

# The Parole Board for Scotland

**Annual Report  
2011-12**

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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.

December 2012

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APS Group Scotland  
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## Foreword

I am pleased to be able to present this my final Annual Report on the work of the Parole Board for Scotland. As in previous years the report shows the considerable volume of work dealt with by the relatively small number of individuals who comprise the Board. The work they undertake requires to be of the highest standard and involves complex and often difficult decisions which have a direct bearing on the future safety of communities across Scotland. The work of the Board can and does also have an important role to play in assisting with the rehabilitation of offenders to return to their communities as active and law-abiding citizens. All of the Board's decisions have to be taken however, with the primary consideration being whether the risk is acceptable and manageable.



In many of the areas of the Board's work this Annual Report shows little variation. It is however noticeable that there has been a significant reduction in the number of cases referred for consideration of breaches of licence conditions. While it remains the case that prisoners who were not granted parole are more likely to breach their licence following release at their earliest date of liberation, there has been a reduction in all categories. What lies behind this is not clear from the information available to the Board and the matter of breach and recall is one which, in my opinion, merits research to help inform decision making and supervision practice. A reduction in the number of cases recalled to custody is however, important, given the significant proportion of the prison population which recalled prisoners represent and also vitally for the contribution it makes to the safety of Scotland's communities. It is to be hoped that this downward trend continues into future years.

This will be the last Annual Report which I present as my term of office concludes in December 2012. The seven years in which I have had the privilege of Chairing the Board have been challenging and rewarding and thanks to the collegiate spirit within the Board very enjoyable. Whilst the Board routinely deals with worst behaviour our communities experience it also has an opportunity to observe the very real progress some prisoners make through their time in custody thanks to the opportunities they are given to learn skills and to understand what motivates their offending behaviour. Many of these prisoners are able to return to a crime free life and to begin to be positively contributing members of society. Regrettably of course many are not able to make the necessary change or to sustain change often because of their own disadvantaged history. In these cases it is the Board's responsibility to ensure that every possible step is taken to limit risk. This is a matter which the members bring huge amounts of experience and expertise to from their varying backgrounds. I do believe that Scotland's communities can feel assured that their best interests underpin the decisions which the Board takes day in and day out but always with great care.

In my time as Chairman I have sought to be outward looking and have been grateful to have the opportunity to talk with many groups of practitioners in a variety of fields – judges, social workers, doctors, governors, lawyers to name but a few. I hope that

this has built a basis of better knowledge and understanding of how the Board works and how the various stakeholders can assist its decision making. During the year a DVD has been prepared aimed particularly at prisoners to help them prepare for their Tribunals but I hope it will be of much wider interest for the insight it gives as to how the Board goes about making its decisions.

Finally, I would like to take this opportunity to thank not only my colleague members and all of the hard working staff in the Parole Board Executive for their commitment and support, but to also thank those many individuals and agencies both statutory and voluntary, on whose services and expertise the Board relies for information and for support to underpin the decisions we take.

A handwritten signature in black ink, appearing to read 'Sandy Cameron'.

**Sandy Cameron**  
Chairman

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## Membership of the Parole Board for Scotland 2011-12

Professor Alexander Cameron CBE	Chairman, former Executive Director of Social Work, South Lanarkshire Council
Kathleen McQuillan (until 31 July 2011)	Vice Chair, Solicitor
Ms Heather Baillie	Vice Chair, Solicitor
Sheriff Paul Arthurson (until 30 June 2011)	Sheriff
Ms Lyndy Boyd (until 31 December 2011)	Solicitor
The Hon Lord Bracadale (until 28 February 2011)	Senator of the College of Justice
Mr Francis Brown (until 31 October 2011)	Consultant in Health & Social Care
Mrs Anne Carpenter (until 31 July 2011)	Psychologist
Mr George Keith Carruthers	Former Deputy Divisional Commander, Strathclyde Police
Mr Francis Chalmers	Former Senior Practitioner in Criminal Justice Social Work Services
Ms Valerie Cox (from 1 November 2011)	Retired Civil Servant
Mrs Gillian Crompton (from 1 November 2011)	Solicitor
Wilma Dickson (from 1 November 2011)	Retired Civil Servant
Sheriff Brian Donald	Part-Time Sheriff
Michael Duffy (from 1 November 2011)	Former Governor, Scottish Prison Service
Sheriff Gordon Fleetwood	Part-Time Sheriff
Ms Jeane Freeman (until 31 December 2011)	Criminologist
Professor Elizabeth Gilchrist	Forensic Psychologist
Christopher Hawkes (from 1 November 2011)	Former Chief Officer, Lothian and Borders Community Justice Authority
Mr Andrew Jones	Media Consultant
Ms Irene Kitson (until 31 December 2011)	Justice of the Peace

Mr John McCaig	Former Deputy Chief Inspector of Prisons
Sheriff Principal John McInnes (deceased 12 October 2011)	Former Sheriff Principal
Mr Fred McKerchar	Former Governor, Scottish Prison Service
Ms Morag McLaughlin (from 1 November 2011)	Solicitor, Former Area Procurator Fiscal
Jack McVey	Operations Director – British Red Cross
Mr David Martin	Former Assistant Chief Constable, Strathclyde Police
Mr Charles Milne	Solicitor
Ms Joan Morrison	Solicitor
Mrs Elaine Noad	Former Director of Social Work and Housing
Professor David O'Donnell	Solicitor
Mr David Pia	Retired Civil Servant
Mr Terry Powell	Former Divisional Commander, Lothians and Borders Police
Mrs Catherine Smith (from 1 November 2011)	Principal Officer (Criminal Justice) Glasgow City Council Social Work Services
Mrs Gillian Stange (from 1 November 2011)	Retired Children's Reporter
Mr David Stewart	Retired Civil Servant
Sheriff Charles Stoddart (from 1 November 2011)	Retired Sheriff
Mrs Frances Stuart (until 31 December 2011)	Former Director of Social Work
The Hon Lord Turnbull (from 1 March 2011)	Senator of the College of Justice
Mrs Christine Vine (until 31 December 2011)	Solicitor
Dr David Will	Psychiatrist



## About the Parole Board

The Parole Board for Scotland is a tribunal Non Departmental Public Body. The Board, which has been in existence for more than 40 years, is a judicial body that is independent of 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.

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 prisoners 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 these cases is to consider grounds for recall to custody or re-release as appropriate.

## Long Term Determinate Sentence Prisoners

For prisoners serving determinate sentences of 4 years or more, the Parole Board is invited to recommend to Scottish Ministers whether or not they should be released on licence at the half way point of their sentence (the Parole Qualifying Date). The Board's recommendation is binding on Scottish Ministers. If release on parole is not recommended then the Board will reconsider the prisoner's case on the anniversary of the Board's consideration provided that there is 16 months or more before they reach their Earliest Date of Liberation (the two thirds point of their sentence) at which point the Scottish Ministers are statutorily required to release the prisoner into the community on a "non-parole" licence.

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

## Extended Sentence Prisoners

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

If the custodial term 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 term and the extension period).

## 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 as will Scottish Ministers either in the form of an Official from the Scottish Government Parole Unit or a Representative from the Scottish Prison Service or both.

It is for the Board to determine if the prisoner should continue to be confined for the protection of the public. If release on life licence is not directed then the Tribunal is required, by law, to fix the date when it will next consider the prisoner's case not later than 2 years after the date of the decision to decline to direct release.

## Orders for Lifelong Restriction (OLRs)

The release arrangements for OLR prisoners are the same as life sentence prisoners which is that they are referred to the Board for consideration on the expiry of the punishment part of their sentence. The Board is required to have regard to the Risk Management Plan which has been approved by the Risk Management Authority in reaching its decision as to whether the degree of risk posed is such that the prisoner can be returned to the community under licence conditions.

## Recall of Prisoners for Breach of Licence

Where a prisoner 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 sexual offenders;
- extended sentence prisoners;
- determinate sentence prisoners serving 4 years or more;
- life sentence prisoners; and
- prisoners subject to an OLR.

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

## Other Post Release Considerations

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

## Re-release following Recall

For those cases where a prisoner has been recalled to custody, the Board is required to consider their suitability for re-release. The prisoner will be given the opportunity to make representations on the reasons given for their recall and the Board is 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 a Tribunal of the Board requires to be held if the prisoner is serving the extension period of the sentence. This provides for the prisoner and their legal representative to present his case to the Board orally. Scottish Ministers will also be represented in some cases. If the prisoner is serving the custodial term of their sentence the case will be considered at a casework meeting.

## 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 4 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 2011 – 31 March 2012.

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

Number recommended for parole by the Board	108
Number recommended for parole from a forward date by the Board	51
Number not recommended by the Board but due a further review	23
Number not recommended by the Board but granted an early review	27
Number not recommended by the Board and licence conditions set	169
Number of cases deferred for further information	20
<b>Total</b>	<b>398</b>

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

Number recommended for parole by the Board	13
Number recommended for parole from a forward date by the Board	7
Number not recommended by the Board but due a further review	3
Number not recommended by the Board but granted an early review	0
Number not recommended by the Board and licence conditions set	29
Number of cases deferred for further information	2
<b>Total</b>	<b>54</b>

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

Number recommended for parole by the Board	22
Number not recommended by the Board	45
Number of cases deferred for further information	2
<b>Total</b>	<b>69</b>

### Determinate Sentence Prisoners – other considerations

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

### Determinate Sentence Prisoners – adverse development

Recommendation for early release on parole withdrawn	11
Recommendation for early release on parole upheld	1
Number of cases deferred for further information	0
<b>Total</b>	<b>12</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	15
Number not recommended by the Board but granted an early review	4
Number not recommended by the Board and licence conditions set	48
Referral for licence conditions only	51
Number of cases deferred for further information	9
<b>Total</b>	<b>145</b>

### Life Prisoners

Number referred to the Board for consideration	218
Number brought forward from 2010-11	24
<b>Total</b>	<b>242</b>
Number where release directed	43
Number not recommended for release	146
Number who died before case considered	1
Number of prisoners who received a further sentence	2
Number of cases postponed or adjourned	43
Number not yet referred to Tribunals	11

### Order for Lifelong Restrictions

Number referred to the Board for consideration	13
<b>Total</b>	<b>13</b>
Number where release directed	0

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

Number referred to the Board for consideration	199
Number brought forward from 2010-11	59
<b>Total</b>	<b>258</b>
Number where release directed	48
Number not recommended for release	210
Number who died before case considered	0
Number of prisoners who received a further sentence	5
Number of cases postponed or adjourned	42
Number not yet referred to Tribunals	14

### Life Prisoners – other considerations

Request to transfer supervision authority	0
Request to terminate supervision	18
Request for an earlier hearing by a Life Prisoner Tribunal	1
Amendment to life licence conditions	0
Number of cases deferred for further information	0
<b>Total</b>	<b>19</b>

## Miscellaneous

“Non-Parole” Licences	55
Children and Young Persons	18
HDC licence	81
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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 stipulate the licence conditions of such prisoners.

During the course of 2011-12, the Scottish Government advised that there were a total of 678 cases eligible for consideration of early release. Of these, 607 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. 71 prisoners chose to self-reject from the parole process in which case no further consideration was made by the Board other than to set licence conditions at the appropriate time.

The Board recommended that 219 prisoners or 36% of those referred during 2011-12 be released on parole.

In addition, the Board gave further consideration to 12 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, 11 had their parole release date withdrawn and in the remaining case the Board agreed that the release date should stand.

Of the cases recommended for release during 2011-12, 20 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>	11	2	0	0	0	13
<b>Under 10 years</b>	110	75	5	2	14	206
<b>Total</b>	121	77	5	2	14	219

<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 12-month period there has been an increase in the proportion of prisoners who have opted out of the process however the number is still fewer than the period from 2006 to 2008-9.

Year	2002	2003	2004	2005	2006	2007-08	2008-09	2009-10	2010-11	2011-12
Eligible	749	766	770	813	829	992	696	617	670	678
Opting Out	58	60	67	49	75	98	69	27	64	71
%	7.7	7.8	8.7	6.0	9.1	9.8	9.9	3.9	9.5	10

**“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 expiry date. The term “non-parole” licence is used to describe the non-discretionary period of supervision in the community.

During 2011-12 the Board recommended that conditions be attached to the licences of 169 prisoners who were not released on parole. A further 50 cases were re-referred to the Board to enable it to apply specific licence conditions to the offenders’ non-parole licences.

**Extended Sentence Prisoners**

Scottish Ministers consult the Board about the conditions that are to be attached to the release licences of extended sentence prisoners where the combined custodial term is less than 4 years but where the aggregate sentence (ie custodial term and extension period combined) is 4 years or more.

During 2011-12 the Scottish Ministers referred 51 cases to the Board where the courts had imposed extended sentences where the aggregate term totalled 4 years or more in order that the Board could consider the conditions to be attached to the prisoners’ release licences.

**Life Sentence Prisoners**

The Board has the power to direct 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 is only required to consider the case when the prisoner has served the punishment part of his or her sentence, i.e. the minimum period fixed by the Court that the prisoner must serve in custody before being eligible for consideration of release on licence.

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

- A person who holds or has held judicial office; or
- A solicitor or advocate of not less than 10 years standing.

During 2011-12 the Scottish Ministers referred to the Board the cases of 218 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 required to conclude the consideration of 24 cases that had been carried over from 2010-11.

Consideration of 242 cases were concluded in 2011-12. In 43 cases, the Tribunals directed Scottish Ministers to release the prisoner; Tribunals did not direct release in 146 cases but set a further review date; 43 cases were adjourned or postponed and in 11 cases Tribunals will be convened in 2012-13. Unfortunately, 1 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 2003 and the outcome of these Tribunals.

	2003	2004	2005	2006	2007-08	2008-09	2009-10	2010-11	2011-12
<b>Cases Referred</b>	179	154	173	178	248	219	193	220	218
<b>Cases Carried Over</b>	33	38	35	34	77	62	52	43	24
<b>Total Cases</b>	212	192	208	212	325	284	245	263	242
<b>Release Directed</b>	55	33	38	32	75	52	55	48	43
<b>Retain Release Date</b>	1	None	None	None	None	None	None	None	None
<b>Revised Release Date Awarded</b>	None	None	None	None	None	None	None	None	None
<b>Release Date Withdrawn</b>	1	None	None	None	None	None	None	None	None
<b>Number Who Died Before Case Considered</b>	None	None	None	2	1	2	2	1	1
<b>Further Review</b>	117	124	136	117	189	157	135	173	146
<b>Postponed or Adjourned</b>	6	9	12	7	52	61	44	59	43
<b>Cases yet to be Considered</b>	32	26	22	54	62	63	46	37	11

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 2011-12 had spent more than 10 years in custody.

### Orders for Lifelong Restriction (OLRs)

During 2011-12 the Scottish Ministers referred 13 Orders for Lifelong Restrictions to the Board for consideration by Tribunal. Of those 13 considered, none were released on licence.



## Children and Young People

**The Board has responsibility for considering the case for early release of young people sentenced to 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 2011-12 the cases of 18 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 granted early release on licence.

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

A further 11 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 7 be recalled to custody and in 4 cases the Board agreed to issue the young person with a warning letter.

During the same period the Board considered the re-release of 13 young people. The Board recommended that 6 young people were granted immediate re-release, 2 were not given immediate re-release and 5 cases 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 almost all matters. Decisions on compassionate release lie with the Cabinet Secretary for Justice.

During 2011-12 Scottish Ministers referred 2 cases to the Board so that it could provide advice on the prisoner's suitability for release on compassionate grounds.

## Possible Grounds for Recall

**The Board has the powers to recommend the recall to custody of determinate sentence prisoners serving sentences of 4 years imprisonment or more, short-term sexual offenders, extended sentence prisoners and life sentence prisoners. The Scottish Ministers are statutorily obliged to accept the Board's recommendation. The Board may direct the Scottish Ministers to re-release any prisoner who has been recalled to custody.**

## Parole Licensees

During 2011-12 36 licensees were reported to the Board for behaviour potentially constituting grounds for recall. The Board was obliged to give further consideration to these cases and determine whether to recommend that the individuals be recalled to custody, issued a warning letter or the matter dealt with in another way.

Warning letters were issued to 11 licensees and 25 licensees were recalled to custody. The Board subsequently re-released 6 licensees. The remainder were not released.

## Non-Parole Licensees

During 2011-12 the Board was asked to consider the cases of 121 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 81 of these licensees be recalled to custody. In this reporting year, 14 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 23 licensees, further or amended conditions were attached to the licences of 5 individuals and no action was taken in 10 cases.

## Oral Hearings

In the interests of fairness and justice the Board may convene an oral hearing within the prison where the prisoner is situated, if it considers that there are issues raised by the prisoner that cannot be resolved without an oral hearing. During the period 2011-12 the Board held 22 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 if the prisoner is serving the extension period of the sentence. The Tribunal, if not recommending immediate re-release, must be satisfied that it is necessary to hold the offender in custody in order to protect the public from serious harm. The cases of those serving the custodial term of their sentence are considered at a casework meeting.

During 2011-12 the Scottish Ministers referred 103 cases to the Board where the behaviour of the licensee was giving cause for concern. The Board recommended that 72 licensees be recalled to custody, 29 should be issued warning letters, no action was taken in 1 case and the 3 remaining cases will be carried forward to 2012-13.

During the year, the Board convened 57 extended sentence prisoner tribunals for consideration of immediate re-release. Of these, 39 prisoners had been recalled by the Board at case work meetings; immediate re-release was directed in 15 cases and 24 were not re-released. In addition, the Scottish Ministers revoked the licences of 18 individuals; immediate re-release was directed in 3 cases and 15 were not re-released.

During 2011-12 the Board considered the cases of 138 extended sentence prisoners who were entitled to a further review following recall. These further reviews resulted in 28 of the offenders being re-released on licence and 110 were not re-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 should continue to be confined.

During 2011-12 the Board considered the cases of 28 licensees who had allegedly breached the conditions of their licence or whose behaviour in the community was giving cause for concern.

The Board recommended that 13 licensees be recalled to custody. The Board subsequently released 6 of these individuals and 7 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.

Warning letters were issued to the remaining 15 licensees.

In addition, the Board was required to convene Tribunals to consider the cases of 33 life prisoners who had been recalled to custody in previous years. In 10 cases the Tribunals directed re-release on licence and in 23 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 (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 2011-12 the Board considered the cases of 81 prisoners who had been released on HDC licences and who had subsequently been returned to custody. In 23 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 58 cases the Board refused the appeal.

## 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 2011-12 the Scottish Ministers referred 13 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, 4 cases received warning letters and the remaining case was deferred for further information. Of the 13 cases recalled, which includes 5 cases by Scottish Ministers, 12 had their application for re-release refused and 1 case was recommended for immediate re-release.

## Chapter 2: Board Membership, Meetings and Visits

### Board Meetings

2011-12 was the 44th year of the operation of the parole system in Scotland. During this period the Board met on 50 occasions to consider the cases of prisoners and licensees referred by the Scottish Ministers. The Board also concluded 242 Life Prisoner Tribunals, 258 Extended Sentence Tribunals and 22 oral hearings during the year. In addition, the Board held 2 General Purposes Meetings, an Annual Conference and 5 Corporate Governance meetings.

### Board Membership

The membership of the Board during 2011-12 is shown at page 4. During this period the terms of appointment of Kathleen McQuillan, Sheriff Paul Arthurson, Lyndy Boyd, The Hon Lord Bracadale, Francis Brown, Anne Carpenter, Jeane Freeman, Irene Kitson, Frances Stuart and Christine Vine came to an end. It is with sadness that we report the death of Sheriff Principal John McInnes on 12 October 2011. During the reporting year Valerie Cox, Wilma Dickson, Michael Duffy, Gillian Crompton, Christopher Hawkes, Morag McLaughlin, Catherine Smith, Gillian Stanage, Sheriff Charles Stoddart and The Hon Lord Turnbull 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 (CGG member until 31 July 2011)  
Ms Heather Baillie – Board Vice Chair  
Ms Jeane Freeman – Board Member (CGG member until 31 December 2011)  
Mr Andrew Jones – Board Member  
Mr John McCaig – Board Member (CGG member from 1 January 2012)  
Mr David Pia – Board Member  
Mr Terry Powell – Board Member (CGG member from 1 January 2012)  
Mrs Angela McArthur – Chief Executive

The CCG met on 5 occasions during 2011-2012, including 1 extraordinary meeting, 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 the Board's website.

### **Parole Board Conference**

The Board held its nineteenth annual conference on 23 and 24 November 2011 at Kinross. 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 Linda Caestecker, Commission on Women Offenders; Professor Black, Forensic Anthropology; Professor Lindsay Thomson, Forensic Psychiatry at The State Hospital and Karen McCluskey, Violence Prevention Unit.

### **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 2011-12	709
Target met or exceeded	520 (73%)

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

### Determinate Sentence and Extended Sentence Prisoners

The Board will endeavour to ensure that 85% of determinate, and extended sentence prisoners will have their case considered at a meeting of the Board within 9 weeks of the case being referred to the Board by the Scottish Ministers.

Cases to meetings in 2011-12	779
Target met or exceeded	678 (87%)

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 34 out of 39 cases (87%).

- (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 107 out of 123 cases (87%).

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

With the exception of 1 case, 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 2011-12 reveals that the work of the Board continues to represent good value for money. The average cost of Tribunals convened in 2011-12 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 system for all their help and encouragement. The Board also wishes to thank the officials and staff of the Scottish Government's Justice Directorate and the Scottish Prison Service for their help throughout the year. In addition, the Board wishes to record its appreciation to its Executive staff for its continuing support and service throughout the year.

Parole Board for Scotland  
Saughton House  
Edinburgh  
December 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>1</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	1 <sup>4</sup>	0	3	5	4	1	5	11 <sup>1</sup>	30
2011-12	0	1	0	1	1	3	2	7	7 <sup>2</sup>	22
Total	12	25	63	142	169	117	105	79	245	957 <sup>3</sup>

Note 1 One prisoner was released on a life licence on compassionate grounds after serving 3 years 5 months in custody.

Note 2 Of these 7 cases, 1 served 15-16 years, 1 served 18-19 years, 3 served 19-20 years and 2 served over 20 years.

Note 3 Does not include those recalled to custody and subsequently re-released.

Note 4 2010/2011 Annual Report contained a typographical error. Correct figure is now shown.

## Appendix B: Statutory Provisions and Financial Information

### 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 2011-12 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 2011-12 was £1,331,065 made up as follows:

Members Fees, Staff Salaries and Travel/Subsistence	£1,268,088
Legal Costs	£3,642
Other	£59,335
<b>Total</b>	<b>£1,331,065</b>

### **Judicial Review – Compensation Payments**

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

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