

# The Parole Board for Scotland

**Annual Report  
2009-10**

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for Scotland

Annual Report 2009



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## **Annual Report 2009-10**

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.

December 2010

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## Foreword

I am pleased to present this report of the work of the Parole Board for Scotland over the year 2009 to 2010. The information contained in the report shows that there continues to be a substantial volume of work undertaken by the Board and I am grateful to the members of the Board for the continued hard work and commitment they put in to ensure that the Board considers the matters put before it with careful and thoughtful consideration in the best interests of the protection of the public.



The Board must ensure that it not only fulfils its duty to consider the protection of the public but that it does so in ways which ensure that prisoners are treated in accordance with the law. In that context, the report includes information in respect of compensation payments which were made to two prisoners who had not had their cases considered within the proper timescales and who had been deprived of their liberty for longer than was necessary. These situations arose out of the fact that, as a result of a period when there was a significant shortage of availability of legal member time, the Board accrued a backlog of cases which meant that some prisoners did not have their cases considered by the due date as required by law. This was an infringement, albeit unavoidable, of their rights under the European Convention of Human Rights and as such, a settlement of compensation was appropriate. I have referred to the backlog of cases in previous reports and I am now pleased to report that as a result of considerable effort by members, the staff in the Parole Board Executive and the appointment of additional members there is no longer any backlog of cases. I would wish to take this opportunity to thank the Parole Board Executive on behalf of the members and myself for their ongoing hard work and commitment to ensuring the work of the Board runs as smoothly as possible.

The Board's workload has remained at a similar level to previous years but it will be noted that there is a continuing increase year on year in the number of extended sentence prisoners who have been recalled as a result of breaching their licence conditions. This seems likely to be an area of continuing growth in demand for the Board.

I reported last year that a Corporate Governance Group had been set up for the first time to have oversight of the business processes of the Board. During the course of this year that group has become well established and has met on 9 occasions to deal with business matters. This has been a higher number of meetings than will be the case in the future but has been necessitated by the work required to put modern business processes in place to support the work of Board members.

Included within the very substantial dossiers of information which the Board receives in respect of every case are reports written by the Trial Judge who passed the sentence. These are extremely important reports which set the background context for everything else which will have happened during the

prisoner's sentence and provide very valuable information to assist with the formation of an assessment of the risk which the prisoner might pose if or when released. The Board values these reports greatly and is appreciative of the time which Judges put into their preparation. I am grateful therefore for the work which Sheriff Fiona Reith QC, the former Vice Chair of the Board, put in to the preparation of revised guidance on the preparation of these reports and which was subsequently approved by the Lord President. The revised guidance extends the scope of those cases on which reports are prepared to include Children and Young Persons cases and will also ensure that any reports or information that the Trial Judge took into consideration are included in the dossier.

During the course of the year a number of members left the Board having reached the end of their term of office or to pursue other interests. They all brought great expertise to our work and I wish them well for the future. We also had a number of new members appointed to the Board through the Public Appointments system and they are very welcome additions to the complement of the Board.



**Sandy Cameron**  
Chairman

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## Membership of the Parole Board for Scotland 2009-10

Professor Alexander Cameron CBE	Chairman, former Executive Director of Social Work, South Lanarkshire Council
Mrs 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 & Social Care
Mrs Anne Carpenter	Psychologist
Mr George Keith Carruthers	Former Deputy Divisional Commander, Strathclyde Police
Mr Francis Chalmers (from 1 December 2009)	Former Senior Practitioner in Criminal Justice Social Work Services
Sheriff Brian Donald	Part-Time Sheriff
Ms Jeane Freeman	Criminologist
Professor Elizabeth Gilchrist (from 1 December 2009)	Forensic Psychologist
Mr Andrew Jones	Media Consultant
Sheriff Brian Kearney	Retired Sheriff
Ms Irene Kitson	Justice of the Peace
Mr Howard Llewellyn	Barrister
Dr John Loudon OBE (Until 31 March 2010)	Former Consultant Psychiatrist
Sheriff Principal John McInnes	Former Sheriff Principal
Mr Frederick McKerchar	Former Governor, Scottish Prison Service
Mr David Martin (from 1 December 2009)	Former Police Officer, Assistant Chief Constable



Mr Charles Milne	Solicitor
Mrs Elaine Noad	Former Director of Social Work and Housing
Professor David O'Donnell	Solicitor
Sheriff Fiona Reith QC (Until 31 May 2009)	Sheriff
Dr Bruce Ritson (Until 31 March 2010)	Former Consultant Psychiatrist
Mr David Stewart	Retired Civil Servant
Mrs Frances Stuart	Former Director of Social Work
Mrs Christine Vine	Solicitor
Dr David Will (from 1 December 2009)	Psychiatrist

## 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 2009 – 31 March 2010.

### Determinate Sentence Prisoners – 1<sup>st</sup> review for early release

Number recommended for parole by the Board	125
Number recommended for parole from a forward date by the Board	34
Number not recommended by the Board but due a further review	48
Number not recommended by the Board but granted an early review	30
Number not recommended by the Board and licence conditions set	154
Number of cases deferred for further information	43
<b>Total</b>	<b>434</b>

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

Number recommended for parole by the Board	4
Number recommended for parole from a forward date by the Board	11
Number not recommended by the Board but due a further review	3
Number not recommended by the Board but granted an early review	2
Number not recommended by the Board and licence conditions set	26
Number of cases deferred for further information	5
<b>Total</b>	<b>51</b>

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

Number recommended for parole by the Board	12
Number not recommended by the Board	32
Number of cases deferred for further information	5
<b>Total</b>	<b>49</b>

### Determinate Sentence Prisoners – other considerations

Request to transfer supervision authority	22
Request to terminate supervision	0
Number of cases deferred for further information	1
<b>Total</b>	<b>23</b>

### Determinate Sentence Prisoners – adverse development

Recommendation for early release on parole withdrawn	12
Recommendation for early release on parole upheld	6
Number of cases deferred for further information	0
<b>Total</b>	<b>18</b>

### Extended Sentence Prisoners – Review for early release

Number recommended for parole by the Board	10
Number recommended for parole from a forward date by the Board	8
Number not recommended by the Board but due a further review	31
Number not recommended by the Board but granted an early review	2
Number not recommended by the Board and licence conditions set	80
Referral for licence conditions only	82
Number of cases deferred for further information	19
<b>Total</b>	<b>232</b>

### Life Prisoners

Number referred to the Board for consideration	193
Number brought forward from 2008-2009	52
<b>Total</b>	<b>245</b>
Number where release directed	55
Number not recommended for release	135
Number who died before case considered	2
Number of prisoners who received a further sentence	7
Number of cases postponed or adjourned	44
Number not yet referred to Tribunals	46

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

Number referred to the Board for consideration	273
Number brought forward from 2008-09	68
<b>Total</b>	<b>341</b>
Number where release directed	55
Number not recommended for release	173
Number who died before case considered	0
Number of prisoners who received a further sentence	23
Number of cases postponed or adjourned	93
Number not yet referred to Tribunals	90

### Life Prisoners – Other considerations

Request to transfer supervision authority	10
Request to terminate supervision	13
Request for an earlier hearing by a Life Prisoner Tribunal	8
Amendment to life licence conditions	1
Number of cases deferred for further information	1
<b>Total</b>	<b>33</b>

### Miscellaneous

“Non Parole” Licences	86
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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 2009-10, the Scottish Government advised that there were a total of 617 cases eligible for consideration of early release. Of these, 593 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. Twenty four prisoners chose to self-reject from the parole process.

The Board recommended that 186 prisoners or 31% of those referred during 2009-10 be released on parole.

In addition, the Board gave further consideration to 18 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 18 cases, 12 had their parole release date withdrawn, and in 6 cases the Board agreed that the release date should stand.

Fifteen of the cases recommended for release during 2009-10 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>	6	7	0	2	1	16
<b>Under 10 Years</b>	69	70	8	9	14	170
<b>Total</b>	75	77	8	11	15	186

Category of Offence	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 a sharp decrease in the proportion of prisoners who have opted out of the process.

Year	2000	2001	2002	2003	2004	2005	2006	2007-08	2008-09	2009-10
Eligible	719	690	749	766	770	813	829	992	696	617
Opting out	63	43	58	60	67	49	75	98	69	24
%	8.8	6.2	7.7	7.8	8.7	6.0	9.1	9.8	9.9	3.9

### “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 2009-10 the Board recommended that conditions be attached to the licences of 168 prisoners who were not released on parole. A further 18 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 Parole 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 2009-10 the Scottish Ministers referred 82 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 of the Parole Board for Scotland, 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 2009-10 the Scottish Ministers referred to the Board the cases of 193 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 52 cases that had been carried over from 2008-09.

Consideration of 190 cases were concluded in 2009-10. In 55 cases, the Tribunals directed Scottish Ministers to release the prisoner. In 135 cases the Tribunals did not direct release, but set a further review date. Forty four cases were adjourned or postponed and in 46 cases Tribunals will be convened in 2010-11. Two prisoners died before their case could be considered by Tribunals 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.

	2001	2002	2003	2004	2005	2006	2007-08	2008-09	2009-10
<b>Cases Referred</b>	44	179	179	154	173	178	248	219	193
<b>Cases Carried Over</b>	3	2	33	38	35	34	77	62	52
<b>Total Cases</b>	47	181	212	192	208	212	325	281	245
<b>Release Directed</b>	9	53	55	33	38	32	75	52	55
<b>Retain Release Date</b>	None	2	1	None	None	None	None	None	None
<b>Revised Release Date Awarded</b>		2	None	None	None	None	None	None	None
<b>Release Date Withdrawn</b>	1	2	1	None	None	None	None	None	None
<b>Number who died before case considered</b>	None	None	None	None	None	2	1	2	2
<b>Further Review</b>	35	89	117	124	136	117	189	157	135
<b>Postponed or Adjourned</b>	2	9	6	9	12	7	52	61	44
<b>Cases yet to be Considered</b>	None	24	32	26	22	54	62	63	46

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 2009-10 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 2009-10 the cases of 27 children and young people sentenced under section 208 of the Criminal Procedure (Scotland) Act 1995 were referred to the Board. Only 6 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 21 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 10 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 8 be recalled to custody, 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 25 young people. Of the 25, five young people were granted immediate re-release, nineteen young people were not given immediate re-release and one case was 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 2009/2010, Scottish Ministers referred 1 case 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 2009-10 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 44 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 16 licensees, and 27 licensees were recalled to custody. In 1 case no recall was directed. The Board subsequently re-released 3 on licence. The remainder were not re-released.

## Non Parole Licensees

During 2009-10 the Board was asked to consider the cases of 193 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 123 of these licensees be recalled to custody. In this reporting year, twenty seven prisoners were re-released, 122 were not re-released and at the end of the year 9 cases were deferred for further information. Warning letters were issued to 44 licensees, further or amended conditions were attached to the licences of 4 individuals and no action was taken in 17 cases.

## Oral Hearings following recall

In the interests of fairness and justice the Board may convene an urgent 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 2009-10, the Board held 13 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 2009-10 the Scottish Ministers referred 119 cases to the Board where the behaviour of the licensee was giving cause for concern. The Board recommended that 85 licensees be recalled to custody. In 24 cases the Board recommended that warning letters be sent to the licensees and in 1 case no action was deemed necessary. One case will be carried forward to 2010-11. A further 8 cases were withdrawn.



During the year, the Board convened 116 extended sentence prisoner tribunals. Of those, 78 prisoners had been recalled by the Board at case work meetings; immediate re-release was directed in 16 cases, and 62 were not re-released. In addition, the Scottish Ministers revoked the licences of 38 individuals; and immediate re-release was directed in 5 cases and 33 were not re-released.

During 2009-10 the Board considered the cases of 202 extended sentence prisoners who were entitled to a further review following recall. These further reviews resulted in 36 of the offenders being released on licence, and 166 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 2009-10 the Board considered the cases of 37 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 21 licensees be recalled to custody. The Board subsequently released 6 of these individuals and 15 were not re-released. In addition, the Scottish Ministers referred to the Board the cases of 6 life prisoners where they had revoked the licences. One was re-released and 5 were not re-released.

Of the remaining 16 cases referred to the Board as possible grounds for recall, warning letters were issued to 15 licensees and in 1 case it was agreed that no action was necessary.

In addition the Board was required to convene Tribunals to consider the cases of 121 life prisoners who had been recalled to custody in previous years. In 27 cases the Tribunals directed re-release on licence and in 94 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<sup>st</sup> 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 (ie 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 2009-10 the Board considered the cases of 80 prisoners who had been released on HDC licences and who had subsequently been returned to custody. In 27 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 12 cases were deferred for further information. and 1 case was subsequently withdrawn.

### **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 2009-10 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, 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

2009-10 was the 42nd year of the operation of the parole system in Scotland. During this period the Board met on 54 occasions to consider the cases of prisoners and licensees referred by the Scottish Ministers. The Board also concluded 216 Life Prisoner Tribunals, 318 Extended Sentence Tribunals and 13 oral hearings during the year. In addition the Board held 2 General Purposes Meetings, an Annual Conference and 10 Corporate Governance meetings.

### Board Membership

The membership of the Board during 2009-10 is shown at page 4. During this period the terms of appointment of Dr B Ritson and Dr J Loudon and Sheriff F Reith QC came to an end. During the course of the year Mr Francis D Chalmers, Professor Elizabeth Gilchrist, Mr David Martin and Dr David J Will 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 2009/2010 were:

- Professor Sandy Cameron - Board Chairman
- Mrs Kathleen McQuillan - Board Vice Chair (CGG member and Vice Chair from 1 June 2009)
- Sheriff Fiona Reith QC - Board Vice Chair (CGG member and Vice Chair until May 2009)
- Mr George Keith Carruthers - Board Member
- Ms Jeane Freeman - Board Member (CGG member from 1 January 2010)
- Mr Andrew Jones - Board Member (CGG member from 1 January 2010)
- Dr John Loudon - Board Member (CGG member until 31 December 2009)
- Mrs Elaine Noad - Board Member
- Mrs Christine Vine - Board Member (CGG member until 31 December 2009)
- Head of the Parole Board Executive

The CCG met on 9 occasions during 2009/2010 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 seventeenth annual conference on 25<sup>th</sup> and 26<sup>th</sup> November 2009 at Peebles. 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 Jim Farish and Eric Robb, Scottish Prison Service; Fiona McBeth, UK Border Agency; Gill Ottley and Gerry Hart, Social Work Services Agency; Annette Sharp and Gordon Kilpatrick, Scottish Government; Dr Raj Darjee, The Royal Edinburgh Hospital and D.I. Lorraine Fettes, Strathclyde Police.

### **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 2009-10	617
Target met or exceeded	479 (78%)

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 2009-10	1030
Target met or exceeded	659(64%)

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 19 out of 28 cases (68%).

**(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 70 out of 121 cases (58%).

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

The Board met this target in all cases.

## 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 2009-10 reveal that the work of the Board continues to represent good value for money. The average cost of Tribunals convened in 2009/10 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.

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  
December 2010

## 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	
1968-74	1	1	6	12	7	2	1-	-	1	31
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>12</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 <sup>1</sup>	31
2009-10	0	0	1	1	3	4	7	7	16	39
Total	12	23	63	141	164	110	102	67	227	909 <sup>2</sup>

Note 1 Of these 16 cases, 6 served 15 – 16 years, 5 served 16-17 years, and 2 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 2009-10 were as follows:

Chairman	£360
Legal Member	£303
Psychiatrist	£303
Lay 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 2009/10 was £1,380,984 made up as follows:

Members Fees, Staff Salaries and Travel/Subsistence	£1,066,391
Legal Costs	£77,905
Other	£236,788
<b>Total</b>	<b>£1,380,984</b>

#### ***Judicial Review - Compensation Payments***

4. During the reporting period, there were 2 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.
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 both cases. One claimant received a compensation payment of £2000 and the other received £1000.

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