



A guide to applying for parole in Queensland

Date: Sunday February 11, 2024

When a defendant is sentenced to a term of imprisonment, they will typically be released at some time during their jail sentence on parole.

What is parole?

Parole is a conditional release order issued by the court. Parole allows a prisoner to serve part or all of their prison sentence in the community. A released prisoner is required to abide by all conditions of their parole order and is under the supervision of a parole officer within the community.

Applying for parole

Where a sentencing court orders a parole eligibility date, the applicant (prisoner) must make an application for parole to the Parole Board Queensland ("the Board").

Other circumstances in which an application to the Board is necessary include when an existing parole order is cancelled or when an application for parole is refused initially and a subsequent application is made.

A grant of parole made by the Board is often referred to as 'Board ordered parole.'

The application process for parole tends to follow these steps:

1. An applicant is required to submit their parole application to "sentence management" (a unit in the correctional centre) in the approved format (Form 29). Sentence management will provide the parole application to the Parole Board.

2. The address nominated in the parole application will undergo checks. Probation and Parole authorities will conduct an Accommodation Risk Assessment.
3. The Board will gather the necessary information to decide the application for parole.
4. Prior to the Board sitting to consider the application, the applicant will have an interview with Corrective Services.

What conditions may apply to a parole order?

There are a number of standard parole conditions that are included in all parole orders.

These standard parole conditions include:

- being under the Chief Executive's supervision;
- complying with all conditions contained within the parole order;
- not committing an offence;
- carrying out the Chief Executive's or an authorised Corrective Services Officer's lawful instructions;
- reporting to Community Corrections Office within two business days of release;
- residing at a residence approved by the Board or an authorised Corrective Services Officer;
- not leaving Queensland unless permitted to do so by the Board or an authorised Corrective Services Officer; and
- notifying the Chief Executive within 48 hours of any change of address or employment during the parole period.

Additional parole conditions may include:

- a curfew;
- electronic monitoring;
- attending courses, programs, meetings and counselling as directed;
- attending a rehabilitation course or program;
- attending upon a general practitioner, psychologist or psychiatrist;
- not committing an act of domestic violence;
- attending domestic violence counselling or programs;
- compliance with a Protection Order;
- not to possess or use a weapon;
- internet restrictions; and
- not attending a certain location.

What decisions can the Parole Board make?

The Board may choose to:

- grant the application for parole; or
- indicate their preliminary decision is to refuse the application; or
- defer their decision for the provision of further information.

Where there is a preliminary refusal, the Board may invite the applicant to make submissions to address issues raised. The Board then may make a final decision to grant or refuse parole.

When to apply for parole?

A 'new application' for parole can be submitted up to 180 days before the court-ordered parole eligibility date.

If the application is a subsequent application following an initial refusal by the Board to grant parole, the further application must be made within the time frames set out within the reasons for refusal correspondence.

An application for parole cannot be made if there is a pending appeal on foot with respect to the sentence the parole eligibility date relates to.

Factors considered by the Parole Board

When considering an application for parole, the Board considers a number of factors, including:

- the provisions in the *Corrective Services Act 2006* (Qld);
- the guiding principles set out in the Ministerial guidelines;
- any Parole Board Assessment Report;
- the accommodation risk assessment;
- the applicant's psychiatric and psychological risk assessments;
- the applicant's psychiatric history;
- the applicant's behaviour in prison;
- the Judge's sentencing remarks;
- the applicant's criminal history;
- the applicant's previous response to supervised orders in the community;
- the applicant's completion of interventions to address outstanding treatment needs;

- the applicant's release planning, including family and community support;
- the 'Moore' Principle – the risk to the community where reintegration is not achieved if the applicant is released to a short period of supervision or no supervision (i.e. when a prisoner's full-time sentence is served);
- any submissions provided by a victim; and
- any human rights considerations.

How long does the Parole Board have to decide an application for parole?

The Parole Board must usually decide the application within 120 days of receiving the application. If the decision was deferred for additional information to be obtained, then the Board will have 150 days rather than 120 days.

Judicial review of a Parole Board decision

A decision regarding an application for parole made by the Board can be subject to judicial review by the Supreme Court of Queensland. There are particular grounds to be argued under the *Judicial Review Act 1991* (Qld).

The grounds relevant to the refusal of parole will vary from case to case. A judicial review does not involve simply arguing the original decision was incorrect.

Where there is an application for judicial review, the Supreme Court of Queensland has the power to set aside the Board's decision but cannot make a new decision on behalf of the Board. If the decision is set aside, it will be referred back to the Board for further consideration and a fresh decision.

An application for judicial review of a Parole Board decision must be made within 28 days of the written reasons regarding the decision being received.

Engaging a criminal lawyer to represent your interests in a parole matter

Our lawyers at Gilshenan &Luton offer assistance in a variety of parole matters. A lawyer can be beneficial to help navigate the various phases of a parole matter and liaise with the Board on your behalf.

If you are in need of legal assistance for a parole matter, contact Gilshenan &Luton for further advice and assistance.

Contacting Gilshenan &Luton Criminal Defence Lawyers

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