

Justice Committee

Prisoners (Control of Release) (Scotland) Bill

Written submission from the Parole Board for Scotland

The Parole Board for Scotland is a Tribunal Non-Departmental Public Body (NDPB) which exists under the provisions of the Prisons (Scotland) Act 1989, the Prisoners and Criminal Proceedings (Scotland) Act 1993 ("1993 Act"), the Convention Rights (Compliance) (Scotland) Act 2001, the Criminal Justice (Scotland) Act 2003 and (if commenced) the Custodial Sentences and Weapons (Scotland) Act 2007.

1. The statutory functions and powers of the Board

The Board has powers to:

- direct Scottish Ministers to release determinate sentence prisoners serving four years or more and it may also make directions to Scottish Ministers as to the licence conditions of such prisoners;
- direct Scottish Ministers to release prisoners serving extended sentences where the custodial term is 4 years or more, make directions to Scottish Ministers as to the licence conditions of such prisoners and make directions to Scottish Ministers regarding the licence conditions of extended sentence prisoners where the combined custodial and extension period is 4 years or more;
- direct Scottish Ministers to release life sentence prisoners on life licence once they have served the punishment part of their sentence imposed by the court;
- recommend (in practice direct) Scottish Ministers to revoke the licence of and recall to custody offenders sentenced to 4 years imprisonment or more, life sentence prisoners, extended sentence prisoners and short-term sex offenders in circumstances where such action is considered to be in the public interest.

The Board may direct the Scottish Ministers to re-release any prisoner who has been recalled to custody without a recommendation (direction) of the Board (i.e. recalled by Scottish Ministers without referral to the Board) or any prisoner who has been recalled with such a recommendation (direction). The re-release of life prisoners and certain extended sentence prisoners who are recalled to custody must be considered by a Tribunal of the Board.

The Parole Board (Scotland) Rules 2001 set out the matters which may be taken into account by the Board in dealing with cases referred to it by the Scottish Ministers for consideration for release under the various statutory requirements.

In this submission the Board will focus on the Scottish Government's proposals for ending Automatic Early Release for certain long-term prisoners and the flexibility to advance release of prisoners by up to 2 days.

2. Long-Term prisoners

Long-term prisoners are those who are sentenced to a custodial term of four years or more. They are entitled to be considered by the Parole Board for release between the half-way point and the two-thirds point of their sentence. If the Parole Board has not directed release by the two-thirds point of the custodial term, they are released automatically. Such prisoners are released on licence and can be sent back to prison at any time during the remainder of their sentence if the risk which they pose is no longer safely manageable in the community, usually, because they have breached a condition of that licence.

Long-term prisoners are reviewed for possible release at a Casework Meeting of the Parole Board. The Casework Meeting will comprise three members of the Parole Board who will consider relevant reports to determine whether the prisoner should be released on parole. Where necessary in the interests of justice, the case will be considered at an Oral Hearing of the Parole Board attended by the prisoner and their representative. An oral hearing is chaired by a legally qualified member and sits with two other members. The Casework Meeting or Oral Hearing will set the date for a further review if it decides not to direct release.

3. The Board's response to the proposals

These proposals do not have any impact on Life sentence or Order for Lifelong Restriction prisoners.

Under current arrangements, all long-term prisoners are considered by the Parole Board for release at the half-way point of their sentence. Where they have not been released on parole this will have been because the Board considered that the risk posed by the prisoner could not be managed in a community setting. Depending on the length of the custodial sentence, such prisoners are either considered again by the Board or are released automatically at the two-thirds point of their sentence. While there is scope for progress to be made so that the risk could be safely managed in the community, it is unlikely that all cases would make such progress.

Removing the option of automatic release for serious offenders serving 10 years or more and sexual offenders serving four years or more will ensure that such offenders are only released before the end of their sentence where the Board judges that the risk can be safely managed in the community. This will necessarily increase the work to be undertaken by the Board. In addition to ensuring that these categories of offender are only released where the risk is manageable, it should also encourage greater engagement with the parole process with the potential for offenders to undertake more work regarding their offending behaviour.

The proposals to allow the Scottish Prison Service the flexibility to advance the date of release by up to 2 days are supported as early access to relevant support agencies is considered valuable to prisoners on release. The Board supports work that will encourage community reintegration and reduce the risk of further offending or other potential breaches of release licence.

Parole Board for Scotland
6 January 201