



NEW ZEALAND  
PAROLE BOARD

# Your hearing

This booklet explains how the New Zealand Parole Board decides your case

## *It will tell you about*



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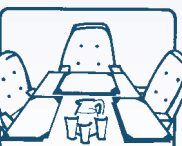
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# Who is this booklet for?

This booklet is for inmates who are eligible to be considered for parole or home detention or who will be released with conditions.

If you are eligible, the New Zealand Parole Board will write to you at the correct time about the process for considering your case.

This booklet provides more information to help you understand how the process works and what you can do.

The information in this booklet will be most useful if you:

- are eligible for parole and are likely to have a hearing soon, or
- may be considered for home detention soon, or
- are due to be released and will have release conditions set.

## **Important**

This booklet does not cover every aspect of the parole process. It is a guide only. If you want all the details you will need to read the legislation governing parole – the Parole Act 2002.

To see a copy of the Act ask your Case Officer.

## **People who may help you**

At the back of this booklet (*page 11*) there is a list of people who might be able to answer questions or help you.

If you do not know how to contact someone on the list, ask your Case Officer.



# What is the New Zealand Parole Board?

The New Zealand Parole Board is an independent, statutory body. It makes decisions according to the Parole Act 2002. The Board considers all cases for release on parole and home detention, and sets parole, home detention and release conditions.

The Board has around 30 members, some are judges and some are people appointed from the community. The members consider cases in panels of three or sometimes more. Each panel is chaired by a convenor, usually a District Court Judge. The Board is chaired by a High Court Judge.

# How will my case be considered?

There are a number of steps in the process for the New Zealand Parole Board to make a decision about your case. Here are the main steps in the hearing process.

## Step 1

You will be sent a letter saying when your case will be considered and giving you the opportunity to make a written submission.

## Step 2

You will be sent a further letter about the kind of hearing planned for your case. This could be 'attended' or 'unattended' (*the two kinds are explained in the next section*).

## Step 3

You will be given information about taking part in your hearing if it is an attended hearing, or given the opportunity for a pre-hearing interview if it is an unattended hearing.

## Step 4

Your hearing will take place and the Board will make a decision. You can involve support people in an attended hearing or an interview before an unattended hearing.

## Step 5

You will be told the decision. You will be given details of your conditions if your release is approved, or given the reasons if your release is declined.

The sections in this booklet explain the main parts of this process and how you can participate.



# 1

# Hearings

## Key points

- All cases get a hearing
- Most hearings are conducted by a panel of three Board members
- There are two types of hearing:
  - Attended – you can take part
  - Unattended – usually only Board members take part
- You can write to the Board saying you would like an attended hearing (before it considers which type)
- If the Board plans to have an unattended hearing you can ask for a review of this decision
- If you have an unattended hearing you will not be disadvantaged
- If your case is going to be considered at an unattended hearing you can ask for a pre-hearing interview with one of the members of the panel
- If your case is going to be considered at an attended hearing you can attend part of the hearing.

## Types of hearings

The hearing is the meeting where the Board makes a decision about your case. Hearings are conducted by a panel of three Board members. There are two kinds of hearing. One is an ‘attended’ hearing where you can take part. The other is an ‘unattended’ hearing where the panel considers all the information about your case, including any submissions, but usually only Board members take part.

## Why are there different types?

The type of hearing depends on how the Board believes it will get the best information to make a decision. If the Board considers it is important for the panel members to have the chance to talk to you directly then it will hold an attended hearing. But if the Board considers it can make a decision about your case without the full panel talking to you then it will plan to hold an unattended hearing.

There could be different reasons why the Board considers an unattended hearing is appropriate. For example, it could be a short time since your last hearing, or the Board might decide it has very good written information about your case.

Whatever type of hearing is used the Board will give full consideration to your case and any information you provide.

## How is the type of hearing decided and what information do I get?

In the first letter you get from the Board saying your hearing is coming up it will say that the hearing could be attended or unattended. If you think you should have an attended hearing you can make a submission to the Board saying this (write a letter) before it decides the type of hearing. If you give reasons why you think it should be attended, such as wanting to have support people with you, this will help the Board decide on the most appropriate type.

For the time being the Board has decided, for administrative ease, that all hearings will be attended. However, the Panel Convenor is still required to consider the possibility of an unattended hearing, so you can still comment on this if you choose.

**If the Board decides to have an attended hearing** you will be sent a letter telling you and saying that you can take part if you wish. You can also arrange to have support people at the hearing. *(See the section on Support people, page 7.)*

**If the Board decides to have an unattended hearing** you will be sent a letter saying this and explaining why. You can ask for this decision to be reviewed. Write to the Board before the deadline in the letter. The Board will reconsider what type of hearing is appropriate and write and tell you the decision. This decision is final – you cannot ask for another review.

**If the Board reviews its decision and decides to have an attended hearing** this may affect when the hearing can be held. The Board will try to have the hearing in the same month as first planned but if this cannot be arranged it will hold it as soon as possible.

**If the Board is holding an unattended hearing** you can ask for an interview with a panel member before the hearing. This is a chance to state any information you would like considered at the hearing. If you want a pre-hearing interview you need to write to the Board requesting one. At the interview you can have one support person. *(See the section on Support people, page 7.)*

## What happens when I appear before the Board for an attended hearing?

You will meet with the panel during part of the hearing of your case. Panel members will ask you questions and give you an opportunity to speak. If you have a support person or support people with you they will usually be able to talk to the panel.

## What happens when I have an interview with a panel member before an unattended hearing?

You will meet with the panel member at the prison. The panel member will have questions to ask you and will give you an opportunity to give other information. He or she will take notes of the interview to pass on to the other panel members.

## What will the panel or the panel member ask me about?

They will ask you:

- how you feel about your offending
- what you have done about it, such as the programmes or work or other activities you have done during your sentence and the progress you have made in your sentence plan
- what you plan to do if, or when, you are released, or go on home detention.

## What if I don't want to go to the hearing?

You can choose not to go to the hearing. If you choose this you will have to tell the Board in writing, by signing a "waiver" (a form that says you don't want to attend the hearing). Talk to your Case Officer if you want to do this. Remember, if you choose not to go to the hearing you will not be able to talk to the Board in person, but you can still make a written submission to the Board. We talk about written submissions on page 6.

### Example

Shane receives his first letter from the Board saying when his hearing will probably be and that it could be attended or unattended. He is relaxed about what kind of hearing it is so he doesn't write to the Board about that. The next letter he receives says the Board plans to consider his case at an unattended hearing. Shane decides he is OK about this, but would like a chance to talk to a panel member before the hearing. The next day he writes a letter to the Board asking for an interview. Later his Case Officer tells him when the interview will take place and he plans what he wants to say.





# 3

## Support people

### Key points

- If you have an attended hearing you can have support people there
- They can be with you and can also speak on your behalf if the Board agrees
- You can have up to three people generally
- You need to fill out the *Support Persons* form to give their names
- You need to tell your support people the details of the hearing
- If you have an unattended hearing and you have an interview with a panel member before the hearing, you can have one support person at the interview.

### How do I organise to have support people at an attended hearing?

If you have an attended hearing you can arrange to have support people with you. This could be whanau, family, friends or other supporters. The role of support people is to be with you at the part of the hearing where you attend. They can also speak to the panel if the panel agrees.

You can have up to three people, but generally not more because of space restrictions. Support people should be over 16. Also, it is not suitable for anyone under 16, such as the child of a support person, to be brought to the prison for a hearing. Fill out the *Support Persons* form (sent with this booklet) with the details of who you would like to support you and send it to the Board.

When you are told your hearing date and time you will need to make sure your support person or support people know when and where to come. You and your support people are responsible for all arrangements and costs for them to attend.

### What if I'm having an unattended hearing?

If your hearing is unattended and you request an interview with a panel member before the hearing, you can have one support person at the interview. To organise a support person you need to fill out the *Support Persons* form. When the interview is organised you will need to tell your support person the arrangements.

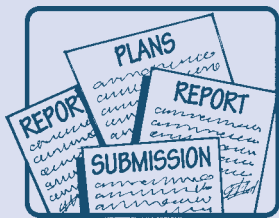
### Other people who may be involved

**Interpreter** – If you need to have an interpreter at an attended hearing, or at an interview with a panel member, talk to your Case Officer so one can be arranged for you.

**Lawyer** – If you have an attended hearing and want to be represented by your lawyer, you need to write to the Board asking for permission. Your letter needs to say why you think your lawyer should be there. You would need to check with your lawyer to find out whether representation at this hearing may be covered by legal aid.

### Example

Jason has been in close contact with whanau during his sentence and he would really like them to be with him at his hearing. When he gets his letter it explains what he needs to do if he wants to arrange for support people to be there. Jason fills out the *Support Persons* form listing his aunty and his brother. He specially wants his aunty there because he plans to live with her if he is released on parole, and she will be able to talk to the panel about that if they have questions.



# 4

## Information the Board considers

### Key points

- The Board uses a range of information to make a decision – including:
  - reports about your offending
  - reports about your sentence and your plans
  - submissions from you or your supporters
  - submissions from victims and Police
- You will be given or shown all the information unless the Board decides it could cause harm to do that
- You can talk to the panel at an attended hearing, or to a panel member before an unattended hearing.

### What information does the Board consider?

The Board uses a range of information to make a decision on your case. This includes:

- the details about your current and previous convictions, sentencing notes and pre-sentence reports
- a report explaining the programmes or work or other activities you have done during your sentence and the progress you have made in your sentence plan
- information about any restorative justice processes you have undertaken
- information about how your parole or home detention would be managed
- any reports from psychologists about your offending, your treatment and your risks of re-offending
- advice from other specialists
- submissions from you or your supporters
- submissions from victims and Police.

### What information can I give the Board?

As well as sending in a written submission you can talk to panel members making the decision. You can do this by taking part in your hearing if it is attended, or having an interview with a panel member before an unattended hearing.

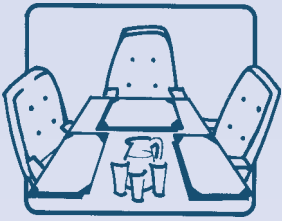
### What information do I get?

You will be given or shown a copy of all the information the Board will use unless the Board considers it could cause harm. The Board can withhold information, such as submissions from victims, if it might affect your health or the safety of anyone.

Generally, you will be sent a copy of all the information the Board is going to consider – except any victims' submissions. You will receive the information about a week before the hearing, but it may be closer to the hearing date. Any victims' submissions will be shown to you unless the Board is withholding them. You will be able to read them, but not keep a copy.

### Example

Lyn's case is being considered at an unattended hearing. She has sent a submission to the Board describing her drug treatment programme and how she thinks being drug-free will keep her from re-offending. When Lyn gets a copy of all the material the Board will consider she finds it hard reading so much about herself. But it is good to know what information the Board will use to make the decision. She is pleased to see that some of the reports talk about the importance of the treatment programme she has done.



# 5

## Decisions

### Key points

- In deciding about your case the Board's main consideration is community safety and your risk of re-offending
- The panel will decide your case at the hearing
- You will be told the decision at the hearing (if it is an attended hearing) and get a letter stating the decision, usually within one week
- If parole or home detention is granted the letter will set out the conditions
- If parole or home detention is declined the letter will say why and when your case will be considered again
- You can apply to the Board for a review on certain grounds
- You can appeal to the High Court about some orders.

### What is most important to the Board?

The Board has to consider a number of things when it makes a decision about your case. The most important are about community safety and your risk of re-offending. **By law, the Board must decide that you do not pose an undue risk to the safety of the community before you can be granted parole or released on home detention. If the Board considers you are a high risk to the safety of the community your parole or home detention will probably not be approved.**

### How do I get my decision?

The panel will make a decision on your case at the hearing. If it is an attended hearing and you take part you will be told the decision then. For an unattended hearing (and also for the attended hearing) you will get a letter from the Board stating the decision. Usually you will get your letter within one week of the hearing.

If you are granted parole or home detention the letter will give you details of the conditions of release. It will say how long you will be on the standard conditions or detention conditions, such as reporting to a Probation Officer or having a curfew. It will also state any special conditions such as attending programmes.

If parole or home detention is declined the letter will say why it has been declined and when the Board will consider your case again. It may also say what the Board recommends you should do before that next hearing.

After your parole eligibility date has passed you can apply to the Board for your case to be considered before the date the Board has set for your next hearing. You would need to write to the Board giving reasons.

Normally your case must be considered again within the next year. However, in special circumstances the Board can postpone consideration for more than a year. This is called a postponement order. If the Board postpones your next hearing this will be explained in your letter and you will be told the reasons why.

### Review of decision

You can apply to the Board for a review of the decision on certain grounds. You might have grounds to apply if the Board: did not do what the Act says has to happen; made an error of law; treated you unfairly; based the decision on wrong information; or acted without authority.

You can appeal to the High Court against postponement orders, section 107 orders and final recall orders.

For full information about the grounds and process for a review or appeal see the Parole Act 2002. Ask your Case Officer to see a copy or talk to your lawyer.

# Involvement of victims

## Key points

Victims of certain serious offences have particular rights in relation to the person who offended. They have the right to be registered as part of the victim notification system, and to automatically receive information about:

- the offender
- when the offender's hearing is to take place
- the Board's decision.

They also have a right to give their views. They can:

- write to the Board about the type of hearing
- make a written submission about the offender's case
- make an oral submission to the panel considering the case.

## What does this mean for me?

If victims of the offence or offences you have committed have these rights, the Board will write to them and tell them you have a hearing coming up.

Victims can write to the Board and say whether they think your hearing should be attended or unattended. They can send in written submissions. They can get some information about you. This is about the programmes you have done during your sentence, your security classification and a list of any convictions since you started your sentence. This information is to help victims make a relevant submission.

If a victim makes a submission, it will be shown to you but you may not keep it. The Board can withhold information if it might affect your health or anyone's safety.

If your hearing is attended, victims can talk to the panel considering your case but this will usually not be while you are at the hearing. (You can only be at a hearing at the same time as the victim if the victim, the Board and you all agree to that.)

If it is an unattended hearing, victims can have an interview with a member of the panel before the hearing.

When the Board has made a decision about your case victims will be told the decision. They will be advised of release or detention conditions imposed on you – however, the Board may withhold a condition if disclosing it would unduly interfere with the privacy of any other person (other than the offender).

## Rights of "non-registered" victims

Victims who have chosen not to be registered as part of the victim notification system, and victims of other offences, who are not eligible to be registered, have rights too.

These rights are to:

- contact the Board to be advised of your hearing date
- make a written submission
- apply to make an oral submission, for either an attended or unattended hearing
- be notified of the Board's decision if they make a submission
- be advised of the conditions imposed – however, the Board may withhold a condition if disclosing it would unduly interfere with the privacy of any other person (other than the offender).

The main differences between registered and non-registered victims are that non-registered victims:

- do not automatically get told when your hearing is
- cannot say whether they think your hearing should be attended or unattended
- cannot as a right get information about you such as the programmes you have done
- will only be notified of the Board's decision if they make a submission.

If you want all the details about victims' rights you will need to read the Victims' Rights Act 2002 and the Parole Act 2002. If you want to see copies ask your Case Officer.

# Involvement of Police

The Police will be told that your hearing is to take place, the type of hearing (attended or unattended) and the decision the Board makes including conditions.

Police can make a submission and if they do you will see it unless the Board decides to withhold it.

# More information

If you have questions you can ask your Case Officer.

There might be other people working in the prison, or visiting, who can also answer questions or help you. Some people are suggested in the list below. If you are not sure how to contact them ask your Case Officer.

You can read the legislation under which the New Zealand Parole Board operates. This is the Parole Act 2002. If you want to see a copy ask your Case Officer.

You can also write to the Board with other questions. Send your letter to: New Zealand Parole Board, P O Box 939, Wellington. Note: if you write to the Board in response to any of the Board's letters to you (for example, to send a written submission), you need to use the address that is on the letter the Board sent you.

## People you could talk to about your hearing

The following people might be able to answer questions or help you:

- Family or friends or other people who visit you, or who you keep in contact with
- Social worker
- Education worker
- Whanau liaison officer (Maori Focus Unit)
- Kaumatua
- Chaplain
- NZPARS and PILLARS workers.

If you do not know how to contact any of these people, ask your Case Officer.

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