Justice Committee

Victims and Witnesses (Scotland) Bill

Written submission from the Parole Board for Scotland

The Parole Board for Scotland is a Tribunal Non-Departmental Public Body (NDPB) which exists under the provisions of the Prisons (Scotland) Act 1989, the Prisoners and Criminal Proceedings (Scotland) Act 1993 ("1993 Act"), the Convention Rights (Compliance) (Scotland) Act 2001, the Criminal Justice (Scotland) Act 2003 and (if commenced) the Custodial Sentences and Weapons (Scotland) Act 2007.

1. The statutory functions and powers of the Board

The Board has powers to:

- direct Scottish Ministers to release determinate sentence prisoners serving four years or more and it may also make directions to Scottish Ministers as to the licence conditions of such prisoners;

- direct Scottish Ministers to release prisoners serving extended sentences where the custodial term is 4 years or more, make directions to Scottish Ministers as to the licence conditions of such prisoners and make directions to Scottish Ministers regarding the licence conditions of extended sentence prisoners where the combined custodial and extension period is 4 years or more;

- direct Scottish Ministers to release life sentence prisoners on life licence once they have served the punishment part of their sentence imposed by the court;

- recommend (in practice direct) Scottish Ministers to revoke the licence of and recall to custody offenders sentenced to 4 years imprisonment or more, life sentence prisoners and extended sentence prisoners in circumstances where such action is considered to be in the public interest.

The Board may direct the Scottish Ministers to re-release any prisoner who has been recalled to custody without a recommendation (direction) of the Board (i.e. recalled by Scottish Ministers without referral to the Board) or any prisoner who has been recalled with such a recommendation (direction). The re-release of life prisoners and certain extended sentence prisoners who are recalled to custody must be considered by a Tribunal of the Board.

The Parole Board (Scotland) Rules 2001 set out the matters which may be taken into account by the Board in dealing with cases referred to it by the Scottish Ministers for consideration for release under the various statutory requirements.

In this submission the Board will focus on the arrangements set out in Section 24 of the Bill which proposes that if the offender is serving a life sentence, the victim should be afforded an opportunity to make oral representations to a member of the Board who is not dealing with the case prior to consideration of release.
2. **Life sentence prisoners**

Life sentence prisoners can only be considered for release after they have completed the "punishment part" of their sentence. This is the period of time set by the judge when the sentence is passed in court, and is announced in court at the same time as the sentence is passed. Life sentence prisoners who are released are subject to a life licence and can be sent back to prison at any time during the rest of their life if they breach any condition of that licence.

Life sentence prisoners are reviewed for possible release on life licence by the Parole Board, sitting as a Life Prisoner Tribunal. This is an oral hearing chaired by a legally qualified member of the Board and two other Board members. The prisoner and, usually, their legal representative will attend along with an Official from the Criminal Justice and Parole Division of the Justice Directorate and a Representative of the Scottish Prison Service. It is for the Board to determine if the prisoner should continue to be confined for the protection of the public. If release on life licence is not directed then the prisoner is required, by law, to have a further review not more than 2 years beyond the current review. The tribunal will set the date of the further review.

3. **Current arrangements for victims**

In some criminal cases, victims have a right to receive information about the release of an offender. They may also have a right to be told when the offender is being considered for release and to make written representations (written comments) about the release of the offender.

The process that allows victims to be told about an offender's release and to make representations is known as the Victim Notification Scheme, or VNS, which has two parts. The first part allows victims to receive information about an offender's release. The second part allows victims to make written representations to the Parole Board in advance of an offender being considered for release. The Board will consider these representations along with other information on the offender's case before reaching a decision.

If parole is granted, the victim may request that certain conditions are added to the offender's licence. For example, that the offender should make no attempt to contact the victim or their family once they are released from prison. If particular additional licence conditions are requested, an explanation is required for each condition requested and evidence provided of why this is necessary. This is because, in accordance with Human Rights legislation the Board can only recommend the inclusion of any condition which is:

- In accordance with the law;
- Has a lawful aim; and
- Would be a proportionate means of achieving that aim.

Every condition requires to be specific (so that the offender knows exactly what he/she and others are required to do/not to do) and enforceable.
4. The Board’s response to the Bill

Many victims think life sentence prisoners should be detained in prison for the rest of their lives and should not be considered for parole. The Board believes that careful consideration will need to be given to making sure that this Bill does not raise false expectations on behalf of the victim that their representations will influence the Board’s decision on whether or not to release the offender if their only reasons for objecting to release relate to the offence and its subsequent impact on the victim.

Prisoners do not usually serve the whole of their sentence in prison. Most are released before the end of their sentence and are then supervised in the community for a time by Social Work Services. Life sentence prisoners may only be detained beyond the expiry of the punishment part of their sentence on the grounds that it is necessary for the protection of the public.

When considering whether to release an offender on parole, the Board takes into account all of the information contained in the reports in the offender’s dossier which is prepared in advance of consideration of the case and is referred to the Board by Scottish Ministers at the relevant point in the sentence. It will take into account information about the offence from the trial judge’s report. The Board is also interested in an offender’s behaviour in prison, their offending history, their family and social background and their plans for release. It will pay particular attention to whether they have taken any steps to address issues or problems which may have contributed to their offending behaviour. This may be demonstrated by the offender taking part in offence focussed work whilst in prison.

If victims are registered under the VNS they can submit representations and these will be considered along with all of the other information contained in the dossier. In particular, if the victim is concerned about contact from the prisoner, licence conditions can be added to address these concerns as long as they comply with the stipulations outlined in paragraph 3 above. The main consideration for the Board will be to assess whether an offender is likely to be a risk to the community if they are released on licence.

The Chairman and Vice Chair have agreed to give oral evidence to the Committee if required.

We hope this information is helpful to the Committee.

Parole Board for Scotland
8 April 2013