking when explaining and assisting victims through the parole process; and will not require additional resource. In cases where a victim does wish to pursue a request for reconsideration, the impact on the VLO will depend on the extent to which the victim needs the VLO’s input or help in submitting their concerns and is difficult to predict. We do not envisage the need to recruit
more VLOs and estimate that the total impact on VLO time could cost in the region of £30k a year – which is an upper estimate based on an assumption that around half of victims will seek reconsideration (when, in reality, it is likely to be less than this).

Review of the Parole Board Rules

The new Rules also make some other changes to improve the effectiveness, efficiency and fairness of the parole process:

- The parole dossier – the reports that the Parole Board needs to progress a case – will be disclosed at the point the Secretary of State refers a case to the Parole Board. At present, the dossier is not provided until eight weeks after a case is referred. This will enable the Parole Board to commence active case management and to progress the review as soon as the case is referred, rather than having to wait for the dossier.

- There was no provision in the Rules for the procedure to follow when an IPP offender is applying for their licence to be terminated 10 years following release (as provided for in primary legislation under section 31A of the Crime (Sentences) Act 1997). The procedure for this is now included in the new Rules.

- For prisoners who lack the mental capacity to participate in the parole process or to instruct solicitors, due to mental health or learning difficulties, there is specific provision for the Parole Board to appoint a suitable representative for them.

- A previous rule which meant that there always had to be an oral hearing before the Parole Board could release life sentence prisoners has been removed. This brings these cases in line with all other sentence types (including IPPs) where the Parole Board can already decide, if appropriate and safe in the particular case, to release following a review of the papers. As with IPPs currently, it will be rare for the Board to make a release decision for a life sentence prisoner without having an oral hearing. But where a release decision can be made safely and fairly on the papers (e.g. when considering the re-release of an offender recalled from licence) it means this can be done without always having to wait for the outcome of an oral hearing (which can delay the decision by around 6 months).

We will closely monitor and evaluate the implementation of the new reconsideration mechanism and other Parole Board Rules and make further adjustments and improvements if required. A new consultative Rules Committee will be established to consider and advise me on the need for any future amendments to the rules.

Please get in touch with my office should the Committee have any further questions or would like more information about any aspect of the parole reforms.

Yours ever,

RT HON DAVID GAUKE MP