



# Sentence Management

## Parole Applications and Process

SM

### Custodial Operations Practice Directive

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Official/Public



## 1. Human Rights

It is unlawful for corrective services officers to act or make decisions in a way that is not compatible with human rights, or in making a decision, fail to give proper consideration to a human right relevant to the decision. Giving proper consideration to human rights entails identifying human rights which may be relevant to a decision and considering whether the decision would be compatible with human rights.

An act or a decision is compatible with human rights if the act or decision:

- a) does not limit a human right; or
- b) limits a human right only to an extent that is reasonable and demonstrably justifiable.

Human rights which may be relevant to decisions made in accordance with the procedures of this Custodial Operations Practice Directive (COPD) include, but are not limited to:

- a) the right to privacy and reputation;
- b) the protection of families and children;
- c) cultural rights generally and for Aboriginal peoples and Torres Strait Islander peoples;
- d) freedom of movement;
- e) the right to education; and
- f) recognition and equality before the law .

## 2. Limitation of Human Rights

When determining whether a limitation may be reasonable and demonstrably justified, the following factors are relevant to consider:

- a) The nature of the human right - this involves looking at the purpose and underlying value of the human right. For example, the right to privacy and reputation exists to protect a person's privacy, family, home or correspondence from being unlawfully or arbitrarily interfered with.
- b) The nature and purpose of the limitation - this involves considering the actual purpose or legitimate aim/reason for limiting the human right. For example, the limit on a person's right to privacy arising from the mandatory information sharing provisions between QCS and the relevant parole authorities are required to inform the decision making of the Parole Board and ensure the safety of others and the individual.
- c) The relationship between the limitation and its purpose – this involves considering the connection between the limitation of the right and whether this will assist with achieving the purpose or legitimate aim. For example, the purpose of requesting and sharing the personal information of a person is to ensure parole decisions are evidence based and prioritise the safety of the community and the individual.
- d) Whether there are any less restrictive and reasonable ways to achieve the purpose – this involves a 'necessity analysis' where it is necessary to consider the purpose of the limitation and if it can be achieved in any other way. For example, are there processes in place to ensure that all the information provided is relevant to the decisions being made?
- e) The importance between the purpose of the limitation and preserving the human right - this involves balancing the benefits obtained by the limitation with the impact of the limitation on the human right. For example, are the limitations on a person's privacy outweighed by the benefits obtained by the information being considered, specifically in relation to community safety and the safety of the individual?





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## 3. Purpose

Parole provides a prisoner with supervised reintegration into the community. By providing this supervision the aim is to reduce a prisoner's likelihood of re-offending, support the prisoner in the community, manage risk in accordance with the End-to-End Offender Management Framework (E2E OMF) and keep the community safe. A prisoner may be granted parole by Parole Board Queensland (PBQ) and/or by the Commonwealth Attorney-General, depending on whether they have been convicted of state or Commonwealth offences, or both.

Pursuant to section 245 of the *Corrective Services Act 2006* (CSA), if asked to do so by PBQ, Queensland Corrective Services (QCS) must give the Board a report on, or information relating to the following:

- a) a prisoner's application for a parole order, other than a court ordered parole order;
- b) a prisoner;
- c) a parole order, including a court ordered parole order.

Unless otherwise stated, the provision of this information must be made available via the Integrated Offender Management System (IOMS) or provided to the PBQ via email to [ParoleBoardQLD@pbq.qld.gov.au](mailto:ParoleBoardQLD@pbq.qld.gov.au).

## 4. Eligibility for a Parole Order

### 4.1 Approved Form 29 Application by Prisoner for Parole Order

A prisoner may apply for a parole order, by way of an Approved Form 29 Application by Prisoner for a Parole Order, up to 180 days before their parole eligibility date. A parole order may start on or after the prisoner's parole eligibility date. Refer to section 180 of the CSA.

At the time of providing an Approved Form 29 Application by Prisoner for a Parole Order, Sentence Management Services (SMS) should also provide the prisoner with an Administrative Form 308 Prisoner Submission for Parole. Prisoners should be encouraged to complete, to the best of the prisoner's ability, and submit this form to SMS as part of their application.

Pursuant to section 179(2) of the CSA, a parole order does not apply to a prisoner:

- a) being detained on remand for an offence; or
- b) imprisoned for an indefinite period for contempt; or
- c) subject to an indefinite sentence under part 10 of the *Penalties and Sentences Act 1992*; or
- d) who has not reached their parole eligibility date; or
- e) who is detained in custody under an order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

Pursuant to section 180(2) of the CSA, a prisoner cannot apply for a parole order:

- a) if a previous application for a parole order made in relation to the period of imprisonment was refused:
  - i. until the end of the period decided under section 193(5)(b) of the CSA; or
  - ii. unless the PBQ consents; or
- b) if an appeal has been made to a court against the conviction or sentence to which the period of imprisonment relates – an application cannot be processed until the appeal is decided. Information regarding appeal applications before the court will be attached on IOMS under Sentences and Orders: Attachments.





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If an officer is unsure if an appeal application is in progress, further clarification should be sought from the Lawful Detention Unit;

- c) if the prisoner is a restricted prisoner and a restricted prisoner declaration is in force for the prisoner; or
- d) if the prisoner is a no body-no parole prisoner and no cooperation declaration is in force for the prisoner; or
- e) otherwise - more than 180 days before the prisoner's parole eligibility date.

A prisoner may only have one Approved Form 29 Application by Prisoner for Parole Order active at any one time and must not have any suspended parole orders (board ordered or court ordered) awaiting a final decision from the PBQ.

#### 4.1.1 Applications for Parole – Restricted Prisoners

Where a prisoner applies for parole and that prisoner comes within the meaning of 'restricted prisoner' defined by section 175D of the CSA to be a prisoner who has been sentenced to life imprisonment for:

- a) a conviction of murder and the person killed was a child; or
- b) more than 1 conviction of murder; or
- c) 1 conviction of murder and another offence of murder was taken into account; or
- d) a conviction of murder and the person has on a previous occasion been sentenced for another offence of murder.

Reference should be made to Appendix SM26 Restricted Prisoner Declarations for further guidance on the processes which attach to parole applications from prisoners of this cohort.

#### 4.2 Prisoners transferred under the *Youth Justice Act 1992*

As outlined in sections 276E and 276F of the *Youth Justice Act 1992* (YJA), when a detainee is transferred to a corrective services facility, they are required to serve a term of imprisonment equal to the remaining period of detention they are liable to serve at the time of their transfer. Once transferred, they are considered to be a prisoner subject to the CSA.

Further, these sections of the YJA also state these prisoners are to be released on the day they would have been released to a Supervised Release Order if they remained in detention. As outlined in sections 276E(3) and 276F(5) of the YJA, "the release is subject to the CSA as if granted under a Court Ordered Parole Order".

Prisoners who have been transferred to corrective services facilities under the YJA are automatically entitled to parole, and therefore there is no requirement for the prisoner to submit an application for parole. Refer to the Appendix SM21 Specific Orders for further information.

An Accommodation Review or parole interview is not required as the Department of Youth Justice, Employment, Small Business and Training will provide a memorandum, however where additional specific information is required, Community Corrections will direct the request to the SMS team at the prisoner's managing location.

Upon obtaining a signed copy of the prisoner's parole order, the SMS team at the prisoner's managing location are to issue the order to the individual and attach a signed copy of the order to IOMS. The Lawful Detention Unit (LDU) will create the electronic order in IOMS to facilitate release.





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## 4.3 Approved Form 28 Application by Prisoner for Exceptional Circumstances Parole Order

A prisoner may apply for an exceptional circumstances parole order, by way of an Approved Form 28 Application by Prisoner for Exceptional Circumstances Parole Order, at any time in accordance with section 176 of the CSA. A prisoner may have concurrent Approved Form 29 and Approved Form 28 applications. Eligibility restrictions pursuant to section 179(2) and 180(2) of the CSA do not apply.

A prisoner who is detained on remand for an offence may not apply for exceptional circumstances parole pursuant to section 176C of the CSA. Further, pursuant to section 176B of the CSA, a no body-no parole prisoner may not apply for exceptional circumstances parole if a no cooperation declaration is in force for the prisoner.

In addition, pursuant to section 18C of the *Criminal Law Amendment Act 1945* a prisoner subject to His Majesty's pleasure may not apply for or be granted exceptional circumstances parole.

### 4.3.1 What are exceptional circumstances

Exceptional circumstances are not defined within the CSA. However, section 176A of the CSA details criteria that must be met for restricted prisoners (defined in section 175D of the CSA) where a restricted prisoner declaration is in force. Refer to the Exceptional circumstances parole applications made by restricted prisoners section in this COPD.

For applications that are not impacted by section 176A of the CSA, an example of what exceptional circumstances may include is provided in the explanatory notes to the *Corrective Services Bill 2006 (Qld)*:

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*“For instance, irrespective of the prisoner's period of imprisonment, a prisoner who develops a terminal illness with a short life expectancy or who is the sole carer of a spouse who contracts a chronic disease requiring constant attention may be granted an exceptional circumstances parole order.”*

Sentence Management Services (SMS) must process every eligible prisoner's exceptional circumstances parole order application irrespective of the prisoner's nominated reasons to apply. It is the PBQ's responsibility to determine whether a prisoner's nominated exceptional circumstances reach the threshold for an exceptional circumstances parole order. The PBQ will require evidence be provided by the prisoner to substantiate the reasons for an exceptional circumstances parole application.

If a prisoner submits an exceptional circumstances parole application without written evidence, the application is to be processed and SMS are to contact the prisoner, to check if they have any written evidence to support their application (e.g. a medical report by a qualified medical practitioner). Once this evidence is received it must be provided to the PBQ immediately. If the prisoner is working towards obtaining written evidence SMS must notify the PBQ.

The PBQ may request further information if deemed necessary.

Refer to the Ministerial Guidelines to the Parole Board Queensland and the Parole Board Queensland Decision Making Manual for examples of information which may be deemed necessary for an exceptional circumstances parole application.





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#### 4.4 Exceptional circumstances parole applications made by restricted prisoners

Pursuant to section 176A of the CSA, if a restricted prisoner applies for an exceptional circumstances parole order and a restricted prisoner declaration is in force for the prisoner, the PBQ must refuse to make the parole order unless the board is satisfied:

- a) the prisoner, as a result of a diagnosed disease, illness or medical condition—
  - i. is in imminent danger of dying and is not physically able to cause harm to another person; or
  - ii. is incapacitated to the extent the prisoner is not physically able to cause harm to another person; and
- b) the prisoner has demonstrated that the prisoner does not pose an unacceptable risk to the public; and
- c) that the making of the parole order is justified in the circumstances.

If the PBQ decides to grant the restricted prisoner exceptional circumstances parole, the PBQ must give the chief executive written notice of the decision as soon as practicable.

#### 5. Applying for Parole

Applications for parole **must** be made using the Approved Form 29 Application by Prisoner for Parole Order. The Prisoner Parole Application Pack incorporates this and other relevant documents to assist the prisoner with their application, including the Administrative Form 308 Prisoner Submission for Parole. Applications for exceptional circumstances parole **must** be made using the Approved Form 28 Application by Prisoner for Exceptional Circumstances Parole Order.

The form must be lodged with SMS at the corrective services facility where the prisoner is accommodated. If the prisoner is located at a work camp, the application must be submitted at the prisoner's placement centre.

A prisoner may nominate an interstate address as part of their application for parole. In order for the Parole Board Queensland (PBQ) to consider the nominated address, approval for interstate transfer of Parole is to be sought from the interstate authority. Refer to the Appendix SM8 Interstate Parole Application Protocol.

Interstate transfers of parole orders are governed by the *National Frameworks and National Operating Procedures - Interstate Transfer of Parole Orders* which is a set of agreed transfer practices for all Australian state and territories.

Upon an application for parole being submitted in IOMS, the Board Ordered Parole Application (BOPA) warning flag will automatically activate.

A prisoner's parole application must be processed in accordance with the Appendix SM29 Processing a Parole Application.

#### 5.1 Exceptional circumstances parole order (Approved Form 28)

SMS must prioritise a prisoner's application for exceptional circumstances parole and process it on the same business day it was received.





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At the time an Approved Form 28 is submitted, SMS are to select an Approved Form 28 only (i.e. a blank Parole Suitability Assessment (PSA)). The President of the PBQ may request for a PSA to be completed thereafter.

If the prisoner is sentenced to imprisonment for further offences committed after being granted exceptional circumstances parole and receives a parole release date for that sentence, the prisoner must be released on the parole release date. In this instance, the prisoner will be subject to the compliance of the court ordered parole order as the exceptional circumstances parole order will be automatically cancelled in accordance with section 209 of the CSA.

If the prisoner is sentenced to imprisonment for further offences committed after being granted exceptional circumstances parole and receives a parole eligibility date for that sentence, the exceptional circumstances order also will be automatically cancelled in accordance with section 209 of the CSA. However, the prisoner will not be released from custody and will be eligible to apply for parole by way of an Approved Form 29 and/or an exceptional circumstances parole application by way of an Approved Form 28 if they consider themselves to remain eligible.

When processing an Approved Form 28 Application by Prisoner for Exceptional Circumstances Parole Order, refer to the Appendix SM29 Processing a Parole Application.

### 5.2 Reports tendered during sentence

SMS must review the sentencing remarks to determine whether any medical, psychiatric or psychological reports were tendered during sentencing. If QCS is in possession of these reports, they must be included with the information submitted to the PBQ. Where these reports are not already available to QCS, enquiries are to be made with the sentencing court to obtain a copy. Email advice is to be provided to the PBQ that such reports have been requested (and provided once received).

### 5.3 Applying for Commonwealth Parole Orders (federal prisoners)

Federal prisoners are those who have been convicted and sentenced for offences against the Commonwealth. When a federal prisoner is serving a sentence for Commonwealth offences, the Attorney General's Department, Commonwealth Parole Office (CPO) is responsible for determining if a parole order will be granted. A federal prisoner is not required to apply for a Commonwealth Parole Order.

In most instances the CPO will formally request a report. A PSA, including a recommendation around the prisoner's parole suitability must be completed and provided (via email to [CPO@ag.gov.au](mailto:CPO@ag.gov.au)). If a request is not received, a PSA must be provided (via email to [CPO@ag.gov.au](mailto:CPO@ag.gov.au)) at least four months prior to the prisoner's parole eligibility date. The provision of the PSA to the Attorney-General's Department is in accordance with section 341(3)(b) of the CSA and section 20BZA of the *Crimes Act 1914*.

If SMS are unsure whether a PSA is required, they must enquire directly with the Attorney General's Department, Commonwealth Parole Office ([CPO@ag.gov.au](mailto:CPO@ag.gov.au)).

Unless the prisoner has also submitted an application for parole for state offences, the PSA is to be completed in IOMS (not in a word document) as an Advisory Report using the PSA template. Where a prisoner has submitted a parole application for state offences, the PSA must be completed in IOMS under Boards and Committees, with a dual purpose (i.e. federal and state offences) being reflected within the PSA. SMS must ensure oversight processes are in place to identify federal prisoners who require a PSA.





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Section 20BZA of the *Crimes Act 1914* provides the CPO authorisation to request information from agencies, including QCS. Information about federal prisoners will be requested when required.

This additional information may include (but is not limited to):

- a) PSA (PDF format);
- b) Accommodation Review (if available);
- c) the prisoner's sentence calculation;
- d) photo of the prisoner; and
- e) Intelligence Report (if applicable).

#### 5.3.1 Commonwealth Parole refusals

If the Commonwealth Parole is refused, SMS at the centre is required to enter a bring up six months from the date of refusal. When the bring up occurs, SMS at the centre are to email the State-wide Parole Support Service (SPSS) to advise. SPSS are to complete a further PSA and provide this to the CPO a minimum of 4 months prior to the reconsideration date. The CPO will reconsider the prisoner's matter 12 months following refusal.

#### 5.3.2 Combination of federal and state offences

Where a prisoner is serving a custodial term of imprisonment for both federal and state offences, refer to the Appendix SM21 Specific Orders to determine whether the prisoner will need to apply for parole, or whether the prisoner is automatically considered for parole by the Commonwealth Attorney-General's Department. Where state parole is required to be determined prior to Commonwealth parole release, the Approved Form 29 parole application process is to occur.

#### 5.3.3 Early Release on Licence – Exceptional Circumstances

The Commonwealth Attorney-General (or delegate) is permitted to grant a licence for a federal prisoner to be released from custody before the date set by the sentencing court if they are satisfied that exceptional circumstances exist. An application for early release on licence may be dealt with at any time during a federal prisoner's sentence in accordance with section 19AP of the *Crimes Act 1914*.

Applications for early release on licence must be in writing and the exceptional circumstances, to which the federal prisoner is relying on to justify their release, should be included. A completed Early release on licence – application form and general information should be submitted with all additional documentation attached to support the prisoner's application.

## 6. Amendment, Suspension or Cancellation of a Parole Order

Pursuant to section 205 of the CSA, the PBQ may, by written order, amend, suspend or cancel a parole order.

Pursuant to section 208A of the CSA, the chief executive or delegate may, by written notice given to the PBQ Secretariat, ask the PBQ to suspend a parole order and issue a warrant. Refer to the Queensland Corrective Services Instrument of Delegation of Chief Executive Powers.

If a request is made in accordance with section 208A of the CSA, the PBQ or a Prescribed Board Member (PBM), pursuant to section 208B, must, as soon as practicable, consider the request. If the PBQ considers the request, it is required to decide whether to suspend or cancel the parole order. If the PBM considers the request, they are required to decide whether to suspend the parole order.







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If a decision is made to not suspend or cancel the parole order, written notice of the decision will be provided.

If a decision is made to suspend or cancel the parole order:

- a) an Approved Form 38 Order by Board for Amendment/Suspension/Cancellation of Parole Order will be completed; and
- b) an Approved Form 39 Warrant by Board for Arrest and Conveyance of Prisoner to Prison may be completed and issued. This is largely dependent on the prisoner's current custody status.

Pursuant to section 208C, if the decision to suspend is made by a PBM (and not the PBQ), the PBQ must, within two business days of the decision being made:

- a) confirm the decision;
- b) cancel the parole order; or
- c) set aside the decision.

Once a decision has been made by the PBQ (pursuant to section 205 or section 208C of the CSA depending on the circumstances), an Approved Form 41 Information Notice will be completed and provided to SMS for issuing to the prisoner. If the prisoner has returned to custody (and the Approved Form 41 Information Notice is available), this must be issued to them within three business days. As part of the decision, the PBQ may request additional information including, but not limited to:

- a) an Accommodation Review; and/or
- b) finalised Court outcomes.

The Administrative Form 08 Consent to Provide Submissions Electronically to Parole Board Queensland must be provided to the prisoner upon notification of the Form 41 Information Notice (if not at an earlier opportunity). The Approved Form should be signed and returned to SMS with the prisoner's submission addressed to the PBQ in order for processing to be completed (should the prisoner consent). SMS should not progress any submissions to the PBQ without the Administrative Form 08 Consent to Provide Submissions Electronically to Parole Board Queensland being signed.

If the prisoner has not provided consent and a submission is received by SMS, the submission must be returned to the prisoner with an explanation as to the alternate options for providing their submissions for delivery to the PBQ.

The PBQ may also make other requests (e.g. requesting Community Corrections provide additional information) or make a decision to lift the suspension and release the prisoner from custody.

If the PBQ cancels the order, the prisoner may re-apply for parole by way of an Approved Form 29 Application by Prisoner for Parole Order.

## 6.1 Pre-Release suspension of a parole order





## 7. Accommodation Reviews

The below content applies when a prisoner is not subject to case management by a CMU. [REDACTED]

An Accommodation Review (AR) is used by Community Corrections to assess the suitability of accommodation in the community. A prisoner may submit a request for an address in Queensland by completing an Administrative Form 176 Accommodation Review Request and providing it to SMS if:

- it is required as part of the parole application process;
- the prisoner's recent proposed address has been recommended as unsuitable;
- the relevant parole authority has not approved a proposed address as suitable; or
- the relevant parole authority otherwise requests an AR for consideration as part of an ongoing matter (e.g. a suspension matter).

SMS are to forward this to the relevant Community Corrections office via the Advisory Reports page on IOMS. An additional email to the Community Corrections office is not required.

Community Corrections is required to complete and verify the AR within 21 days of receiving the request. Refer to the Operational Practice Guideline (OPG) Advisory Reports: Accommodation Review for further information. SMS can then use this information to inform relevant aspects of the PSA.

## 8. Prisoner Interviews and Parole Suitability Assessment

SMS are responsible for the scheduling, pre-interview preparation and organisation of interviews. Refer to the Appendix SM5 Sentence Management Interview Process.

Where required, SMS must complete a PSA to assist the relevant decision-making authority. [REDACTED]

### 8.1 Domestic and Family Violence Order checks

PSA authors are required to include advice regarding a prisoners current and/or historical Domestic and Family Violence (D&FV) Protection Orders. This advice must:

- confirm a D&FV check has been completed, as recorded in case notes;
- provide a summary of all active D&FV Orders with a brief overview of the order conditions (i.e. prisoner x has a current Domestic and Family Violence Protection Order with his/her partner. This order is due to expire on [date] and contains a condition that the respondent and aggrieved are not to have any contact);
- provide a summary of any historical D&FV Orders (as recorded on IOMS or obtained from another source (i.e. interstate jurisdiction criminal history));
- provide an assessment of community risk to the aggrieved or other persons identified in an order or the prisoner's release plan.





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## 8.2 Guardianship and Administration Orders

If a prisoner has an active Guardianship and/or Administration Order (GA) warning flag indicator in IOMS, the PSA author must contact the prisoner's appointed guardian (as soon as possible) for involvement in the prisoner's parole interview process. This includes any Commonwealth parole matters.

Refer to the COPD Prisoner Entitlements: Office of the Public Guardian.

## 8.3 Discharge and Release Oversight Committee

Where a prisoner with an active 'SOU' warning flag submits a parole application, consideration must be given by the Serious Offenders Unit to ascertain if the PSA needs to be considered by the Discharge and Release Oversight Committee (DROC), prior to submission of the PSA to the PBQ.

Refer to the DROC terms of reference.

## 9. No Body-No Parole

A prisoner is a no body-no parole prisoner if the prisoner is serving a period of imprisonment for a homicide offence and:

- the body or remains of the victim of the offence have not been located; or
- because of an act or omission of the prisoner or another person, part of the body or remains of the victim has not been located.

Refer to section 175C of the CSA.

Where a no body-no parole prisoner makes an application for parole, the PBQ must first consider whether that prisoner has given satisfactory cooperation in the investigation of the homicide offence to identify the victim's location, either before or after the prisoner was sentenced to imprisonment for the offence.

If the PBQ is **not satisfied** the prisoner has given satisfactory cooperation, the PBQ must make a 'no cooperation declaration' about the prisoner. If a 'no cooperation declaration' is in force for the prisoner, the PBQ must refuse the application for parole.

Refer to sections 175B, 175K-U and 193A of the CSA.

Homicide offences that meet the no body-no parole criteria include the following offences from the *Criminal Code Act 1899*:

- a) section 236(2) - misconduct with regards to a corpse;
- b) sections 302 and 305 – murder;
- c) sections 303 and 310 – manslaughter;
- d) section 307 - accessory after the fact to murder;
- e) section 309 – conspiracy to murder; and
- f) section 314A – unlawful striking causing death.

Further, any of the below offences also meet the no body-no parole criteria:

- a) accessory after the fact for the offences of misconduct with regards to a corpse, manslaughter, conspiracy to murder and unlawful striking causing death;
- b) counselling, procuring or conspiring to commit any of the above offences; and





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- c) for prisoners transferred from interstate who are serving a period of imprisonment in Queensland, for an offence against a law of that other state that substantially corresponds with any of the above offences.

Refer to the definition of 'homicide offence' contained in section 175B of the CSA.

Any prisoners who meet the above criteria that are wanting to provide any further information (regarding the location of the body or remains of a victim) are to be encouraged to speak with Intelligence at their centre.

At any time after a prisoner has been given a copy of the 'no cooperation declaration' made under section 175P, the prisoner may make a reconsideration application to the President or a Deputy President of the PBQ requesting a meeting of the PBQ to reconsider its decision to make the 'no cooperation declaration'. A reconsideration application must be made via the Approved Form 52 Reconsideration Application by No Body-No Parole Prisoner.

Refer to sections 175R - 175U of the CSA.

If the President or a Deputy President grants the reconsideration application, a meeting of the PBQ will be convened to reconsider the in force 'no cooperation declaration' and whether the prisoner has given satisfactory cooperation. If the PBQ decides:

- the prisoner has given satisfactory cooperation the 'no cooperation declaration' in force for the prisoner ends and the prisoner may, subject to sections 176 and 180 of the CSA, apply for a parole order; or
- the prisoner has not given satisfactory cooperation, the no cooperation declaration continues in force for the prisoner.

Pursuant to section 175U(2)-(3) the Board must give notice to the prisoner of the above outcomes.

No body-no parole prisoners are identifiable in IOMS via the Serious Offenders Unit warning flag. Refer to the Appendix SM14 Serious Offenders Unit Cohort Guidelines.

## 10. Submissions or Letters for Parole Board Queensland

All mail addressed to PBQ sent through the blue envelope mail system is considered "privileged mail" and must be submitted directly to PBQ via the internal mail system unless consent is provided to SMS to submit a submission on their behalf electronically using Administrative Form 08 Consent to Provide Submissions Electronically to Parole Board Queensland.

Refer to section 15.6 Privileged mail from a prisoner addressed to PBQ of the COPD Prisoner Entitlements: Prisoner Communications for steps on how to handle privileged mail addressed to PBQ.





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Written submissions are to be sent directly to the relevant parole authority for consideration and not attached in IOMS, unless that written submission is attached to an Approved Form 28 or Approved Form 29 noting this information is to be attached in IOMS. Written submissions attached to an Approved Form 52 are to be provided directly to the PBQ via the internal mail system unless consent is provided to SMS to submit a submission on their behalf electronically using the Administrative Form 08 as above.

## 11. Additional Information Provided to Parole Authorities After PSA Completion

There may be times where further information about suitability for parole is received from other business areas (e.g. Community Corrections, Custodial Operations and QCS Intelligence Branch, or local Intelligence team) or where SMS become aware of further information during their normal duties. In these cases, consideration should be made as to whether this information is relevant to present to parole authorities and/or whether the new information would change the analysis and/or recommendation within the PSA. In such cases where the new information would materially change the analysis and/or recommendation, this advice is to be provided to the PBQ via email.

If further information is received by SMS and is considered to require an urgent decision by parole authorities, the SMS officer must immediately provide this information to parole authorities via writing, with a phone call to follow up. Examples of urgent updates include, but are not limited to:

- a) a prisoner has submitted an exceptional circumstances application for a medical condition and SMS has received advice that the prisoner's health is rapidly declining; or
- b) a prisoner is scheduled for release to Board Ordered Parole within the next two business days however, SMS has received advice that may impact that release decision (e.g. their accommodation is no longer available or they have been involved in a negative incident).

There are circumstances where, following receipt of the report, the parole authority will request additional or updated information before:

- a) making a final determination on a prisoner's parole application; or
- b) prior to the prisoner's release to parole where a decision to grant parole has already been made.

Where there has been a significant event or change to the prisoner's circumstances (such as involvement in a negative incident or breach, investigation, further charges, change to the prisoner's legal status or a change to the prisoner's release plans) the corrective services facility Chief Superintendent must ensure the parole authority is provided with this information in a timely manner. Sentence Management Services must ensure advice is provided to the PBQ when a Notice to Appear or Letter of Production is received for a prisoner with an active BOPA flag.

Updated information is to be attached in IOMS (unless it is a submission from the prisoner or an external party address directly to the parole authority). The parole authority is to be advised in writing (via email) that the information is available and a case note is to be recorded in IOMS noting the email has been sent.

### 11.1 Information regarding deportation and extradition

Should information be available on IOMS regarding deportation and extradition, the PBQ will have access to this when making a decision. Additional liaison with the Australian Border Force or interstate authorities may be required during the parole application process.





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## 12. Noting of Concerns in Relation to Disclosure of Documents Provided to Parole Authorities

The relevant parole authority must be advised, via email, of any concerns in relation to the disclosure of documents provided (including disclosure to the prisoner). This does not apply to reports from external providers commissioned directly by the PBQ.

Concerns about disclosure should be noted if the document:

- contains sensitive third-party information that may place another party at risk or the third party has provided a valid reason for requesting that it not be disclosed to the offender;
- includes details of correspondence from victims or Eligible Persons as defined by the CSA;
- contains raw psychological data, program screening tools, program case notes or treatment plans; or
- is legally professionally privileged and approval has not been granted for release of the document.

## 13. Prisoner Application Lapse

Pursuant to section 191 of the CSA, a prisoner's application for a parole order lapses if, before the application is decided, the prisoner is sentenced to another term of imprisonment. In these instances, SMS should provide the PBQ notice in writing that the prisoner has been sentenced to a further term of imprisonment, including a copy of the Verdict and Judgment Record.

## 14. Parole Board Queensland Decision Making

Pursuant to section 193(3) of the CSA, the PBQ must decide an Approved Form 29 parole application:

- within 120 days from the date the parole application was received; or
- within 150 days from the date the parole application was received if the PBQ decides to defer making a decision (e.g. because the PBQ decides they require additional information).

However, if the PBQ defers the matter to obtain information about terrorism links, in accordance with section 193C of the CSA, the PBQ must determine the parole application within 200 days from the date the parole application was received.

The CSA does not provide a penalty should an application for parole be decided outside of the above listed timeframes.

The PBQ is also responsible for decisions regarding the following for parole orders:

- amendments to parole order conditions;
- interstate travel (for Board Ordered Parole Orders travelling 7 days or more);
- overseas travel (for any parole order travelling for any length of time);
- suspensions of parole orders; and
- cancellation of parole orders.

Refer to sections 205-208C, 212 and 213 of the CSA.





### Custodial Operations Practice Directive

#### 14.1 Appearance of prisoner or agents before the Board

A prisoner may apply for leave to appear or to be represented by an agent before the PBQ using an Approved Form 51 Leave to Appear or be Represented by an Agent Before Parole Board Queensland. This form is to be submitted to SMS at the corrective services facility where the prisoner is accommodated and attached in IOMS with the prisoner's application for parole.

Pursuant to sections 189 of the CSA appearances before the PBQ includes a contemporaneous communication link between the PBQ and the prisoner or the prisoner's agent; or if the person appearing is a prisoner with a special need - appearing personally.

Sentence Management Services are to notify the PBQ of any Approved Form 51 submissions. Once a decision has been made by the PBQ and written confirmation is received by SMS, the prisoner is to be provided with the PBQ's decision. If applicable, the time and place to which the prisoner or agent may appear before the PBQ (e.g. via video link or in person) is to be provided to the prisoner. Refer to sections 190 of the CSA.

#### 14.2 "Subject to"/preliminary view release decisions

The PBQ may indicate a preliminary view to grant parole or lift the suspension of the parole order and defer making a final decision until a specified requirement, (e.g. bed availability, accommodation, completion of a program) is confirmed. There will no longer be a 'not before' release date specified for these decisions.

This wording will be reflected in PBQ minutes and prisoner correspondence. For internal administrative purposes, the IOMS meeting outcome type for these decisions will continue to be reported as a 'Parole - Granted – Subject to' or 'BOP/COP – Lift Suspension Subject to' to allow these matters to be clearly identified from other general deferrals.

Once the pre-condition has been met, the PBQ will reconsider the matter at the earliest opportunity and, subject to any further information received in that period, a grant of parole, or re-release of the prisoner from suspension, is likely.

Where a preliminary view is formed to grant or re-release upon confirmation of –

- Program completion: A 'bring back' date will be provided in line with the advice as to when a program or exit report will be completed.
- Suitable Accommodation Review (AR): The PBQ will further consider the matter upon receipt of any AR.
- Confirmation of bed availability at approved accommodation only: A 'not before' date will NO LONGER be given. For administrative purposes, it is to be taken that the prisoner's 'not before' date is the day of the meeting. This means the prisoner should be prioritised on the waitlist for a bed from the day the preliminary view is formed, as the PBQ will consider the final decision as soon as possible after the bed is confirmed. If a future 'bring back' date is still specified for these matters for any other reason, this 'bring back' date will be the earliest possible release date for prioritisation purposes.

Sentence Management Services are responsible for consulting with relevant stakeholders and providing confirmation to the PBQ to confirm bed availability, travel arrangements, program completion and deportation or extradition.

Confirmation of conditions and related advice should be provided to the PBQ as soon as practicable, as the provision of this advice directly impacts prisoners being released.





### Custodial Operations Practice Directive

Accommodation suitability and availability is primarily confirmed by Community Corrections through completion and submission of Accommodation Reviews to the PBQ. However, in infrequent circumstances the PBQ may liaise with SMS for this.

#### 14.2.1 Bed availability

When the PBQ defers a final decision until bed availability is confirmed, SMS are to:

- a) confirm if a bed is available:
  - i. if the accommodation was sourced by a Re-entry Services provider, liaise with the Re-entry Services provider for a suitable bed date;
  - ii. if the accommodation was not sourced by a Re-entry Services provider, liaise with the relevant accommodation provider (e.g. boarding house manager or representative) for a suitable bed date;
- b) once a bed is confirmed as available, SMS are to notify the PBQ of a specific suitable release date. Factors to be taken into consideration when determining this is ensuring:
  - i. that the bed is available as close as possible to, and on or after the scheduled PBQ meeting date (and not prior to);
  - ii. the release date is not on a weekend or public holiday; and
  - iii. travel arrangements have been or can be made (if required).

#### 14.2.2 Confirmation of travel arrangements

In most instances PBQ will grant a parole order or re-releasing from a parole suspension for prisoners who may require travel arrangements by setting a straight release date which accounts for the likely or necessary time required for travel arrangements to be made.

It is understood that absent of the Board stipulating for travel to be arranged, ordinary processes as detailed in the COPD Reception Processes: Custodial Discharge and further informed by section 108(4) of the CSA, would still see any prisoners being released onto parole supported with travel arrangements being made where required to aid their release to the community.

In the limited circumstances where travel is essential however no travel options are available for the set day of release and all options have been exhausted, the Centre is to notify the PBQ who would consider re-considering the matter to amend the release date.

#### 14.3 Revoking a release decision

If the PBQ makes a decision to revoke a release decision, the Rescind Release Decision (RRD) flag will be activated in IOMS by the Parole Board Secretariat. Refer to the Appendix SM1 Criteria for Warning Flag Indicators.

#### 14.4 Statement of Reasons

If a decision on a parole application has not been made within timeframes, or the prisoner is not satisfied with the final decision made on their matter (including for parole applications, as well as, other types of matters), the prisoner may enquire with the PBQ and/or request a Statement of Reasons. A Statement of Reasons must be requested within 28 days of receiving notification of a final decision. Following receipt of the Statement of Reasons, if the prisoner chooses to, they can then make an application to the Supreme Court for a Judicial Review. Refer to the *Judicial Review Act 1991*.







### Custodial Operations Practice Directive

## 15. Parole Correspondence

It is the responsibility of the relevant parole authority to inform all relevant parties, inclusive of the prisoner, of the outcome of a parole decision.

Sentence Management Services are responsible for relaying parole outcomes within a corrective services facility to prisoners and discussing any associated issues or concerns they may have. In the case of an adverse decision being delivered to a prisoner, officers should refer to the COPD At Risk Management: At Risk. Where the outcome requires SMS action within two business days (e.g. a release decision where the release date, or “not before” date, is within next two business days), the PBQ will notify SMS via phone as soon as possible.

While information regarding PBQ decisions is contained in IOMS, the release of such information may lead to safety and security risks. The release of confidential information is to be in accordance with section 341 of the CSA.

The PBQ will ensure all correspondence addressed to the prisoner is attached in IOMS (excluding where extenuating circumstances are specifically identified), under the attachment tab in Boards and Committees. Once the correspondence is attached in IOMS, SMS will be notified via an automated email that it is available and ready for processing.

In relation to suspension matters (including cancellations and amendments (if applicable)), if a prisoner remains at large at the time an Information Notice is completed, SMS must check IOMS at the time of the prisoner’s reception or through the completion of the sentence calculation to identify if correspondence is attached to IOMS. If there is correspondence attached to IOMS, SMS are to issue this to the prisoner within three business days of their return to QCS custody.

The Commonwealth Parole Office will send parole correspondence via email.

Once correspondence is ready for processing, it must be delivered to the prisoner. SMS will deliver the correspondence and if relevant, have the prisoner sign any documents as part of discharge processes. Refer to the Appendix SM28 Delivering Parole Correspondence for instructions regarding SMS delivery to prisoners.

Refer to the COPD Sentence Management: Release/Discharge.

### 15.1 Guardianship and/or Administration Order

If a prisoner has an active Guardianship and/or Administration Order (GA) warning flag indicator in IOMS and they are required to sign an acknowledgement of receipt of information or documentation relating to an area where a guardian is appointed, it is necessary to advise and provide the document to the appointed guardian. The delivering officer should contact the prisoner’s guardian at the earliest opportunity to advise that the prisoner is required to sign documentation. This documentation must be forwarded to the appointed guardian as soon as possible to provide the appointed guardian sufficient time to review the documentation and discuss with the relevant officer.

Refer to the COPD Prisoner Entitlements: Office of the Public Guardian.

