

The Parole Board for Scotland

**Annual Report
2016 – 2017**

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for Scotland

Annual Report 2016

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Presented to Parliament under Schedule 1, paragraph 5 of the Prisons (Scotland) Act 1989 and Schedule 2, paragraph 6 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.

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Foreword

I am pleased and privileged to be able to present this Annual Report on the work of the Parole Board for Scotland during 2016-17.

As in previous years the report shows the considerable volumes of work dealt with by the relatively small number of individuals who comprise the Board and its administrative support body, Parole Scotland.

The work which the Board undertake needs to be of the highest standard and involves difficult and complex decisions which have a direct bearing on the safety of communities across Scotland and it can, and does, also, have an important role to play in assisting with the rehabilitation of offenders to return to their communities as law-abiding citizens.



All of the Board's decisions have to be taken, however, with the only consideration being whether the risk posed by releasing a prisoner into the community is acceptable and safely manageable.

The figures in the report show a variation in the number of life, determinate and extended sentence prisoners dealt with by the Board, as one might expect, with increases in some categories and decreases in others but there was a noticeable decrease in the number of postponed or adjourned Tribunals. Postponements and adjournments are expensive and delay the final release decision. The Board and Parole Scotland will remain vigilant and seek to reduce the number of postponements and adjournments even further.

Oral Hearings in the cases of determinate sentences and some Extended Sentences are on a falling trajectory. It may be that oral hearings spiked last year following developments in case law and are now settling down.

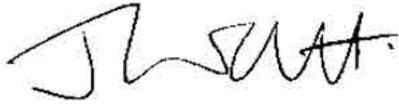
Whilst the Board deals routinely with the worst behaviours our communities experience it also has an opportunity to observe the very real progress which some prisoners make during their sentences thanks to the opportunities which they are given to learn skills and understand what motivates their offending behaviour. Many of these prisoners are able to return to a crime-free life, but, regrettably, some are unable to make the necessary change or to sustain change for many reasons but often because of their own disadvantaged backgrounds.

In these cases, it is the Board's responsibility to ensure that every possible step is taken to limit risk often including revocation of licences and recalls to custody. This is a matter to which members bring huge amounts of experience and expertise from their varying backgrounds. Community safety is the prime concern.

I believe that Scotland's communities can feel assured that their best interests underpin the anxious decisions which Board members take day in, day out and always with the greatest care.

I would like to take this opportunity to thank, not only my fellow members and all of the hard working staff in Parole Scotland for their commitment and support but also to thank those many individuals and agencies, both statutory and voluntary, on whose services and expertise the Board relies for information and for support to inform the vital decisions which it takes.

I would also like to express my particular thanks to Frank Chalmers, Liz Gilchrist, Morag McLaughlin and David Martin whose appointments to the Board came to an end during this reporting period.

A handwritten signature in black ink, appearing to read 'J Watt', with a stylized, cursive script.

John Watt

Chair, Parole Board for Scotland

Chief Executive's Review

In my first year as Chief Executive of the Parole Board for Scotland I have been involved in all aspects of the operation and administration of the Board's activities. It is a pleasure to work with such a committed and professional group of staff and Board members. This is particularly true at a time of change and development, and there has been much of this over the past year.



Over the course of the year we have refocused our administrative support systems on delivering our core business as an independent tribunal NDPB. A number of tasks that were undertaken by staff on behalf of Scottish Ministers have transferred to the Scottish Prison Service. This transfer of tasks has been complex and I have appreciated the commitment and hard work of staff here and within SPS to make this a success.

At the same time we have reorganised our staffing structure to create a single administrative support function for the Board. This new structure, collectively known as Parole Scotland, consists of a corporate team and a casework team. The new structure is already leading to a reduction in duplication of tasks, more consistency in processes and a clearer sense of purpose. The annual staff survey results show a significant improvement across all indicators that reflects this.

We have also started to review and update our approach to Corporate Governance. We have reinvigorated the Parole Board Management Group, and revised our Memorandum of Understanding with Scottish Ministers. We have also negotiated and agreed a Memorandum of Understanding with SPS. There is more to be done around Corporate Governance but good initial progress has been made.

Our Mission is to deliver a fair and efficient parole system with public protection at its heart. The ability of our Board members to make informed decisions on the basis of a range of complex information is critical. In this respect we have commenced a review of member guidance which has been in place since 2007. We have also established a training group to ensure that members have access to high quality and relevant training throughout their time as Board members. I am particularly grateful to those members who have volunteered to be part of these groups. Their work is vital in ensuring we are fit for the future.

I am pleased to note the progress that we continue to make in relation to our service delivery for victims. All of our standards are monitored, reviewed and reported on annually. They are available on our website (www.scottishparoleboard.gov.uk).

There is much to be done over the coming year as we seek to modernise our systems and processes. This year has seen us put in place many of the building blocks that will make that possible. I have greatly enjoyed my first year with the Board and I look forward to working with staff, Board members and other organisations to face the challenges that lie ahead.

A handwritten signature in black ink, appearing to read 'C. Spivey', with a stylized flourish at the end.

Colin Spivey

Chief Executive, Parole Board for Scotland

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Membership of the Parole Board for Scotland 2016 - 2017

Mr John Watt	Chairman, Solicitor & former Area Procurator Fiscal
Mr George Connor	Vice Chair. Former Civil Servant
Mr Terry Powell	Former Divisional Commander, East and Midlothian Police
Ms Margaret Anderson	Director of Social Work Services
Mr Ian Bryce	Solicitor
Mr Stewart Campbell	Health and Safety Executive
Mr Francis Chalmers (until October 2016)	Former Senior Practitioner in Criminal Justice Social Work Services
Ms Valerie Cox	Retired Civil Servant
Mrs Gillian Crompton	Solicitor
Dr Wilma Dickson	Retired Civil Servant
Ms Emma Doyle	Solicitor
Professor Elizabeth Gilchrist (until October 2016)	Forensic Psychologist
Mr John Hamilton	Advocate
Mr Christopher Hawkes	Former Chief Officer, Lothian and Borders Community Justice Authority
Ms Lynn Jolly	Criminal Justice Throughcare Services
Mr Anthony Kelly	Solicitor
Ms Lynn Kelly	Social Worker
Mr James MacDonald	Advocate
Mr John McCaig	Former Deputy Chief Inspector of Prisons
Ms Morag McLaughlin (until April 2016)	Solicitor, former Area Procurator Fiscal
Ms Katie McQuillan OBE	Solicitor
Mr Jack McVey	Operations Director – British Red Cross
Mr David Martin (until October 2016)	Former Assistant Chief Constable, Strathclyde Police

Mr Stephen Milloy	Executive Nursing Director, The State Hospitals Board for Scotland
Ms Joan Morrison	Solicitor
Mr Darren Myles-Wright	Director Performance Support
Mr David Pia	Retired Civil Servant
Mrs Catherine Smith	Principal Officer (Criminal Justice) Glasgow City Council Social Work Services
Mrs Gillian Stanage	Retired Children's Reporter
Ms Rona Sweeney	Deputy Director Prisons
The Hon Lady Scott	Senator of the College of Justice

About the Parole Board

The Parole Board for Scotland is a Tribunal Non Departmental Public Body. The Board, which has been in existence for more than 40 years, is a judicial body that is independent of the Scottish Government and impartial in its duties. Its main aim is to ensure that where the risk posed by a prisoner, if released, can be safely managed in the community, the prisoner may serve the remainder of their sentence in the community under the supervision of a social worker. It is not the responsibility of the Board to consider questions of punishment and general deterrence.

The Board can only consider cases referred to it by Scottish Ministers and only grants release in cases where the level and nature of risk are deemed to be manageable. This decision is informed by a number of factors including the evaluation of risk assessments.

Types of Sentence

The Board has a number of statutory functions, largely set out under the Prisoners and Criminal Proceedings (Scotland) Act 1993 and the Management of Offenders etc. (Scotland) Act 2005.

The type of sentence imposed will determine both at which point in the sentence the Board will consider release, and under what procedures the review will take place.

Short Term Determinate Sentence Prisoners

For prisoners sentenced to a determinate sentence of less than four years, the Board has no role in determining whether or not individuals are released into the community and they will be unconditionally released at the half way point. Short term sex offenders (STSO) are released on licence, the conditions of which are set by the Parole Unit of the Scottish Government on behalf of Scottish Ministers, therefore the Board's involvement in these cases is to consider grounds for recall to custody or re-release as appropriate. The Board is also responsible for approving changes to licence conditions post release.

Long Term Determinate Sentence Prisoners

For prisoners serving determinate sentences of four years or more, the Parole Board is invited to recommend to Scottish Ministers whether or not they should be released on licence at the half way point of their sentence (the Parole Qualifying Date). The Board's recommendation is binding on Scottish Ministers. If release on parole is not recommended then the Board will reconsider the prisoner's case on the anniversary of the Board's consideration provided that there is 16 months or more before they reach their Earliest Date of Liberation (the two-thirds point of their sentence) at which point the Scottish Ministers are statutorily required to release the prisoner into the community on a "non-parole" licence.

The Board sets the licence conditions for all long term determinate sentence prisoners. In practice if there is less than 16 months to serve between the Board's consideration of a case and the Earliest Date of Liberation (EDL), the Board will set the licence conditions at that point, although this does not preclude a further referral nearer to the EDL if Scottish Ministers consider that there are reasons why the licence conditions may need to be changed. Requests to change licence conditions can be made at any point over the course of the licence period but there should be good grounds for doing so. Such requests are considered at casework meetings of the Board or by a quorum of at least two members.

Extended Sentence Prisoners

The Board will deal with extended sentence prisoners in one of two ways. The first is where a short custodial term is imposed, but when taken with the extension period the aggregate sentence is four years or more. This type of case will be referred to the Board to recommend licence conditions only.

If the custodial term is four years or more, the Board would deal with them as for long term determinate sentence prisoners.

All extended sentence prisoners are released on licence and subject to recall consideration for the total period of the extended sentence (i.e. the custodial term and the extension period).

Life Sentence Prisoners

Life sentence prisoners are reviewed, at the end of the punishment part of their sentence, for possible release on life licence by the Board, sitting as a Life Prisoner Tribunal. This is an oral hearing chaired by a legally qualified member of the Board and two other Board members at which the prisoner and his legal representative are present.

It is for the Board to determine if the prisoner should continue to be confined for the protection of the public. If release on life licence is not directed then the Tribunal is required, by law, to fix the date when it will next consider the prisoner's case not later than two years after the date of the decision to decline to direct release.

Orders for Lifelong Restriction Prisoners (OLRs)

The release arrangements for OLR prisoners are the same as life sentence prisoners which is that they are referred to the Board for consideration on the expiry of the punishment part of their sentence. The Board is required to have regard to the Risk Management Plan which has been approved by the Risk Management Authority.

Recall of Prisoners for Breach of Licence

Where a prisoner has been released on licence but there is evidence from which it can be inferred that the risk posed can no longer be safely managed in the community, usually because a licence condition has been breached, the prisoner may be liable to be recalled to custody by Scottish Ministers or the Board.

Following a referral by Scottish Ministers, the Board is required to consider the recall to custody of the following sentence types:

- short term sexual offenders;
- extended sentence prisoners;
- determinate sentence prisoners serving four years or more;
- life sentence prisoners; and
- prisoners subject to an OLR.

Prisoners are not advised when the Board is giving consideration to their possible recall. The case will be considered at a casework meeting of the Board.

Other Post Release Considerations

Whilst the Board will recommend the licence conditions to be set prior to the release of prisoners, there are some circumstances in which the Board might be asked by Scottish Ministers, following a request from a supervising officer, to change the licence conditions once the prisoner is on licence in the community. This might include transfer of supervision, the termination of the supervision element or the insertion or removal of a condition. The prisoner would be provided with the opportunity to make representations on the proposed changes and the Board would then consider the request at a casework meeting.

Re-release Following Recall

For those cases where a prisoner has been recalled to custody, the Board is required to consider their suitability for re-release. The prisoner will be given the opportunity to make representations on the reasons given for their recall and as to whether, at the time when re-release is considered, the risk posed can be safely managed in the community and the Board is required to determine if they should remain in custody.

The way in which the Board deals with these cases depends on the sentence type. For re-release of short term sex offenders (STSO) or long term determinate sentence prisoners, the Board will consider these cases at a casework meeting. Different members of the Board consider re-release from the members who considered an individual's recall to ensure fairness.

Life sentence prisoners and prisoners subject to an Order for Lifelong Restriction will be considered at a Tribunal.

For re-release of extended sentence prisoners, a Tribunal of the Board requires to be held if the prisoner is recalled to custody during the extension period of the sentence. This provides for the prisoner and their legal representative to present his case to the Board orally. If the prisoner is serving the custodial term of their sentence the case will be considered at a casework meeting.

Children and Young People

Statute requires that all children and young people (C&YP) sentenced to detention under Section 208 of the Criminal Procedure Act 1995 must be treated in the same way as long term adults. This means that the Board is responsible for considering the early release of C&YP cases sentenced to four years or more detention, and for setting licence conditions for all C&YP cases sentenced to less than four years detention. All C&YP cases are liable to be recalled to custody in the same way as long term adults.

Oral Hearings

In all cases which are routinely dealt with at a casework meeting, consideration must be given to whether fairness requires, in the circumstances of the individual case, that an oral hearing should take place at which the prisoner can appear personally and state his case.

Chapter 1: The Year's Work

The tables below provide statistical details of the various cases considered by the Board during the period 1 April 2016 – 31 March 2017.

Determinate Sentence Prisoners – 1st review for early release

Number recommended for parole by the Board incl parole from a forward date	98
Number not recommended by the Board	218
Number of cases deferred for further information	38
Total	354

Determinate Sentence Prisoners – 2nd or subsequent review for early release

Number recommended for parole by the Board incl parole from a forward date	16
Number not recommended by the Board	36
Number of cases deferred for further information	7
Total	59

Determinate Sentence Prisoners – review for early release following recall

Number recommended for parole by the Board	6
Number not recommended by the Board	18
Number of cases deferred for further information	6
Total	30

Determinate Sentence Prisoners – other considerations

Request to transfer supervision authority	3
Total	3

Determinate Sentence Prisoners – adverse development

Recommendation for early release on parole withdrawn	9
Recommendation for early release on parole upheld	3
Number of cases deferred for further information	1
Total	13

Extended Sentence Prisoners – review for early release

Number recommended for parole by the Board incl parole from a forward date	17
Number not recommended by the Board	134
Referral for licence conditions only	82
Number of cases deferred for further information	6
Total	239

Life Prisoner Cases

Number referred to the Board for consideration including those brought forward	375
Number where release directed	46
Number not recommended for release	207
Number of cases postponed or adjourned	106
Withdrawn	16

Order for Lifelong Restrictions Prisoners (OLRs)

Number referred to the Board for consideration	64
Total	64
Number where release directed	0

Extended Sentence Prisoner Cases – consideration for re-release at Tribunals and casework meetings

Number referred to the Board for consideration	411
Number where release directed	43
Number not recommended for release	245
Number of cases postponed or adjourned	93
Withdrawn	30

Life Prisoners – other considerations

Request to terminate supervision	10
Request for an earlier hearing by a Life Prisoner Tribunal	1
Amendment to life licence conditions	12
Total	23

Miscellaneous	
“Non-Parole” Licences	59
Children and Young People	33
Home Detention Curfew (HDC) licence	74
Short term sex offenders	31

Determinate Sentence Prisoners

The Board has powers to direct Scottish Ministers to release determinate sentence prisoners (i.e. prisoners serving four years or more) once they have served one half of their sentence and it may also stipulate the licence conditions of such prisoners.

During the course of 2016-17, the Scottish Government advised that there were a total of 431 cases eligible for consideration of early release. Of these, 413 cases were referred to meetings of the Board for consideration. Eighteen prisoners chose to self-reject from the parole process in which case no further consideration was made by the Board other than to set licence conditions at the appropriate time. Seven cases were withdrawn prior to consideration by the Board.

The Board recommended that 114 prisoners or 28% of those referred during 2016-17 be released on parole.

In addition, the Board gave further consideration to 8 cases where the prisoner had been granted parole, but where a report of an adverse development was referred to the Board before the prisoner’s release date. Of these, 7 had their parole release date withdrawn, and in 1 case the Board agreed that the release date should stand.

Of the cases recommended for release during 2016-17, 16 were being considered for a second or subsequent review.

Summary of Determinate Sentence Cases Where Release Recommended – by Offence

	Violence	Drugs	Sexual	Property	Other	Total
10 years or over	8	3	0	0	0	11
Under 10 years	26	54	10	2	11	103
Total	34	57	10	2	11	114

Category of Offence	Offences Include
Violence	Culpable Homicide, Attempted Murder, Assault to Severe Injury etc. Assault and Robbery.
Drugs	Contravention of the Misuse of Drugs Act and Customs and Excise Management Act.
Sexual	Rape, Attempted Rape, Sodomy, Incest, Clandestine, Injury, Lewd and Libidinous Practices.
Property	Theft, Conspiracy to Rob, Embezzlement.
Other	Road Traffic Act, Fire-Raising.

As can be seen from the following table, over the previous 12-month period there has been a very slight decrease in the proportion of prisoners who have opted out of the process.

Year	2012-13	2013-14	2014-15	2015-16	2016-17
Eligible	476	487	498	473	431
Opting Out	53	50	45	37	18
%	11	10	9	8	4

“Non-Parole” Licences

The Board advises Scottish Ministers on the conditions to be attached to prisoners’ release licences.

Those prisoners sentenced to four years imprisonment or more are automatically released on licence when they have served two-thirds of their sentence in custody. These licences expire at the sentence expiry date. The term “non-parole” licence is used to describe the non-discretionary period of supervision in the community.

During 2016-17, the Board recommended that conditions be attached to the licences of 158 prisoners who were not released on parole. A further 59 cases were re-referred to the Board to enable it to apply specific licence conditions to the offenders’ non-parole licences.

Extended Sentence Prisoners

Scottish Ministers consult the Board about the conditions that are to be attached to the release licences of extended sentence prisoners where the combined custodial term is less than four years but where the aggregate sentence (i.e. custodial term and extension period combined) is four years or more.

During 2016-17, Scottish Ministers referred 40 cases to the Board where the courts had imposed extended sentences where the aggregate term totalled four years or more in order that the Board could consider the conditions to be attached to the prisoners’ release licences.

Life Sentence Prisoners

The Board has the power to direct Scottish Ministers to release life prisoners on licence in circumstances where a Tribunal of the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined. The Board is only required to consider the case when the prisoner has served the punishment part of his or her sentence, i.e. the minimum period fixed by the Court that the prisoner must serve in custody before being eligible for consideration of release on licence.

A Tribunal consists of three members of the Board, appointed by the Chairman of the Board. The individual who is appointed to act as Chairman of the Tribunal must be either:

A person who holds or has held judicial office; or

A solicitor or advocate of not less than 10 years standing.

During 2016-17, the Scottish Ministers referred to the Board the cases of 375 life prisoners in order that Tribunals could determine whether or not the individuals concerned should be released on life licence. Cases carried forward no longer recorded.

Consideration of 375 cases took place in 2016-17. In 46 cases, the Tribunals directed Scottish Ministers to release the prisoner; Tribunals did not direct release in 207 cases; 106 cases were adjourned or postponed and 16 cases were withdrawn in 2016-17.

The following table shows the number of Tribunals convened to consider the cases of life prisoners since 2012 and the outcome of these Tribunals.

	2012-13	2013-14	2014-15	2015-16	2016-17
Cases Referred	209	351	283	319	375
Cases Carried Over	23	8	37	47	N/A
Total Cases	232	359	320	366	N/A
Release Directed	40	56	68	44	46
Retain Release Date	None	None	None	None	None
Revised Release Date Awarded	None	None	None	None	None
Release Date Withdrawn	None	None	None	None	None
Number Who Died Before Case Considered	1	3	0	0	0
Further Review	148	187	159	195	207
Postponed or Adjourned	31	67	56	114	106

Details of the period of years served by life prisoners prior to their first being released on life licence are given at Appendix A together with the corresponding information for preceding years. The table at Appendix A shows that the majority of those first released on licence during 2016-17 had spent more than 10 years in custody.

Orders for Lifelong Restriction Prisoners (OLRs)

During 2016-17, Scottish Ministers referred 48 Orders for Lifelong Restriction to the Board for consideration by Tribunal. Of those 48 considered, none were released on licence.

Children and Young People

The Board has responsibility for considering the case for early release of young people sentenced to four years or more under section 208 of the Criminal Procedure (Scotland) Act 1995 referred to it by Scottish Ministers, and in all cases, sets the conditions to be attached to the young person's release licence.

In 2016-17, the cases of 16 children and young people sentenced under section 208 of the Criminal Procedure (Scotland) Act 1995 were referred to the Board. One of these cases were referred in order that the Board might consider whether or not it was appropriate that the individual be granted early release on licence.

The remaining 15 cases involved children and young people who were due to be released on licence and whose cases were referred in order that the Board might consider the conditions to be attached to their release licences.

A further 8 cases were reported to the Board where children and young people sentenced under section 208 of the 1995 Act and released under section seven of the 1993 Act had breached the conditions of their licence. The Board recommended that 7 be recalled to custody and 1 be withdrawn.

During the same period the Board considered the re-release of 9 young people, and none were granted re-release.

Compassionate Release

The Board makes recommendations to Scottish Ministers on individual cases and these recommendations are binding on Ministers in almost all matters. Decisions on compassionate release lie with the Cabinet Secretary for Justice.

During 2016-17, Scottish Ministers referred 3 cases to the Board so that it could provide advice on the prisoner's suitability for release on compassionate grounds.

Possible Grounds for Recall

The Board has the powers to recommend the recall to custody of determinate sentence prisoners serving sentences of four years imprisonment or more, short term sexual offenders, extended sentence prisoners and life sentence prisoners. The Scottish Ministers are statutorily obliged to accept the Board's recommendation. The Board may direct the Scottish Ministers to re-release any prisoner who has been recalled to custody.

Parole Licensees

During 2016-17, 14 licensees were reported to the Board for behaviour potentially constituting grounds for recall. The Board was obliged to give further consideration to these cases and determine whether to recommend that the individuals be recalled to custody, issued a warning letter, or the matter dealt with in another way.

Fourteen were recalled to custody. The Board subsequently re-released 3 licensees. The remainder were not re-released.

Non-Parole Licensees

During 2016-17, the Board was asked to consider the cases of 91 individuals who were the subject of "non-parole" licences (i.e. those released having served two-thirds of their sentence and those who were released on parole, but the discretionary period had expired) whose behaviour in the community was giving rise for concern.

Warning letters were issued to 15 licensees and 75 were recalled to custody and no action was taken in 1 case. The Board subsequently re-released 8 licensees. The remainder were not re-released.

Oral Hearings

In the interests of fairness and justice the Board may convene an oral hearing within the prison where the prisoner is situated, if it considers that there are issues raised by the prisoner that cannot be resolved without an oral hearing. During the period 2016-17 the Board held 97 oral hearings.

Extended Sentences

In the event of an extended sentence prisoner being recalled to custody, Scottish Ministers are required to refer the case to the Board to consider whether it is “necessary for the protection of the public from serious harm that the prisoner shall continue to be confined”. The case for re-release must be considered by a Tribunal of the Board if the prisoner is serving the extension period of the sentence. The Tribunal, if not recommending immediate re-release, must be satisfied that it is necessary to hold the offender in custody in order to protect the public from serious harm. The cases of those serving the custodial term of their sentence are considered at a casework meeting.

During 2016-17, Scottish Ministers referred 112 cases to the Board where the behaviour of the licensee was giving cause for concern. The Board recommended that 89 licensees be recalled to custody, 13 should be issued warning letters, no action was taken in three cases, five cases were deferred and 2 were withdrawn owing to further sentences.

During the year, the Board convened 50 extended sentence prisoner tribunals for consideration of immediate re-release. Of these, 44 prisoners had been recalled by the Board at case work meetings; immediate re-release was directed in 11 cases and 29 were not re-released. In addition, the Scottish Ministers revoked the licences of 6 individuals; immediate re-release was directed in 0 cases, 5 were not re-released and one was withdrawn.

During 2016-17, the Board considered the cases of 162 extended sentence prisoners who were entitled to a further review following recall. These further reviews resulted in 18 of the offenders being re-released on licence and 88 were not re-released.

In 2016-17, 28 prisoners self-rejected from having a further review at a Tribunal.

Life Licensees

In the event of a life licensee being recalled to custody, Scottish Ministers are required to refer the case to the Board to consider whether it is necessary for the protection of the public that the prisoner shall continue to be confined. The case for re-release must be considered by a Tribunal of the Board. The Tribunal, if not recommending immediate re-release, must be satisfied that it is necessary for the protection of the public that the offender should continue to be confined.

During 2016-17, the Board considered the cases of 35 licensees who had allegedly breached the conditions of their licence or whose behaviour in the community was giving cause for concern.

The Board recommended that 24 licensees be recalled to custody. The Board subsequently released 8 of these individuals and 11 were not re-released. There were 5 cases withdrawn because of additional sentences. In addition, the Scottish Ministers referred to the Board 11 cases of life prisoners where they had revoked the licences. Of these, 4 were re-released.

Warning letters were issued to 9 licensees and 2 were deferred.

The Board was also required to convene Tribunals to consider the cases of 45 life prisoners who had been recalled to custody in previous years. In 4 cases the Tribunals directed re-release on licence and in 41 cases the Tribunals of the Board did not direct re-release on life licence.

Home Detention Curfews (HDCs)

The Management of Offenders etc. (Scotland) Act 2005 provided for the introduction of Home Detention Curfews (HDCs) in Scotland. HDC is a package of measures contained in that Act designed to co-ordinate and manage offenders more effectively in the community and to reduce the risk of re-offending. HDCs are designed to allow selected low risk prisoners the opportunity to serve the last part of the custodial component of their sentence in the community subject to licence conditions including electronic monitoring. HDCs for those prisoners serving short term sentences of less than four years were introduced with effect from 3 July 2006. On 21 March 2008, the maximum duration of HDC was extended from four and a half months to six months and the scheme was also extended to long term prisoners (those sentenced to four or more years in custody) in cases where the Parole Board has recommended release on parole at the parole qualifying date (i.e. the half way stage of their sentence).

The decision to grant an HDC rests with the Scottish Prison Service. A risk assessment is undertaken, which includes a report from local authority criminal justice social workers.

If a prisoner released on an HDC licence breaches any of the licence conditions, he or she may be recalled to custody and their licence revoked. In practice the decision will be exercised on behalf of Scottish Ministers by the Scottish Prison Service, based on evidence of a breach supplied by the electronic monitoring company, the criminal justice social worker or the police.

On being returned to custody the prisoner must be advised of the reasons for the revocation of the licence and of his or her right to make representations to Scottish Ministers. If such a prisoner does make written representations to Scottish Ministers the case must be referred to the Parole Board. It is the Parole Board's role to determine whether or not to direct Scottish Ministers to cancel the revocation of the licence.

During 2016-17, the Board considered the cases of 74 prisoners who had been released on HDC licences and who had subsequently been returned to custody. In 28 cases the Board upheld the prisoner's grounds for appeal and directed Scottish Ministers to cancel the revocation of the licences. In 44 cases the Board refused the appeal, one case was withdrawn and the remaining case was deferred.

Sexual Offenders Sentenced to Short Term Determinate Sentences

Section 15 of the Management of Offenders Etc (Scotland) Act 2005 amended the Prisoners and Criminal Proceedings (Scotland) Act 1993 by inserting a new Section 1AA which provides that short term prisoners sentenced to a term of six months or less than four years and who, by virtue of their conviction are subject to the notification requirements of the Sexual Offences Act 2003 will be released on licence as soon as they have served one-half of their sentence.

These provisions came into effect on 8 February 2006 and apply to offenders in custody at that time as well as any individual sentenced on, or after that date for an offence that is the subject of the notification requirements of the Sexual Offences Act 2003. Scottish Ministers set appropriate licence conditions for this group of offenders. Scottish Ministers do not seek the views of the Parole Board on such licence conditions. Section 1AA applies Section 17 of the 1993 Act to this group of offenders therefore Scottish Ministers and the Parole Board may consider alleged breaches of licence conditions and, where it is considered appropriate, revoke the licence and return the offender to custody. The Parole Board is responsible for considering the case for re-release and taking the action considered appropriate in each case in accordance with The Parole Board (Scotland) Rules 2001.

During 2016-17, Scottish Ministers referred 27 cases to the Board where the behaviour of licensees had given cause for concern. In 23 cases, the Board recommended that the offenders be recalled to custody, warning letters were issued in 3 cases and one case was withdrawn.

Of the 31 cases recalled, which includes 8 cases recalled by Scottish Ministers, immediate re-release was refused in 25 cases, 4 were released and 2 were withdrawn.

Chapter 2: Board Membership, Meetings and Visits

Board Meetings

2016-2017 was the 49th year of the operation of the parole system in Scotland. During this period the Board met on 49 occasions to consider the cases of prisoners and licensees referred by Scottish Ministers. The Board also concluded 375 Life Prisoner Tribunals, 212 Extended Sentence Tribunals and 97 oral hearings during the year.

Board Membership

The membership of the Board during 2016-17 is shown on page 6. During this period the terms of appointment came to an end for Francis Chalmers, Elizabeth Gilchrist, Morag McLaughlin and David Martin.

Visitors

The Board welcomed a number of visitors to its casework meetings throughout the year including prison officers; prison and community based social workers; officials of the Scottish Government's Justice Directorate; and Senators of the College of Justice.

Parole Board Management Group

During 2016-17 the Parole Board Management Group (PBMG) met on 4 occasions. The remit of the PBMG can be found in section 5 of the Memorandum of Understanding which can be found on the Parole Board website www.scottishparoleboard.gov.uk. The topics covered were work of the Board, members, recruitment, training and development, business planning and parole change.

PBMG members during 2016-17 were:

Mr John Watt – Parole Board Chairman
Mr George Connor – Parole Board member. Vice Chairman
Ms Joan Morrison (until October 2016) – Parole Board member
Mr Terry Powell – Parole Board member.
Ms Rona Sweeney (from February 2016) – Parole Board member
Mr Colin Spivey – Chief Executive

Parole Board Conference

The Parole Board did not hold an Annual Conference during 2016-17.

Parole Board Website

The Board's website is at www.scottishparoleboard.gov.uk. The website contains information about the members of the Board, the Board's statutory powers and functions as well as providing responses to some frequently asked questions about parole. In addition, annual reports from earlier years can be viewed on the website.

The Board wishes to thank the many individuals and agencies who continue to support the parole system for all their help and encouragement. The Board also wishes to thank the officials and staff of the Scottish Government's Justice Directorate and the Scottish Prison Service for their help throughout the year. In addition, the Board wishes to record its appreciation to its staff for its continuing support and service throughout the year.

Parole Board for Scotland
Saughton House
Edinburgh
March 2018

Appendix A: Time Spent in Custody by Persons First Released from Life Sentences

Year of Release	Years Detained in Custody									Total
	Under 7	7 – 8	8 – 9	9 – 10	10 – 11	11 – 12	12 – 13	13 – 14	Over 14	
1971	-	-	1	2	-	-	-	-	-	3
1972	-	-	1	-	2	-	-	-	-	3
1973	-	1	1	1	2	-	-	-	1	6
1974	-	-	2	5	1	1	1	-	-	10
1975	-	1	4	6	3	1	-	-	-	15
1976	-	1	6	5	5	1	-	-	-	18
1977	-	-	2	4	5	1	1	1	1	15
1978	-	-	5	4	1	2	-	-	1	13
1979	1	1	2	5	6	2	2	1	1	21
1980	-	-	3	4	6	4	5	3	-	25
1981	-	1	7	20	4	4	4	1	-	41
1982	1	-	-	9	10	1	3	2	3	29
1983	2	3	4	14	11	2	-	-	2	38
1984	1	-	1	5	6	1	-	-	1	15
1985	1	1	5	4	6	4	1	-	1	23
1986	-	2	4	3	8	2	5	-	-	24
1987	-	-	1	4	6	2	-	1	1	15
1988	-	-	-	-	5	3	1	1	1	11
1989	-	-	-	2	2	4	8	5	4	25
1990	-	-	-	3	7	6	4	2	4	26
1991	-	-	-	1	5	4	2	1	10	23
1992	-	-	-	3	4	3	6	2	5	23
1993	-	-	-	5	8	7	3	1	10	34
1994	-	-	-	2	-	9	1	2	4	18
1995	-	-	-	-	2	6	7	7	4	26
1996	-	-	-	1	4	2	5	3	3	18
1997	-	-	-	-	2	2	2	4	8	18
1998	-	-	-	1	2	1	4	1	7	16
1999	-	-	-	1	2	-	-	-	7	10
2000	-	-	1	2	2	3	2	1	6	17
2001	-	-	-	2	3	2	3	4	14	28
2002	-	-	2	1	7	5	3	5	36	59
2003	2	2	3	4	6	4	3	2	25	51
2004	2	3	1	4	4	1	4	1	8	28
2005	-	1	1	-	3	5	1	2	9	22
2006	1	2	1	2	4	2	1	1	8	22
2007-08	-	3	2	2	4	5	10	3	15	44
2008-09	-	1	1	5	1	3	3	6	11	31
2009-10	-	-	1	1	3	4	7	7	16	39
2010-11	-	1	-	3	5	4	1	5	11	30
2011-12	-	1	-	1	1	3	2	7	7	22
2012-13	1	-	1	2	2	1	3	4	13	27
2013-14	-	1	-	2	2	7	1	3	9	25
2014-15	-	-	-	1	4	1	4	4	20	34
2015-16	-	-	-	1	2	1	7	-	9	20
2016-17	-	-	-	1	-	1	3	10	1	16
Total	12	26	63	148	178	127	123	103	297	1,077 ¹

Note 1 does not include those recalled to custody and subsequently re-released.

Appendix B: Statutory Provisions and Financial Information

Prisoners and Criminal Proceedings (Scotland) Act 1993, as amended

SCHEDULE 2

The Parole Board

Membership

1. The Parole Board shall consist of a Chairman and not less than 4 other members appointed by the Scottish Ministers.
- 1A. In making those appointments, the Scottish Ministers shall comply with such requirements as to procedure and consultation as may be prescribed in regulations made by them.
- 1B. In making regulations under paragraph 1A above, the Scottish Ministers may make different kinds of members of the Board, including kinds of members having the respective qualifications for office specified in paragraph 2 below.
2. The Parole Board shall include among its members:
 - (a) a Lord Commissioner of Justiciary;
 - (b) a registered medical practitioner who is a psychiatrist;
 - (c) a person appearing to the Scottish Ministers to have knowledge and experience of the supervision or after-care of discharged prisoners; and
 - (d) a person appearing to the Scottish Ministers to have made a study of the causes of delinquency or the treatment of offenders.

Limitation, termination etc. of appointment of members

- 2A. An appointment as a member of the Parole Board shall, subject to paragraph 2B to 2D below, last for such period, being not shorter than 6 years nor longer than seven years, as is specified in the instrument of appointment.
- 2B. A member of the Parole Board may resign at any time by giving notice to that effect to the Scottish Ministers.
- 2C. An appointment of a person as a member of the Parole Board shall not extend beyond the day when the person reaches the age of 75.
- 2D. The appointment of a member of the Parole Board shall come to an end upon the member's being removed from office under paragraph 3 on next page.
- 2E. A person may be reappointed to be a member of the Parole Board only if:
 - (a) three years or more have passed since the person ceased to be a member of the Parole Board; and
 - (b) the person has not previously been reappointed under paragraph 2E(a) above.

- 2F. A person whose membership of the Parole Board came to an end by resignation under paragraph 2B above may be reappointed under paragraph 2E on previous page.
- 2G. A person whose membership of the Board came to an end on removal from office under paragraph 3 below shall not be reappointed.
- 2H. The provisions of paragraph 1 to 2D on previous page apply to a reappointment under paragraph 2E on previous page as they apply to an appointment.

Performance of duties

- 2I. The Chairman of the Parole Board shall have regard to the desirability of securing that every member of the Parole Board is given the opportunity of participating appropriately in the functions of the Board under this Act on not fewer than 20 days in each successive period of 12 months beginning with the day of the member's appointment as such.

Removal of members from office

- 3. A member of the Parole Board may be removed from office by and only by order of the tribunal constituted by and under paragraph 3B below ("the tribunal").
- 3A. The tribunal may order the removal from office of a member only if, after investigation carried out at the request of the Scottish Ministers, it finds that the member is unfit for office by reason of inability, neglect of duty or misbehaviour.
- 3B. The tribunal shall consist of the following three members, who shall be appointed by the Lord President of the Court of Session:
 - (a) either a Senator of the College of Justice or a sheriff principal (who shall preside);
 - (b) a person who is, and has been for at least 10 years, legally qualified; and
 - (c) one other person who shall not be legally qualified.
- 3C. For the purposes of paragraph 3B above, a person is legally qualified if that person is an advocate or a solicitor.
- 3D. Regulations made by the Scottish Ministers:
 - (a) may make provision enabling the tribunal, at any time during an investigation, to suspend a member from office and providing as to the effect and duration of such suspension; and
 - (b) shall make further provision as respects the tribunal as the Scottish Ministers consider necessary or expedient, including provision for the procedure to be followed by and before it.

Remuneration and Allowances

- 4. There shall be paid to the members of the Parole Board such remuneration and allowances as the Scottish Ministers may, with the consent of Treasury, determine.
- 5. The expenses of the Board under paragraph 4 above and any other expenses incurred by the Board in discharging its functions mentioned in section 20(1) of this Act shall be defrayed by the Scottish Ministers.

Reports

6. The Board shall as soon as possible after the end of each year make to the Scottish Ministers a report on the performance of its functions during the year, and the Scottish Ministers shall lay a copy before Parliament.

Regulations

- 6A. Regulations under paragraphs 1A and 3D on previous page shall be made by statutory instrument.
- 6B. No such regulations shall be made unless laid before, and approved by resolution of, the Scottish Parliament.

Financial Information

Fees and Expenses

1. Under the provisions of Schedule 1 of the 1989 Act and Schedule 2 of the 1993 Act, members of the Parole Board for Scotland may receive sessional fees for attendance at Board meetings; and they may also be paid a full fee or part of a fee for undertaking other business of the Board, the sessional rates payable to each category of member during 2016-17 were as follows:

1/4/16 - 31/3/17

Chairman	£372
Legal Member	£315
Psychiatrist	£315
General Member	£203
Case Work Meeting Chair	£50

2. Members of the Board are also paid allowances for travelling and subsistence in accordance with prescribed scales.

3. The Board's expenditure during 2016-17 was £1,449,000 made up as follows:

Members Fees, Staff Salaries and Travel/Subsistence	£1,315,000
Legal Costs	£55,820
Other	£78,180
Total	£1,449,000

Cost Effectiveness

4. The Board recognises the need to have due regard to economy and cost effectiveness in carrying out its functions. Examination of the costs incurred by the Board during 2016-17 reveals that the work of the Board continues to represent good value for money. The average cost of Tribunals convened in 2016-17 for life prisoners and extended sentence prisoners is £980. The average cost of considering a case at a meeting of the Board is £160.
5. The average cost to carry out these functions includes members' fees; and their travel and subsistence costs.

Judicial Review – Compensation Payments

6. There have been no compensation claims in this reporting year.

Report on Expenditure under Part 3 of Public Services Reform (Scotland) Act 2010

Public Relations	Nil
Overseas Travel	Nil
Hospitality and Entertainment	Nil
External Consultancy	Nil
Payments in excess of £25,000	Nil
Employees/Members earning in excess of £150,000	Nil

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