

# The Parole Board for Scotland

**Annual Report  
2010-11**

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for Scotland

Annual Report 2009

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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.

Laid before the Scottish Parliament by the Scottish Ministers.

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## Foreword

I am again pleased to present this report of the work of the Parole Board for Scotland over the year 2010 – 2011. The report shows that there continues to be a substantial level of work undertaken by the Board with very little change in the pattern of work from the previous year. I am grateful for the hard work and unstinting effort which the members of the Board put in to ensure that matters which have a direct impact on the safety of Scotland's communities are dealt with carefully and consistently.



Whilst the statistics contained in this report show little change from last year there are two areas which show some change and cause for concern. Firstly having seen a substantial drop last year, the number of prisoners self rejecting from the parole process, (this means that these individuals decide to not have their case put forward to the Board) the number choosing this option has increased almost threefold this year. The Board would prefer that all prisoners are considered in order that they can be given helpful feedback from the Board as to what is expected of them during the remainder of their time in custody. The other concerning increase has been in the number of prisoners who were granted parole and who were subsequently referred back to the Board for consideration of recall to custody because they had breached their licence conditions. This is disappointing since these are individuals who had made sufficient progress during their time in custody that the Board considered that they demonstrated a manageable risk and accordingly they were granted release at or around their parole qualifying date. There is little information as to why these individuals found it difficult to sustain their good progress when in the community and this is a matter which would benefit from detailed research particularly given the not insubstantial proportion of the daily prison population which consists of recalled prisoners.

Last year I had to report that a number of compensation payments had been made to prisoners as a result of them having their case considered later than it should have been. This resulted from a longstanding backlog of cases which had accrued during a period when the Board was short of legal members for a variety of reasons. The remainder of the cases involved in the backlog were settled this year resulting in further payments being made because of the timing of the judicial reviews being settled. I am pleased to now report that no further such payments will be required and that the backlog of cases has been fully dealt with.

During the year I was invited by the Council of Europe to undertake some work with the Parole Boards in Georgia with a view to helping them meet European standards in their prison and parole systems. Georgia has for a small country a very large prison population and has recently introduced a new parole system. I participated in a workshop over three days with members of their Boards as a result of which they are now planning a number of adjustments and reforms in their arrangements. All of the costs of this were met by the Council of Europe.

The work of the Board members is supported by a small hard working staff team in the Parole Board Executive. Their role is crucial to the smooth flow of work undertaken by the members and on behalf of myself and the members I would wish to take this opportunity to express our appreciation of all that the staff team do.

A handwritten signature in black ink, appearing to read "Sandy Cameron". The signature is written in a cursive, flowing style.

**Sandy Cameron**  
Chairman

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## Membership of the Parole Board for Scotland 2010-11

Professor Alexander Cameron CBE	Chairman, former Executive Director of Social Work, South Lanarkshire Council
Kathleen McQuillan	Vice Chair, Solicitor
Sheriff Paul Arthurson	Sheriff
Ms Heather Baillie	Solicitor
Ms Lyndy Boyd	Solicitor
The Hon Lord Bracadale	Senator of the College of Justice
Mr Francis Brown	Consultant in Health and Social Care
Mrs Anne Carpenter	Psychologist
Mr George Keith Carruthers	Former Deputy Divisional Commander, Strathclyde Police
Mr Francis Chalmers	Former Senior Practitioner in Criminal Justice Social Work Services
Sheriff Brian Donald	Part-Time Sheriff
Sheriff Gordon Fleetwood (from 1 August 2010)	Part-Time Sheriff
Ms Jeane Freeman	Criminologist
Professor Elizabeth Gilchrist	Forensic Psychologist
Mr Andrew Jones	Media Consultant
Sheriff Brian Kearney (until 24 August 2010)	Retired Sheriff
Ms Irene Kitson	Justice of the Peace
Mr Howard Llewellyn (until 29 October 2010)	Barrister
Mr John McCaig (from 1 August 2010)	Former Deputy Chief Inspector of Prisons
Sheriff Principal John McInnes	Former Sheriff Principal
Mr Fred McKerchar	Former Governor, Scottish Prison Service

Jack McVey from 1 August 2010)	Operations Director, British Red Cross
Mr David Martin	Former Police Officer, Assistant Chief Constable
Mr Charles Milne	Solicitor
Ms Joan Morrison (from 1 August 2010)	Solicitor
Mrs Elaine Noad	Former Director of Social Work and Housing
Professor David O'Donnell	Solicitor
Mr David Pia (From 1 August 2010)	Retired Civil Servant
Mr Terry Powell	Former Divisional Commander, East and Mid Lothian
Mr David Stewart	Retired Civil Servant
Mrs Frances Stuart	Former Director of Social Work
Mrs Christine Vine	Solicitor
Dr David Will	Psychiatrist

## About the Parole Board

The Parole Board for Scotland (the Board) 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 Scottish Government and impartial in its duties. Its main aim is to ensure that those prisoners who are no longer regarded as presenting a risk to public safety 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 the questions of punishment and general deterrence. These issues are regarded as discharged, in the case of determinate sentence prisoners, when a case is referred to the Board by the Scottish Ministers and on which the judiciary has deliberated in indeterminate prisoners' cases.

The Board only grants release in cases where the level and nature of risk is 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 offenders sentenced to a determinate sentence of less than 4 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 now 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 only involvement in STSO cases is in consideration of the offender's case for recall or re-release.

### Long Term Determinate Sentence Prisoners

For offenders sentenced to determinate sentences of 4 years or more, the Board is invited to recommend to Scottish Ministers whether the individual offender 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 early release is not recommended then the Board will reconsider the offender's case within 16 months of the previous consideration until the offender reaches 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 will set the licence conditions for all long term determinate sentence prisoners. In practice if there is 16 months or less to go between the Board's most recent consideration of a case and the Earliest Date of Liberation (EDL), the Board can set these licence conditions in advance, 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 – although it is important to note

that the offender would be provided with 4 weeks to make representations on such proposed change. Therefore if a request to change conditions is made very close to an offenders EDL the change may not be possible prior to the EDL. Requests to change licence conditions can be made at any point over the course of the licence period. Such requests are considered at a casework meeting of the Board.

### **Extended Sentence**

The Board will deal with two types of extended sentence prisoners. The first is where a short term custodial part is imposed, but when taken with the extension period the aggregate sentence is 4 years or more. This type of case will be referred to the Board for consideration of recommending licence conditions only.

If the custodial part is 4 years or more, the Board would deal with them as for long term determinate sentence prisoners.

All extended sentence prisoners released since 8 February 2006 are released on licence and subject to recall consideration for the total period of the extended sentence (i.e. the custodial and the extension part).

### **Life Sentence Prisoners**

Life sentence prisoners are reviewed 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. The prisoner and, usually, their legal representative will attend along with an Official from the Scottish Government Parole Unit and a Representative of Scottish Ministers from the Scottish Prison Service. (If the case is unopposed by Scottish Ministers the Official may not, on occasion, attend.)

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 prisoner is required, by law, to have a further review not more than 2 years beyond the current review. The Tribunal will set the date of the further review.

### **Recall of Prisoners for Breach of Licence**

Where an offender has been released on licence and a licence condition is breached they 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 sex offenders;
- all prisoners subject to an extended sentence;
- long term sentence prisoners; and
- prisoners released on life licence.

The offender will not be advised when the Board is considering 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, the addition of a condition or the removal of a condition. The offender would be provided with 4 weeks to make representations on the proposed changes and the Board would then consider the request at a casework meeting.

## Re-release following Re-call

For those types of cases where the Board has recalled an offender to custody, they will also be required to consider the offender's subsequent re-release. The prisoner will be given the opportunity to make representations on the reasons given for their recall and the Board will be required to determine if they should remain in custody.

The way in which the Board deals with the cases depends on the sentence type. For re-release of STSO or long term determinate sentence prisoners, the Board will consider these cases at a casework meeting. The Board is required to consider if it is in the interests of fairness that an oral hearing (not a Tribunal) be held. A different panel of the Board considers re-release from those that considered an individual's recall to ensure fairness.

For re-release of extended sentence prisoners and life prisoners, a Tribunal of the Board is required to be held. This provides for the prisoner and his legal representative to present their case to the Board orally. Scottish Ministers would also be represented.

## Children and Young Persons

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 to setting licence conditions for all C & YP cases sentenced to less than 4 years detention. All C & YP cases are liable to be recalled to custody in the same way as long-term adults.

## 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 2010 – 31 March 2011.

### Determinate Sentence Prisoners – 1st review for early release

Number recommended for parole by the Board	98
Number recommended for parole from a forward date by the Board	42
Number not recommended by the Board but due a further review	15
Number not recommended by the Board but granted an early review	38
Number not recommended by the Board and licence conditions set	175
Number of cases deferred for further information	28
<b>Total</b>	<b>396</b>

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

Number recommended for parole by the Board	12
Number recommended for parole from a forward date by the Board	4
Number not recommended by the Board but due a further review	1
Number not recommended by the Board but granted an early review	3
Number not recommended by the Board and licence conditions set	24
Number of cases deferred for further information	3
<b>Total</b>	<b>47</b>

### Determinate Sentence Prisoners – review for early release following recall

Number recommended for parole by the Board	14
Number not recommended by the Board	21
Number of cases deferred for further information	5

Request to transfer supervision authority	6
Request to terminate supervision	1
Number of cases deferred for further information	0
<b>Total</b>	<b>7</b>

### Determinate Sentence Prisoners – adverse development

Recommendation for early release on parole withdrawn	11
Recommendation for early release on parole upheld	5
Number of cases deferred for further information	1
<b>Total</b>	<b>17</b>

### Extended Sentence Prisoners – Review for early release

Number recommended for parole by the Board	7
Number recommended for parole from a forward date by the Board	6
Number not recommended by the Board but due a further review	32
Number not recommended by the Board but granted an early review	10
Number not recommended by the Board and licence conditions set	68
Referral for licence conditions only	94
Number of cases deferred for further information	17
<b>Total</b>	<b>234</b>

### Life Prisoners

Number referred to the Board for consideration	220
Number brought forward from 2009-10	43
<b>Total</b>	<b>263</b>
Number where release directed	48
Number not recommended for release	173
Number who died before case considered	1
Number of prisoners who received a further sentence	4
Number of cases postponed or adjourned	59
Number not yet referred to Tribunals	37

### Extended Sentence Prisoners – consideration for re-release

Number referred to the Board for consideration	285
Number brought forward from 2009-10	56
<b>Total</b>	<b>341</b>
Number where release directed	66
Number not recommended for release	275
Number who died before case considered	1
Number of prisoners who received a further sentence	26
Number of cases postponed or adjourned	70
Number not yet referred to Tribunals	4

### Life Prisoners – Other considerations

Request to transfer supervision authority	5
Request to terminate supervision	6
Request for an earlier hearing by a Life Prisoner Tribunal	1
Amendment to life licence conditions	0
Number of cases deferred for further information	1
<b>Total</b>	<b>13</b>

### Miscellaneous

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## Determinate Sentence Prisoners

The Board has powers to direct the Scottish Ministers to release determinate sentence prisoners (i.e. prisoners serving 4 years or more) once they have served one half of their sentence and it may also make recommendations as to the licence conditions of such prisoners.

During the course of 2010-11, the Scottish Government advised that there were a total of 670 cases eligible for consideration of early release. Of these, 606 cases were referred to meetings of the Board for consideration. Each prisoner was provided with the opportunity of having an interview with a member of the Board prior to consideration of their case. 64 prisoners chose to self-reject from the parole process.

The Board recommended that 170 prisoners or 28% of those referred during 2010-11 be released on parole.

In addition, the Board gave further consideration to 17 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, 5 had their parole release date withdrawn and in 11 cases the Board agreed that the release date should stand. 1 case was deferred for further information.

16 of the cases recommended for release during 2010-11 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
<b>10 years or over</b>	13	6	0	0	2	21
<b>Under 10 years</b>	65	58	2	2	22	149
<b>Total</b>	78	64	2	2	24	170

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

As can be seen from the following table, over the previous twelve month period there has been an increase in the proportion of prisoners who have opted out of the process.

Year	2001	2002	2003	2004	2005	2006	2007-08	2008-09	2009-10	2010-11
Eligible	690	749	766	770	813	829	992	696	617	670
Opting Out	43	58	60	67	49	75	98	69	27	64
%	6.2	7.7	7.8	8.7	6.0	9.1	9.8	9.9	3.9	9.5

## “Non Parole” Licences

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

Those prisoners sentenced to 4 years imprisonment or more on or after 1 October 1993 are automatically released on licence when they have served two thirds of their sentence in custody. These licences expire at the sentence end date. The term “non-parole” licence is used to describe the non-discretionary period of supervision in the community.

During 2010-11 the Board recommended that conditions be attached to the licences of 175 prisoners who were not released on parole. A further 26 cases were returned to the Board to enable it to apply specific licence conditions to the offenders’ non-parole licences.

## Extended Sentences

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 and the extension period is 4 years or more, and where the “custody” part is less than 4 years.

During 2010-11 the Scottish Ministers referred 94 cases to the Board where the courts had imposed extended sentences where the combined custodial term and the extension period totalled 4 years or more in order that the Board could consider which conditions should be attached to the prisoners’ release licences.

## Life Prisoners

The Board has the powers to direct the 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 will only be 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 release on licence.

A Tribunal consists of 3 members 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 2010-11 the Scottish Ministers referred to the Board the cases of 220 life prisoners in order that Tribunals could determine whether or not the individuals concerned should be released on life licence. In addition, the Board was also required to conclude the consideration of 43 cases that had been carried over from 2009-10.

Consideration of 221 cases were concluded in 2010-11. In 48 cases, the Tribunals directed Scottish Ministers to release the prisoner. In 173 cases the Tribunals did not direct release, but set a further review date, 59 cases were adjourned or postponed and in 37 cases Tribunals will be convened in 2011-12. One prisoner died before their case could be considered by a Tribunal of the Board.

The following table shows the number of Tribunals convened to consider the cases of life prisoners since 2000 and the outcome of these Tribunals.

	2002	2003	2004	2005	2006	2007-08	2008-09	2009-10	2010-11
<b>Cases Referred</b>	179	179	154	173	178	248	219	193	220
<b>Cases Carried Over</b>	2	33	38	35	34	77	62	52	43
<b>Total Cases</b>	181	212	192	208	212	325	284	245	263
<b>Release Directed</b>	53	55	33	38	32	75	52	55	48
<b>Retain Release Date</b>	2	1	None	None	None	None	None	None	None
<b>Revised Release Date Awarded</b>	2	None	None	None	None	None	None	None	None
<b>Release Date Withdrawn</b>	2	1	None	None	None	None	None	None	None
<b>Number Who Died Before Case Considered</b>	None	None	None	None	2	1	2	2	1
<b>Further Review</b>	89	117	124	136	117	189	157	135	173
<b>Postponed or Adjourned</b>	9	6	9	12	7	52	61	44	59
<b>Cases yet to be Considered</b>	24	32	26	22	54	62	63	46	37

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 2010-11 had spent more than 10 years in custody.

## Children and Young People

**The Board has responsibility for considering the case for early release of young people sentenced to 4 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 2010-11 the cases of 30 children and young people sentenced under section 208 of the Criminal Procedure (Scotland) Act 1995 were referred to the Board. Only 3 of these cases were referred in order that the Board might consider whether or not it was appropriate that the individual be released on licence.

The remaining 27 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 recommending that conditions be attached to their release licences. The Board recommended that conditions be attached to the licences in all of these cases.

A further 18 cases were reported to the Board where children and young people sentenced under section 208 of the Act and released under section 7 of the 1993 Act had breached the conditions of their licence. The Board recommended that 16 be recalled to custody and in 2 cases the Board agreed to issue the young person with a warning letter.

During the same period the Board considered the re-release of 15 young people. Of these, 13 young people were not granted immediate re-release and 2 were released on the sentence end date.

## Compassionate Release

The Board makes recommendations to Scottish Ministers on individual cases and these recommendations are binding on Ministers in all matters other than compassionate release in relation to which the decision lies with the Cabinet Secretary for Justice.

During 2010-11, Scottish Ministers did not refer any cases to the Board to provide advice on the prisoner's 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 4 years imprisonment or more and life sentence prisoners who have been released on parole, non-parole licence or life licence in circumstances where such action is considered necessary in the public interest. 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 2010-11 a number of 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, a warning letter sent or the matter dealt with in another way. There were 73 individual cases reported of licensees who had been released under section 1 (3) of the Prisoners and Criminal Proceedings (Scotland) Act 1993.

Warning letters were issued to 22 licensees, and 51 were recalled to custody. The Board subsequently re-released 9 licensees. The remainder were not released.

### **Non Parole Licensees**

During 2010-11 the Board was asked to consider the cases of 166 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. The Board recommended that 117 of these licensees be recalled to custody. In this reporting year, 12 prisoners were re-released, 100 were not re-released and at the end of the year 3 cases were deferred for further information. Warning letters were issued to 28 licensees, further or amended conditions were attached to the licences of 1 individual and no action was taken in 19 cases.

### **Oral Hearings following recall**

In the interests of fairness and justice the Board may convene an oral hearing within the prison where the determinate 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 2010-11 the Board held 6 oral hearings.

### **Extended Sentences**

In the event of an extended sentence prisoner being recalled to custody, the 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. The Tribunal, if not recommending immediate re-release, must be satisfied that it is necessary to hold the offender in custody on order to protect the public from serious harm.

During 2010-11 the Scottish Ministers referred 106 cases to the Board where the behaviour of the licensee was giving cause for concern. The Board recommended that 93 licensees be recalled to custody. In 12 cases the Board recommended that warning letters be sent to the licensees and 1 case will be carried forward to 2011-12.

During the year, the Board convened 106 extended sentence prisoner Tribunals. Of those, 81 prisoners had been recalled by the Board at casework meetings; immediate re-release was directed in 28 cases, and 53 were not re-released. In addition, the Scottish Ministers revoked the licences of 25 individuals; and immediate re-release was directed in 3 cases and 22 were not re-released.

During 2010-11 the Board considered the cases of 132 extended sentence prisoners who were entitled to a further review following recall. These further reviews resulted in 17 of the offenders being released on licence, and 115 were not released.

### **Life Licensees**

In the event of a life licensee being recalled to custody, the 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 is held in custody.

During 2010-11 the Board considered the cases of 33 licensees previously released on life licence who had allegedly breached the conditions of their licence or whose behaviour in the community was giving cause for concern.

The Board recommended that 18 licensees be recalled to custody. The Board subsequently released 7 of these individuals and 11 were not re-released. In addition, the Scottish Ministers referred to the Board the cases of 7 life prisoners where they had revoked the licences. Of these 2 were re-released and 5 were not re-released.

Of the remaining 13 cases referred to the Board as possible grounds for recall, warning letters were issued to 13 licensees.

In addition the Board was required to convene Tribunals to consider the cases of 23 life prisoners who had been recalled to custody in previous years. In 8 cases the Tribunals directed re-release on licence and in 15 cases the Tribunals of the Board did not direct re-release on life licence.

### Home Detention Curfews

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. HDCs for those prisoners serving short term sentences of less than 4 years were introduced with effect from 3 July 2006. On 21 March 2008, the maximum duration of HDC was extended from 4½ months to 6 months and the scheme was also extended to long term prisoners (those sentenced to 4 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. The HDC licence includes the standard conditions, a curfew condition and any non-standard licence conditions considered appropriate by the Scottish Prison Service and the 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. In practice the decision will be exercised on behalf of the 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 the Scottish Ministers. If such a prisoner does make written representations to the 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 the Scottish Ministers to cancel the revocation of the licence.

During 2010-11 the Board considered the cases of 74 prisoners who had been released on HDC licences and who had subsequently been returned to custody. In 26 cases the Board upheld the prisoner's grounds for appeal and directed the Scottish Ministers to cancel the revocation of the licences. In the other 40 cases the Board refused the appeal and 8 cases were deferred for further information.

### **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 6 months or less than 4 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. The 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 2010-11 the Scottish Ministers referred 16 cases to the Board where the behaviour of licensees had given cause for concern. In 8 cases the Board recommended that the offenders be recalled to custody and 8 cases received warning letters. Of the 8 cases recalled, all had their application for re-release refused.

## Chapter 2: Board Membership Meetings and Visits

### Board Meetings

2010-11 was the 43rd 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 the Scottish Ministers. The Board also concluded 226 Life Prisoner Tribunals, 341 Extended Sentence Tribunals and 6 oral hearings during the year. In addition the Board held 2 General Purposes Meetings, an Annual Conference and 4 Corporate Governance meetings.

### Board Membership

The membership of the Board during 2010-11 is shown at page four. During this period the terms of appointment of Sheriff Brian Kearney and Howard Llewellyn came to an end. During the reporting year Sheriff Gordon Fleetwood, John McCaig, Jack McVey, Joan Morrison, David Pia and Terry Powell were appointed to the Board.

### 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.

### General Purposes Meetings

The Board held 2 General Purposes Meetings during the year. At these meetings the members of the Board discussed or were brought up to date on matters such as internal procedures for dealing with casework of the Board, revised legislation and corporate governance arrangements.

### Corporate Governance Group

The remit of the Corporate Governance Group (CGG) is to ensure that the Board has in place strategies and policies for good corporate governance to support and equip members in their collective and individual responsibilities to discharge the Board's statutory functions and to report to the Board for approval and agreement to implement such strategies and policies.

### CGG members during 2010-2011 were:

Professor Sandy Cameron – Board Chairman  
Mrs Kathleen McQuillan – Board Vice Chair  
Mr George Keith Carruthers – Board Member (CGG member until 31 December 2010)  
Ms Jeane Freeman – Board Member  
Mr Andrew Jones – Board Member  
Mrs Elaine Noad – Board Member (CGG member until 31 December 2010)  
Mr David Pia – Board Member (CGG member from 1 January 2011)  
Ms Heather Baillie – Board Member (CGG member from 1 January 2011)  
Chief Executive

The CCG met on 4 occasions during 2010-11 and discussed a wide range of high level corporate matters including Annual Conference; Annual Report; business planning; financial monitoring; management statement; risk register; training and performance management; and website.

### **Parole Board Conference**

The Board held its eighteenth annual conference on 24 and 25 November 2010 at Clydebank. The Conference provides the members with the opportunity to gather to discuss in-depth matters relating to the work of the Board. Presentations were given by Dr Nancy Loucks, Families Outside; Brigadier Monro, HM Chief Inspector of Prisons; Charles Kelly, Scottish Prison Service; Wilma Dickson, Scottish Government and Yvonne Gailey, Risk Management Association (RMA); Detective Chief Superintendent Roddy Ross; Gordon Meldrum, Scottish Crime and Drug Enforcement Agency (SCDEA) and John Scott, Solicitor.

### **Parole Board Website**

The Board's website is at <http://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.

## Chapter 3: Efficiency

In its last Corporate Plan the Board set specific performance measures and objectives designed to monitor the Board's effectiveness in dealing with cases referred to it by the Scottish Ministers. These were:

### Determinate Sentence Prisoners

The Board will endeavour to ensure that no less than 85% of interviews are conducted within 5 weeks of a determinate sentence prisoner's case being referred to the Board.

Prisoners interviewed in 2010-11	579
Target met or exceeded	387 (67%)

Notwithstanding this figure, all prisoners who wanted an interview, were interviewed prior to the Board's consideration of the case.

The Board will endeavour to ensure that 85% of determinate sentence prisoners have their case considered at a meeting of the Board within 9 weeks of the case being referred to the Board by the Scottish Government's Justice Directorate.

Cases to meetings in 2010-11	832
Target met or exceeded	607 (73%)

Notwithstanding this figure almost all cases were considered prior to the prisoner's date of release.

### Life Prisoners

- (1) Unless the prisoner, his legal agent or the Scottish Ministers request a postponement, the first review of a life prisoner's case will be heard by a Tribunal within 3 days of the expiry of the punishment part set by the judiciary.

The Board met this target in 29 out of 36 cases (80%).

- (2) Unless the prisoner, his legal agent or the Scottish Ministers request a postponement, all second or subsequent reviews of a life prisoner's case will be heard by a Tribunal within 8 weeks of the case being referred to the Board.

The Board met this target in 110 out of 118 cases (93%).

- (3) That the Tribunal will issue its decision letter within 14 days of the end of the Tribunal hearing.

With the exception of 2 cases, the Board met this target.

### Cost Effectiveness

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 2010-11 reveal that the work of the Board continues to represent good value for money. The average cost of Tribunals convened in 2010/11 for life prisoners and extended sentence prisoners is £1000. The average cost of considering a case at a meeting of the Board is £180. The average cost of conducting an interview

is £115. The average cost to carry out these functions includes members' fees; and their travel and accommodation costs which are incurred because tribunals are held in the prison where the prisoner is detained.

### **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

The Board wishes to thank the many individuals and agencies who continue to support the parole scheme 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 Executive staff for its continuing support and service throughout the year.

Parole Board for Scotland  
Saughton House  
Edinburgh  
January 2012

## 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	
1969	1	-	1	-	-	-	-	-	-	2
1970	-	-	-	1	1	1	-	-	-	3
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 <sup>2</sup>
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	1	8	15
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	0	1	1	5	1	3	3	6	11	31
2009-10	0	0	1	1	3	4	7	7	16	39
2010-11	0	2	0	3	5	4	1	5	11 <sup>1</sup>	31
Total	12	25	63	141	168	114	103	72	238	936 <sup>2</sup>

Note 1 Of these 12 cases, 4 served 15 – 16 years, 1 served 16-17 years, 6 served 17-18 years and 1 served over 20 years.

Note 2 Does not include those recalled to custody and subsequently re-released

## Appendix B: Statutory Provisions

### Ch9 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 below.
- 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 above.
- 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 above apply to a reappointment under paragraph 2E above as they apply to an appointment.

### ***Performance of duties***

- 2J. 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 above 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 in 2010-11 were as follows:

Chairman	£360
Legal Member	£303
Psychiatrist	£303
General Member	£195

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

3. The Board's expenditure during 2010-11 was £1,334,338 made up as follows:

Members Fees, Staff Salaries and Travel/Subsistence	£1,096,178
Legal Costs	£15,011
Other	£223,149
<b>Total</b>	<b>£1,334,338</b>

### Judicial Review – Compensation Payments

4. During the reporting period, there were 4 cases where there was a delay of some weeks between the point at which the respective claimant prisoner's punishment part expired and the actual consideration by the Board of whether or not the prisoner should be released. The delays occurred during the previous reporting year but because of the timing of the Journal Reviews, payment was made in this reporting year.
5. In each case the prisoner was released and their solicitors argued that the delay constituted a breach of Article 5(4) of the ECHR. The delay resulted from the pressure of demand on the Board against the member availability to keep pace with it at that time.

6. Following legal advice, the Board agreed to settle all cases. One claimant received a compensation payment of £2,000, another claimant received £1,500 and the others received £1,000.

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