

Parole Board Delays

SELF HELP TOOLKIT

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JUSTICE BEHIND BARS

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The Legal Education Foundation



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Parole Board delays

SELF HELP TOOLKIT

Summary

Delays to the listing of Oral Hearings and the Parole process can breach your fundamental right under Article 5(4) of the European Convention on Human Rights (ECHR), which provides that indeterminate sentenced prisoners (Lifers/IPPs) and recalled Extended Determinate Sentence prisoners are entitled to a speedy review of their detention.

The courts have established two categories of claim: modest awards for distress and anxiety when release is not ordered and more substantial awards where the delay kept you in custody longer than necessary.

If my hearing is delayed, can I make a claim for compensation?

Article 5(4) of the ECHR provides indeterminate sentenced prisoners with a right to a speedy review of their detention after they have served their tariff/minimum term period.

Indeterminate sentenced prisoners (Lifers/IPPs) and EDS prisoners who are recalled during the extended part of their sentence and whose parole hearings have been delayed may be eligible to make a claim for compensation against the Parole Board.

There is also a legal duty to provide timely pre-tariff expiry hearings for indeterminate sentenced prisoners who are looking to progress to open conditions.

Breach of these rights or legal duties may give a right to compensation. Can I make a claim?

You may have a claim when **all** of the following apply:

1. **Lifer and IPP prisoners** - You are a life sentence or IPP prisoner and your tariff/minimum term has expired, or you have been recalled.

2. **You are an EDS prisoner** – for EDS prisoners the custodial part of your sentence must have expired, and you must have been recalled to custody in the extended licence period of your sentence.
3. **There was an avoidable delay.** The Parole Board must list and decide your case promptly. Delays of a few weeks are common but delays longer than a few months without a good reason may breach Article 5(4). The Supreme Court has held that delays of longer than 3 months would provide for awards of damages. A shortage of resources is *not* an excuse – the Parole Board and Secretary of State for Justice must organise their system to comply with Article 5(4). This has been confirmed in a number of cases *R (Noorkoiv) v Secretary of State for the Home Department* [2002] EWCA Civ 770 and *R (Bate) v Parole Board* [2018] EWHC 2820 (Admin).
4. **The delay was not your fault.** In some cases, poor behaviour in custody or requests to delay hearings would not lead to a breach of Article 5.
5. **You are within the time limit.** Claims for breach of Article 5 must normally be issued in court **within one year less one day** of the date when the delay ended (usually the date of your Oral hearing). For example, if your Oral Hearing was on 2 August 2025 your limitation period would expire on 1 August 2026.

Determining you have a claim and the claim period

1. **Determine in which month should your hearing have taken place?**

If you have had a previous decision from the Parole Board, you should have received a letter from the Public Protection Casework Section (PPCS) at the Ministry of Justice (MOJ) with this date. It is sometimes called an outcome letter, which will summarise the Parole Board's findings and inform you of next steps. Towards the bottom of the letter it will state the month in which your next parole review starts, and the target month for consideration by the Parole Board. The target month listed in the letter is the date the Parole Board should hold an oral hearing by. If you have not received such a letter, you can estimate that the hearing date should have been 12 weeks after the case was referred for oral hearing (based on the guidelines set out in Prison Service Instruction (PSI) 22/2015 on the Generic Parole Process).

2. **When did your hearing actually take place?**

This should be on your parole hearing decision letter.

3. **Do you know why the hearing was delayed?**

If your hearing took place later than the date on the PPCS letter or the date you have estimated from the PSI, did you or your legal representative do anything to cause any delay to your case?

Did you ask for the case to be adjourned or deferred so that you could complete a course or instruct an independent witness, or for some other reason? It is unlikely you will be able to submit a claim for damages, as the Parole Board is only going to agree to compensate you for delays which it is responsible for.

4. What was the outcome of your hearing?

- If you were released after a delayed hearing, you will need to consider the reports which were prepared at the time your hearing should have taken place. You will need to show that it is more likely than not that you would have been released if your hearing had happened on time.
- If you were not released after a delayed hearing, you may still be entitled to compensation if your hearing was delayed by three months or more and you did not cause the delay.
- If you were recommended for open conditions at your pre-tariff hearing, you may be entitled to compensation if your hearing was delayed and you did not cause the delay. It is likely that you will need to show that the hearing was delayed by three months or more.

How much compensation will I get?

The UK Supreme Court in the case of ***R (Faulkner) v Secretary of State for Justice and R (Sturnham) v Parole Board [2013] UKSC 2*** provided guidance in 2013 in relation to the amount of damages you will be entitled to recover.

£1000
per month

The case of *Faulkner* sets a guideline rate of £650 per month for **delay which caused a loss of liberty**.

With inflation this figure is now approximately **£1,000** per month. This was recently confirmed by the High Court in ***R (Fitzgerald) v Parole Board of England and Wales***.

The case of *Sturnham* sets a guideline rate of £50 per month for **other delayed hearings** where release is not directed.

£80
per month

With inflation, as of 2025, this figure is now £80 per month.

There is no published guideline rate for **pre-tariff expiry open conditions delays** but it is likely (following the 2016 case of Hussain) that a similar rate of £80 per month should apply.

The courts have set these guidelines to take into account the frustration, anxiety and distress which would be expected as a result of delays to hearings.

If you are able to show that you suffered more than would normally be expected as a result of the delay, it may be possible to argue for a higher amount of compensation. However, you would need to obtain a report from a psychologist or psychiatrist to show that the delays caused you a recognised psychiatric injury or exacerbated a pre-existing condition as a result of your continued detention or delays. Without medical evidence from an independent expert who is not involved in the Parole process the Court is unlikely to find proven any such claim.

Can I get additional compensation?

You might be able to claim additional compensation (this is known as ‘special damages’). Special damages are awarded where you can show financial loss arising directly from the delayed decision by the Parole Board. For example:

You are in open prison conditions, and you have a job outside prison. You have a delayed decision by the Parole Board to recommend your release of 4 months. During those 4 months you paid the victim levy. You can claim back the levy you paid over those 4 months because if you had been released on time you would have continued working and not have had to pay it.

You have a job offer but this expires due to the delay in your parole process.

Can I get additional compensation for the time spent waiting to be released?

You can usually only claim for compensation in the delay up to the point the Parole Board holds your oral hearing before your release. Once the Parole Board has directed your release, the Secretary of State for Justice has a duty to give effect to that decision as soon as is reasonably practicable in all the circumstances, including

the need to make arrangements in connection with any conditions that are to be included on your licence.

Therefore if there is a delay in the finding an approved premises for you to be released to by the Secretary of State for a few weeks to a few months then there will not normally be a claim for damages. It is possible however to bring a claim for breach of article 5(4) if the delay in releasing you is substantial and relates to a lack of national resources see for example: *R(Newson) v Secretary of State for Justice* [2022] EWHC 2836 (Admin)

What do I need to do to make a claim?

You should get together copies, if you have them, of any of the following documents:

- a. Your Parole Dossier.
- b. The letter from the Secretary of State before your parole review started, this should include the date your parole review should have concluded;
- c. Any Parole Board directions for your case;
- d. Your Parole Board decision letter;
- e. Reports for your parole review by your Community Offender Manager, Prison Offender Manager and any other important reports which made recommendations about your progression e.g. psychological reports.

You do not need to send these to the Parole Board with your pre-action letter (see below). However, it is advisable to have them in order to ensure the details of your claim are accurate and you are ready to provide in evidence if you do end up having to go to court.

How do I start a claim?

Write to the Parole Board's legal team (and the MOJ/PPCS if the delay was due to their failures). Set out:

- Your name, prison number and sentence details.
- The date your tariff expired and when your case was referred to the Parole Board.
- A chronology showing when the hearing should have taken place and when it

actually occurred.

- How the delay was caused (e.g. failure to relist, late reports).
- The type of claim (Sturnham or Faulkner) and the amount of compensation you seek. Use the guideline rates above.
- A reference to relevant case law (Sturnham, Faulkner, Fitzgerald) explaining why damages are due.
- A statement that you will issue proceedings if the matter is not resolved. Offer to engage in Alternative Dispute Resolution (ADR).
- See the example letter at the end of this guide.

Send the letter **by post and email** (if possible) to:

Parole Board Legal Advisor

3rd Floor, 10 South Colonnade

Canary Wharf

London, E14 4PU

Email: Litigation@paroleboard.gov.uk

If you believe the MOJ/PPCS caused the delay, send a copy to **Prisoner Casework Section** and to the Government Legal Department:

prisonercasework@justice.gov.uk

PPCS

102 Petty France

Westminster

London

SW1H 9AJ

thetreasurysolicitor@governmentlegal.gov.uk

Government Legal Department

102 Petty France,

Westminster

London

SW1H 9GL

What will happen next?

Under the general *Practice Direction on Pre-Action Conduct* there is no specific protocol for these claims. In straightforward cases the Parole Board may reply within **four–six weeks**; the MOJ can take up to **three months**. They may:

- Admit some or all liability and offer compensation (sometimes “Without Prejudice” or “Calderbank” offers). The Parole Board usually sends a chronology showing which parts of the delay they accept.
- Deny liability or argue the delay was justified.
- Offer less money than you requested.

If you have been released you will need to provide details of a bank account for the Parole Board to send you any money, because the Parole Board does not have the facility to send money other than through BACS (electronic payment). If you fail to provide this information, you will be delayed in receiving your damages money. If you are in prison, then the Parole Board will pay any monies into your prison account.

Negotiating your Claim

If you consider that the offer is too low, you can make a counter-offer. Offers to settle should be marked as “*Without Prejudice save as to costs*” as this will ensure that the offers are not then shown to any Judge who deals with the claim at a later date.

Note that if you make a counter-offer to a Calderbank Offer this will act as an automatic rejection of the Parole Board’s offer and you will then need their permission to go back and accept their initial offer. This is because once an offer is rejected it is then not open for acceptance. The situation is different if the offer is a formal offer to settle made under Part 36 of the Civil Procedure Rules as the offer must remain open for 21 days and can be accepted within that period even if it has been rejected previously.

Please see the sample offer letter at the end of this guide.

What if we cannot agree a figure or they deny my claim?

If the Parole Board does not agree to pay compensation or you cannot agree on the amount, you will have the right to make a claim for damages to the County Court.

We recommend that you contact a solicitor to seek advice on your claim. You may be entitled to representation under a No Win No Fee agreement and in some cases legal aid may be available.

Instalaw Solicitors act for many ex-prisoners and serving prisoners in relation to Parole delay claims and their contact details are below. They have assisted in updating this guide and will be able to assess your claim to advise whether it is a claim they can help with. They also work closely with No5 Barristers Chambers.

Starting Court Proceedings

If you intend to start court proceedings as a litigant in person. You would need to issue a Claim Form.

Starting court proceedings is a complex step and we would not recommend doing so without a solicitor.

The first step is to issue your claim with the Court. You would need to determine if your case should be started in the High Court or the County Court. Guidance can be found using the Civil Procedure Rules online.

Time limit: The claim must be issued **within one year** of the date the delay ended (usually the date of the parole decision). Do **not** delay – the court can strike out claims issued late.

Service: Once issued, you must **serve** the claim form on each defendant within **four months**. If you miss this deadline your claim will be struck out.

You would then need to issue your claim form with the Court and follow the relevant steps to serve court proceedings on the Defendant Parole Board or MOJ.

Assuming you have no income (other than prison income and a small amount of private cash) and no savings, you can submit the claim for free, but you must complete a fee exemption form (EX160A) and provide evidence of your income.

If you reach the stage of issuing proceedings we recommend contacting a solicitor. You can also contact us for advice and we may be able to assist by sending you further information in relation to the County Court.

Contact information

PRISONERS' ADVICE SERVICE

THE INDEPENDENT LEGAL CHARITY PROVIDING INFORMATION AND
REPRESENTATION TO PRISONERS

JUSTICE BEHIND BARS

PO BOX 46199 LONDON EC1M 4XA

TEL: 020 7253 3323 / 0845 430 8923

(Mondays - Wednesdays - Fridays 10.00 - 1.00 p.m. and 2.00 - 5.00 p.m.)



Email: Info@instalaw.co.uk

Tel: 01782 560 155

Address: Office 15, Lymedale
Business Centre, Hooters Hall Road,
Newcastle-under-Lyme, Staffordshire,
ST5 9QF

www.instalaw.co.uk



www.No5.com

Email: public@no5.com

Phone: [+44 \(0\)345 210 5555](tel:+44(0)3452105555)

BIRMINGHAM
103 COLMORE ROW
BIRMINGHAM
B3 3AG

LONDON
7 SAVOY COURT
LONDON
WC2R 0EX

BRISTOL
30 QUEEN SQUARE
BRISTOL
BS1 4ND

SAMPLE PRE-ACTION LETTER TO SEND TO PAROLE BOARD

Parole Board Legal Advisor

3rd Floor, 10 South Colonnade

Canary Wharf

London, E14 4PU

Email: Litigation@paroleboard.gov.uk

DATE

Ref number (your prison number)

LETTER OF CLAIM

Dear Sir or Madam,

Re: Parole Board delay and claim for compensation

Your Name and Prison Number

I write regarding the delay in listing and hearing my parole review. I have been advised that this delay constitutes a breach of my right under Article 5(4) of the European Convention on Human Rights (ECHR) to have the lawfulness of my detention reviewed “speedily” by a court. This letter sets out the factual background and the basis of my claim for compensation.

Whilst the matter may give rise to legal proceedings, I hope that it can be resolved without litigation. Accordingly, this letter is sent pursuant to the Practice Direction on Pre-Action Conduct as a formal letter before action. Unless otherwise stated the proposed defendant is the Parole Board.

Factual background

- I am serving a life/indeterminate sentence/EDS recall of
- My tariff expires/expired on / I was recalled on
- The Secretary of State referred my case to the Parole Board on
- My case was directed to an oral hearing on
- Under the Board’s own published guidelines my hearing should have taken place by, but it actually took place on

The Parole Board's delay in listing and hearing my case exceeded the period reasonably needed to arrange the review and therefore breached Article 5(4).

[USE EITHER THE FIRST SECTION IF YOU WERE RELEASED OR SECOND SECTION IF YOU WERE NOT RELEASED]

Basis of the claim – Delayed Release

In the joined appeals of *R (Faulkner) v Secretary of State for Justice and another* and *R (Sturnham) v Parole Board* the Supreme Court ([2013] UKSC 23; [2013] 2 AC 254) held that where a prisoner shows on the balance of probabilities that they would have been released had their case been heard on time, they are entitled to an award reflecting loss of liberty. Since *Faulkner*, the High Court has considered inflation and in *R (Fitzgerald) v Parole Board* (2025) awarded £1,000 per month. I therefore submit that:

- Had my case been heard on time on, I would, on the balance of probabilities, have been released. My release was delayed by months.
- Using the original *Faulkner* guideline (£650 per month), adjusted to take into account inflation as per *Fitzgerald* my compensation should be £..... .

Sturnham – Delayed Oral Hearing

In *R (Sturnham) v Parole Board* (also known as *Sturnham*) the prisoner was awarded £300 for about six months' delay (roughly £50 per month). This figure uprated for inflation is now £80 per month.

- My hearing was delayed by months and I was not released.
- In accordance with *Sturnham*, I seek compensation of £..... at a rate of about £80 per month.

Hussain – pre-tariff or open-conditions delay

In *R (Hussain) v Parole Board of England and Wales* the High Court accepted that delays in pre-tariff reviews, which prevent a prisoner from progressing to open conditions, may also require compensation. Although there is no published tariff for *Hussain* cases, claimants generally rely on the *Sturnham* guideline of around £80 per month. I therefore submit that:

- My pre-tariff review was delayed by months.
- I was recommended for open conditions at my eventual hearing.
- Applying the *Sturnham* guideline (around £80 per month), I seek compensation of £..... .

Liability of other bodies

If part of the delay was caused by bodies other than the Parole Board – for example, by the Secretary of State/Ministry of Justice failing to prepare the dossier or refer my case promptly – please provide details. I may pursue a separate claim against the Ministry of Justice for its part in the delay. In complex cases or where multiple agencies contributed to the delay, I may seek legal advice. Please therefore identify any periods of delay that you say were outside your control.

Action required

I invite you to respond within **14 days** of the date of this letter. Either:

- Confirm that you accept liability for the delay and agree to pay compensation at the rate(s) claimed, with payment to be made within 14 days of your response; or
- If you dispute liability or the amount of damages, provide a detailed statement of your reasons together with any supporting documentation. If compensation is offered at a lower rate than claimed, please explain how it has been calculated.

Alternative Dispute Resolution

I confirm that I am prepared to enter into ADR to resolve this matter.

If I do not receive a satisfactory response within 14 days, I will consider issuing proceedings in the County Court without further notice.

Yours faithfully,
SIGN NAME

SAMPLE OFFER LETTER

Parole Board Legal Advisor

3rd Floor, 10 South Colonnade

Canary Wharf

London, E14 4PU

Email: Litigation@paroleboard.gov.uk

DATE

Ref number (your prison number)

Without Prejudice Save as to Costs

Dear Sir or Madam

Re: Parole Board delay and claim for compensation – your name and number

Thank you for your letter dated [] and the offer to settle my claim.

I am unable to accept your offer to settle my claim for the following reasons:

- 1) The compensation rate offered is lower than the court would award. As you will be aware the rates of payment made in the cases of Faulkner and Sturnham would not be uprated to take into account inflation as per the case of *Fitzgerald, R (oao) v Parole Board of England And Wales* [2025] EWHC 424 (Admin).
- 2) Explain any other reasons as to why you disagree with their assessment for example:
 - a. You have indicated that I would not have been released if my hearing would have gone ahead earlier however professionals were recommending release, therefore, I do not agree with this.
 - b. Earlier delays in the process caused a knock-on effect and therefore the rate of payment should still be on the basis of Faulkner (i.e. loss of liberty damages).

I therefore confirm that I would accept £[] by way of compensation in full and final settlement in my claim.

Yours faithfully

SIGN NAME

PRISONERS' ADVICE SERVICE

THE INDEPENDENT LEGAL CHARITY PROVIDING INFORMATION AND REPRESENTATION TO PRISONERS



PAS offers free legal advice and information to prisoners throughout England and Wales regarding their rights, conditions of imprisonment and the application of the Prison Rules.

We pursue prisoners' complaints about their treatment in prison by providing advice and information and, where appropriate, taking legal action.

Examples of issues we can advise on include: parole, temporary release, indeterminate sentences, categorisation, adjudications, sentence calculation, licence and recall, discrimination, resettlement and healthcare matters. We also provide advice on Family Law to female prisoners and on Immigration Law to prisoners with issues relating to detention or deportation.

If you have something that you'd like to discuss with one of our Caseworkers, you can:

Write to us at
Prisoners' Advice Service
PO Box 46199
London EC1M 4XA

(Mark your envelope *Legal Mail Rule 39* in all correspondence with PAS)

Call us Monday, Wednesday or Friday
between 10:00-12.30 and 14.00-16.30 on
020 7253 3323

We produce the quarterly Prisoners' Legal Rights Bulletin, which shares information about key cases and changes in Prison Law, and is free to prisoners. To sign up for this, please write to the address above.

www.prisonersadvice.org.uk

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