

THE MAGISTRATES' ASSOCIATION
JUDICIAL POLICY & PRACTICE COMMITTEE

Response to The Future of the Parole Board

1. How should the Parole Board's existing jurisdiction, functions and powers be clarified?

The Parole Board and the context within which it operates have evolved in a piecemeal fashion and in spite of recent changes that have removed some anomalies, a number remain. Recent criminal justice legislation has introduced many different kinds of sentences, and it sometimes seems as if the Board's powers and responsibilities are different for each kind of sentence. It would be much clearer and more easily managed if there were fewer deviations from the simple pattern whereby the Board considers evidence and decides/directs. At the moment many decisions are taken, both at an early and a late stage, by the executive, eg executive re-release after recall and Secretary of State's decision to move to open conditions.

2. Should there be alternative arrangements, other than judicial review in place to enable parties to proceedings to challenge Parole Board decisions? If so, what might those arrangements be?

Panels give very detailed reasons in writing for all their decisions, and are obliged to address all the issues relevant to a particular case. Cases are regularly re-panelled if it is clear that something has gone wrong with the process or if the reasons show that evidence has been overlooked. Perhaps there should be some sort of internal body of members who review cases drawn to their attention. We would not welcome a full-blown appeal system: prisoners often have nothing to lose by pushing hopeless cases as far as they can and as they are usually legally aided, this would place an added burden on the legal aid budget.

3. Has the move of sponsorship of the Parole Board within the Ministry of Justice gone sufficiently far to protect the Board's independence, and does it provide the best means for ensuring the Board's effectiveness and efficiency?

It is certainly an improvement on NOMS, but not far enough.

4. Do you think sponsorship by either HMCS or the Tribunals Service would provide the appropriate level of independence and sufficient access to judicial resource?

We would favour sponsorship by HMCS, which would strengthen the link with the criminal justice system, and provide more flexible access to judicial input and to suitable hearing venues. One of the major drivers of cost has been the need for panel members to travel to prisons for oral hearings. Apart from the cost of travel itself, the running of the hearing is affected by the rigid pattern of the prison day, and the prison security requirements, and listing is extremely difficult. The possibility of using the secure facilities of the courts should be investigated and this would be easier under the

umbrella of HMCS. However, we would have concerns about the Board being *assimilated* into HMCS. The experience of Magistrates' Courts being assimilated into HMCS has been poor. We have seen the imposition of a management culture where targets matter more than justice, and judicial discretion is a concept that it barely understood.

- 5. In the light of your views as to the jurisdiction, function, powers and place which the Board has within the criminal justice system, what is the appropriate mechanism for appointing members?**

The current mix of specialist and lay members seems to work well, as does recruitment by open application. We understand that some lay members recruited via assessment centres can be overwhelmed by the sheer volume of reading and the details reason writing required.

- 6. What should the tenure arrangements be for members?**

We believe three years is too short, even with extension possible. We think that an initial five years plus extension for five years would retain the necessary experience whilst offering opportunity for new blood.

- 7. In the light of your responses to the previous questions, what status should the Parole Board hold within the criminal justice system? Should it be a court, tribunal or hold some other status such as its current NDPB status?**

We feel a court would fit best.

- 8. Do you think the type of work dealt with by the Parole Board would be compatible with becoming part of either the Tribunals or Courts structure?**

We feel it would be more compatible with the courts than tribunals, especially as the Board needs criminal judges.

- 9. Do you have any alternatives to the above models?**

No.

- 10. Do you have any views on the initial impact assessment, including any potential adverse impact on any particular group of people, what steps should be taken to mitigate this, and anything else the full impact assessment should cover?**

Only on legal aid if a wider appeals opportunity is offered.