

Applying for Judicial Review

Decisions made by Parole Board Queensland are open to review by the Supreme Court of Queensland under the *Judicial Review Act 1991*.

Judicial review is not a review of the merits or fairness of a decision. The review focuses on whether the decision made was lawful or not (e.g. whether proper procedure has been followed or the right matters have been taken into account by the decision maker).

Principles of procedural fairness and natural justice

The principles of procedural fairness and natural justice require that, at a minimum, in making its decision the Board:

- Provides you with information that outlines the substance or the main factors that have adversely affected your application;
- Identifies and properly discloses to you all documents that were relied upon in making the decision; and
- Provides you with a reasonable opportunity to comment on the material relied upon before the final decision is made.

Ministerial Guidelines also provide further information in relation to factors the Board must take into consideration.

What decisions can be judicially reviewed?

The most common decisions of the Board where judicial review is sought are as follows:

- Where the Board has decided:
 - Not to grant you parole;
 - To cancel your parole order;
 - To suspend your parole order;
 - To amend your parole order;

OR

- Where the Board has failed to make a decision within the required legislative timeframe.

How to apply for Judicial Review:

Usually the first step in understanding how the Board reached its decision is to seek a Statement of Reasons – please refer to the “Statement of Reasons” Fact Sheet. Please note, you are not required to seek a Statement of Reasons however it is likely that you will receive this document as part of the Judicial Review process.

If you believe that the Board has made an error in its decision making process then you may lodge an application for statutory review with the Supreme Court.

To apply:

- Complete the Form 54
 - As you are the person applying, you are the “Applicant”
 - Identify the grounds you are seeking a review
- Lodge the Form 54 (and any material you are relying upon) at the Supreme Court Registry
- Pay the fee/request for reduction of fees
 - You may apply to the Registrar for a reduction of fees using Form 131.
 - Eligibility for the fee reduction can be demonstrated by, for example, providing a copy of a current Health Care card, current pensioner card or proof that you have been granted Legal Aid in respect of the proceeding.

After you have filed your documents at the Supreme Court Registry, you **must** serve Parole Board Queensland with a copy of those same filed documents.

How to serve your documents on the Board:

To serve documents simply means to provide any documents you have filed with the court to the Board.

You can do this by sending your filed documents via post or via email to the following address:

Legal Services Unit
Parole Board Queensland
GPO Box 1054
BRISBANE QLD 4001

E: PBQLegalServices@corrections.qld.gov.au

Identifying the ground/s for Judicial Review:

In your application, you must identify the ground or basis upon which you are seeking a review of the decision.

You may seek a review on more than one ground.

The most common grounds for review are as follows:

- A breach of the rules of natural justice;
- An improper exercise of power as demonstrated by:
 - Taking an irrelevant consideration into account
 - Failing to take into account a relevant consideration
 - An exercise of power that is so unreasonable that no reasonably person could so exercise the power
- There has been an error of law

What orders can the Supreme Court make?

If the Supreme Court decides that the original Board decision was flawed, the Supreme Court cannot make a new decision in the place of the Board. The Supreme Court will order the decision be referred back to the Board for the Board to make the decision again, properly and in accordance with the law.

If you are successful in your application for Judicial Review, the Supreme Court may do one or more of the following:

- Quash or Set aside the decision;
- Refer the decision back to the Board for re-consideration of the matter informed by directions made by the Court.