

Parole
Board
for
Scotland

Annual
Report
2020/21



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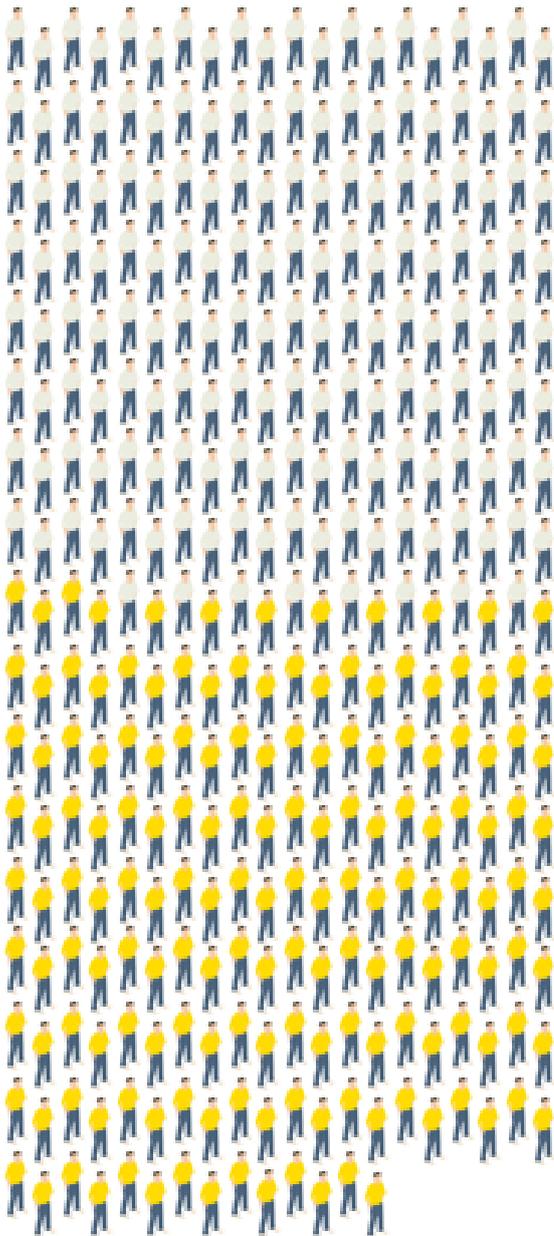
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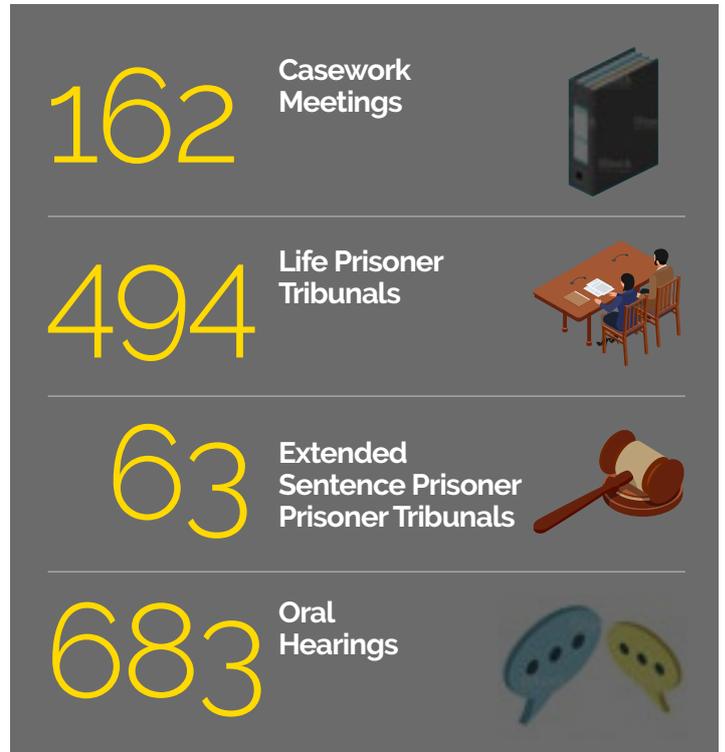


Life prisoner cases

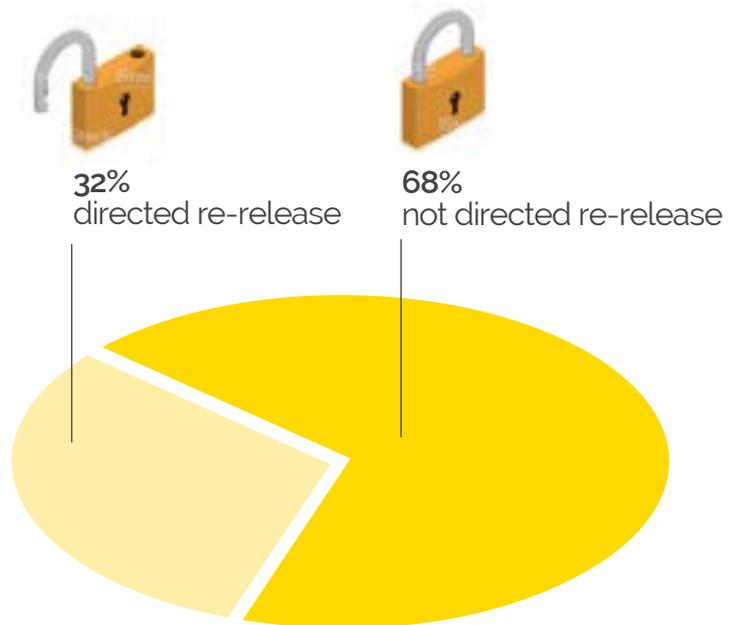
280 



Of the 494 Life Prisoner cases considered, **280 were not recommended for release.**



Recalled prisoners



68% 68% of prisoners recalled were **not directed re-release** from their Tribunal.



2020/21

At a glance

Oral hearings

Oral hearings have risen by

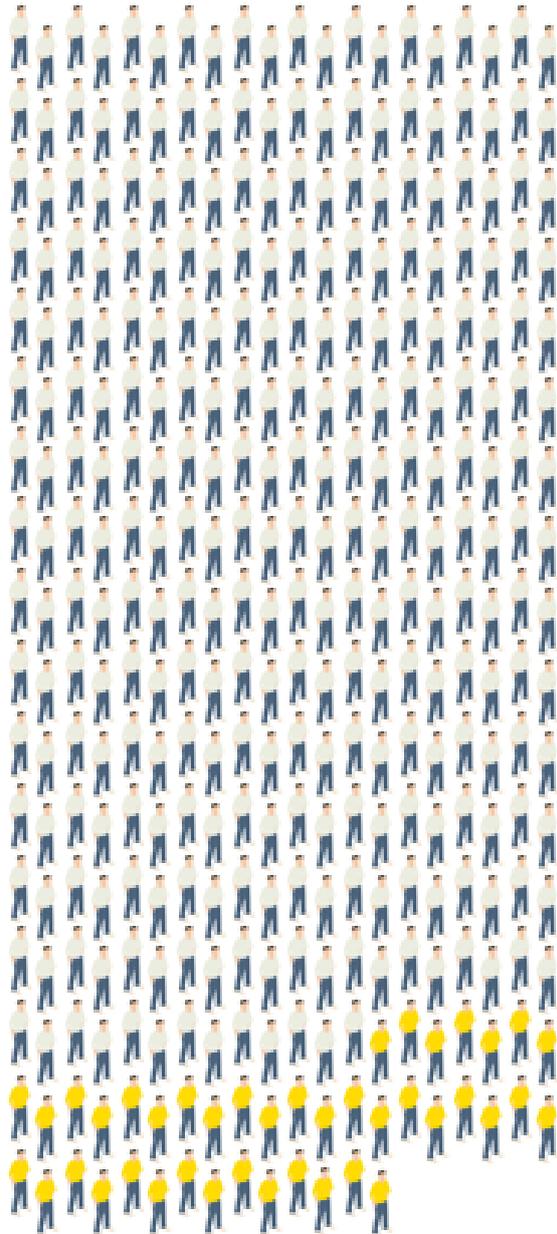
28%

from last year.



Life prisoner cases

37



Of the 494 Life Prisoner cases considered, **37 were released.**

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Chair's and Chief Executive's

Chair's and Chief Executive's Joint Foreword

We are pleased and privileged to be able to present this Annual Report on the work of the Parole Board for Scotland - Scotland's Parole Court - during 2020- 2021.

As in previous years the report shows the considerable volumes of work dealt with by the relatively small number of individuals who comprise the Board and its administrative support body, Parole Scotland.

The Covid-19 pandemic has meant this has been a particularly challenging year for the Board. At the outset of the pandemic in March 2020 we quickly and successfully changed our operating model. This involved all staff and members working from home and all tribunals and oral hearings being conducted by telephone. As a small and agile organisation we were able to do this seamlessly and in collaboration with other organisations involved in the parole process.

Throughout the reporting year we have operated successfully under this new operating model, and have continued to meet all statutory timescales and obligations. None of this could have been achieved without the commitment

and professionalism of our staff and membership. Whilst the future remains uncertain, we are confident that the Board has the resilience to respond effectively to whatever lies ahead.

The work which the Board undertakes needs to be, and is, of the highest standard involving difficult and complex decisions which have a direct bearing on the safety of communities across Scotland. It has an important role to play in assisting with the rehabilitation of offenders to return to their communities as law-abiding citizens while also protecting the rights of victims, communities and others who are affected.

All of the Board's decisions have to be taken, however, with the fundamental consideration being whether the risk posed by releasing a prisoner into the community is acceptable and safely manageable. The Board must balance the legitimate interests of the prisoner and victims, community safety and the rights of third parties.

The figures in the report show a variation in the number of life, determinate and extended sentence prisoners dealt with by the Board, as



one might expect, with increases in some categories and decreases in others but there was a noticeable and disappointing increase in the number of postponed or adjourned Tribunals. The rate of increase may be slowing but numbers are too high and waste caused by churning of cases is concerning.

There are many reasons for postponement and adjournment some of which are unavoidable but some of which may be avoided. Those which could have been avoided are wasteful, expensive and delay the final release decision. The Board and Parole Scotland will remain vigilant and seek to reduce the number of postponements and adjournments so far as possible. However, this is not a problem which can be solved by the Board alone and needs to be addressed across the whole parole system.

Much of the avoidable churn of cases is caused by the need to obtain information which should have been in the dossier in the first place and from the need to investigate matters which should have already been investigated. This is not to criticise those who compile reports and dossiers but rather to ask whether it is the correct people who have been given this responsibility and to ask whether appropriate quality control measures are in place.

It may be that fundamental change is necessary to reduce the financial waste of churn but, more importantly, the delays caused. Prisoners are frustrated by delay but so are victims who build themselves up for the traumatic event of a parole hearing to be let down when it is delayed then to have to go through the trauma again.

We look forward to working making firm progress on these issues with Scottish Ministers who have the statutory responsibility to refer cases to the Board in the form of a dossier. The Board and Parole Scotland stand ready to provide all of the assistance it can to improve the system.

Oral Hearings in the cases of determinate sentences and some extended sentences are on a rising trajectory and have risen significantly over the year. This is perhaps unsurprising given the case law which provides for a very wide range of circumstances where an Oral Hearing is necessary and the same law which requires that an Oral Hearing takes place when there is any doubt. It is also, perhaps, a function of the Board's growing confidence in asserting itself as a court for parole purposes and insisting on having the fullest and best evidence, from whatever source, in making fair and fully informed, release decisions.

Collecting such evidence is not something which the Board should have to do by itself - it needs the involvement of the whole parole system. Quality problems which can cause churn can also be the cause of Oral Hearings where it is simpler and more certain to order an Oral Hearing than to engage in lengthy correspondence which may or may not produce an outcome which will allow for a fair decision without an Oral Hearing.

Whilst the Board deals routinely with the worst behaviours our communities experience it also has an opportunity to observe the very real progress which some prisoners make during their sentences thanks to the opportunities which they are given to learn skills and understand what motivates their offending behaviour. Many of these prisoners are able to return to a crime-free life, but, regrettably, some are unable to make the necessary change or to sustain change, for many reasons but often because of their own disadvantaged backgrounds.

In these cases, it is the Board's responsibility to ensure that every possible step is taken to limit risk often including revocation of licences and recalls to custody. This is a matter to which members bring huge amounts of experience and expertise from their varying backgrounds.

Community safety is the prime consideration and it is of concern that the number of cases in which the Board has had to decide whether or not to revoke a parole licence has increased. The Board and Parole Scotland will continue to work with those who supervise offenders in the community to identify the reasons for this and try to find ways to reduce the number of offenders who are reported to the Board for consideration of return to prison.

In considering both release and recall, the Board is often faced with a binary choice between prison or community because of the lack of proportionate restrictions on freedom and liberty in the community. For example GPS monitoring and alcohol and drug detection tags are not yet available nor are the kind of "half way houses" which are routine in other jurisdictions. The strict management and monitoring

provisions which could be possible with, for example restricted freedoms in a half-way house, electronic tags and curfews, GPS monitoring and alcohol and drug detection tags would allow more prisoners to be released without negative impact on community safety. This is not a problem which can be solved by the Board alone but needs to be addressed by the whole parole system and may well require legislation.

The inquisitorial function of the Board remains a significant factor in the consideration and disposal of parole cases.

There is no limit to the evidence which the Board can take into account subject only to questions of fairness and consideration of what weight to apply to the evidence. This means that where the Board is aware of evidence not covered in the dossier submitted to it by Scottish Ministers including, for example, unproved or outstanding charges or intelligence or other confidential information, it must take steps to investigate and satisfy itself as to the significance of the evidence when considering risk.

This may involve delay while agencies such as the Crown Office and Procurator Fiscal Service, Police Scotland, Scottish Courts and Tribunals Service, Scottish Prison Service or, perhaps, a local authority Criminal Justice Social Work department provide information but such delay is necessary for a fully informed decision which protects victims and communities while preserving the rights of the prisoner to a fair hearing.

The Board does not have statutory powers to investigate at its own hand and is not likely to get such powers and, in any event, in doing so, even if it could, it would often be duplicating effort already expended by other parts of the criminal justice system and potentially re-traumatising witnesses who will already have provided information and evidence. Scotland's communities can feel assured that their best interests underpin the complex and difficult decisions which Board members take day in, day out and always with the greatest care having obtained all necessary evidence.

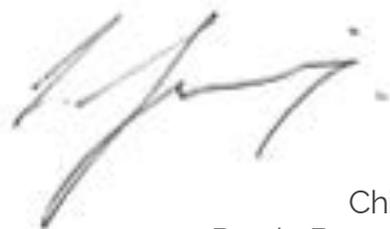
The end of this reporting year saw the introduction of the Parole Board (Scotland) Amendment Rules 2021. The amendments focus on the involvement of victims in the parole process, including introducing a right for victims in certain cases to request to observe a parole hearing and to receive a summary of the Board's decision where it has decided to release a prisoner. We support these changes. Funding has been made available to meet this obligation and for the creation of a new Victims team within Parole Scotland. Recruitment to that team will begin shortly.

We would like to take this opportunity to thank, not only fellow members and all of the hard working staff in Parole Scotland for their commitment and support but also to thank those many individuals and agencies, both statutory and voluntary, on whose services and expertise the Board relies for evidence, information and for support to inform the vital decisions which it takes.

Finally, we would also like to express our particular thanks to, those whose appointments to the Board came to an end during this reporting period.



John Watt
Chair, Parole Board for Scotland



Colin Spivey
Chief Executive,
Parole Board for Scotland

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About the Parole Board



About the Parole Board

The Parole Board for Scotland was first constituted by section 59(1) and Schedule 2 of the Criminal Justice Act 1967 to advise the Secretary of State for Scotland on the early release on licence and recall of prisoners in terms of that Act. Since then in excess of 10 statutes have impacted directly on the Board's functions and roles including the Prisoners and Criminal Proceedings (Scotland) Act 1993.

Section 20(1) of the 1993 Act provides that there shall continue to be a body known as the Parole Board for Scotland to discharge the functions set out in the 1993 Act.

A significant watershed was the Convention Rights (Compliance) (Scotland) Act 2001. Until then the Board carried out an advisory role as a paper exercise.

The 2001 Act amended the 1993 Act and radically altered the system of parole in Scotland.

Part 1 introduced new release arrangements for life prisoners, augmented the role of the Board and ensured compliance with certain decisions of the European Court of Human Rights ("ECtHR").

Part 2 of the 2001 Act reformed the constitution of the Board, created rule making powers and established a system of Tribunals and security of tenure of Board members that was compliant with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention").

The Board was reformed into a Tribunal Non-departmental Public Body, which is an independent, judicial body the members of which hold judicial office independent of Scottish Ministers and which acts as a Court.

Like Parole Boards and their equivalents in New Zealand, Australia, South Africa, the United States, Canada, Jersey, Guernsey, the Isle of Man, Ireland North and South, England and Wales, Western Europe and Scandinavia, the Board is entirely independent from the country's court system.

Scottish Ministers have now confirmed that they consider that the Board and Tribunals of the Board operate in terms of the Parole Board (Scotland) Rules 2001 and numerous court decisions, as Courts for the purposes of Articles 5(4) and 6(1) of the European Convention on Human Rights.

They are not "courts" in the conventional sense of bodies which adjudicate between parties who are in dispute or preside over criminal trials or civil proofs. Their role is at least partly inquisitorial in nature but they can be seen as Scotland's parole courts.

The Board and tribunals of the Board are not "courts" for any of the purposes of the Judiciary and Courts (Scotland) Act 2008 other than the appointment provisions set out in Part 2 Chapter 3 and in particular are not listed as a court in Section 2 (6).

The Board's main aim is to ensure that the risk posed by a prisoner, if released, can be safely managed in the community. The prisoner 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 questions of punishment and general deterrence.

The Board can only consider cases referred to it by Scottish Ministers who are in terms of the 2001 Rules, parties to Tribunals.

The Board only grants release in cases where the level and nature of risk are deemed to be manageable. This decision is informed by oral or written evidence in the form of witness evidence or, usually, reports contained in dossiers. The content of the dossier referred to the Board by Scottish Ministers includes, wherever practical, documents listed in the schedule to the Parole Board rules. The Board is keen, as part of its commitment to continuous improvement, to continue engaging with Scottish Ministers around whether this approach provides the best and most timely information.

The tests which the Board and its Tribunals apply in making release decisions are many and complex. Release of life prisoners and some extended sentence prisoners are covered by statutory tests while all others are non-statutory tests, which have not been tested in court. The tests are set out in the Member's guidance manual which can be found on the Board's website.

While the Board has inquisitorial duties, it has no powers to investigate but only to require information from investigators such as the police or Crown or to cite witnesses and question them by way of investigation.

In cases considered under Part III of the 2001 Rules, mostly determinate sentence cases, the Board can only request information. It has no powers to compel information or to require the

attendance of witnesses. There is little the Board can do if met with a refusal to provide information or to attend as a witness. The Board has raised this issue with Scottish Ministers and they have committed to consider that issue in the review and revision of the Parole Board Rules which is planned for 2022.

Relations with Scottish Ministers are regulated by a Memorandum of Understanding which includes reference to governance processes. There is, however, no statutory basis for governance arrangements. This issue has been recognised by Scottish Ministers and there is provision in the Management of Offenders (Scotland) Act 2019 for Scottish Ministers to make Regulations in this respect. The Board awaits confirmation as to when these Regulations will be made and will seek to be involved in their drafting. It is hoped that firm progress can be made quickly.

The Board's supporting administrative body, Parole Scotland, comprises civil servants informally assigned from the wider civil service in Scotland.

Parole Scotland occupies Scottish Government premises. Due to the pandemic, the Board and Tribunals of the Board work from home, at present, but in normal circumstances from accommodation in prisons or government buildings at the pleasure of Scottish Prison Service or Scottish Government.

The Board has no independent budget but receives funding from the Justice budget monitored by Justice Directorate civil servants. The Board is also required to rely on Scottish Government for provision and maintenance of Information Technology systems. As the

complexity and scope of the Board's work continues to grow we will continue to discuss whether these arrangements remain proportionate and appropriate.

While no doubt very necessary, neither the Board nor Parole Scotland has a part in preparing prisoners or victims for the Parole process. It is right that the Board, as a court, should not be involved but there can be significant negative impact on the work of the Board because prisoners are not ready to proceed at hearings.

Everyone involved in the Parole System works very hard to make it work. We will continue to advocate for and to seek to change and improvement whilst providing the best service we can. We confidently expect that other agencies in the parole process will play a full part with the Board in driving necessary change in a reasonable time scale.

Types of Sentence

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 four 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 released on licence, the conditions of which are set by the Parole Unit of the Scottish Prison Service on behalf of Scottish Ministers, therefore the Board's involvement in these cases is to consider grounds for recall to custody or re-release as appropriate.

Long Term Determinate Sentence Prisoners

For offenders sentenced to determinate sentences of four years or more, the Parole Board is invited to recommend to Scottish Ministers whether the individual offender should be released on licence at the half way point of their sentence (the Parole Qualifying Date). The Board's recommendation is binding on Scottish Ministers. If early release is not directed at the first review then the Board will reconsider the offender's case at 12 month intervals until the offender reaches their Earliest Date of Liberation (the two thirds point of their sentence or 6 months before the expiry of the sentence depending on when they were sentenced) at which point the Scottish Ministers are statutorily required to release the prisoner into the community on licence.

The Board sets the licence conditions for all long term determinate sentence prisoners. 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 meeting of at least two members.

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 total sentence is four years or more. This type of case will be referred to the Board to recommend licence conditions only.

If the custodial term is four years or more, the Board would deal with these cases as for long term determinate sentence prisoners.

All extended sentence prisoners 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, at the end of the punishment part of their sentence, for possible release on life licence by the Board, sitting as a Life Prisoner Tribunal. This is a face to face consideration chaired by a legally qualified member of the Board and two other Board members at which the prisoner and his legal representative are present.

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 two years after the date of the decision to decline to direct release.

Orders for Lifelong Restriction Prisoners (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.

Recall of Prisoners for Breach of Licence

Where a prisoner has been released on licence but there is evidence from which it can be inferred that the risk posed can no longer be safely managed in the community, usually because a licence condition has been

breached, the prisoner 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 four 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 or the insertion or removal 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 Board will consider if the risk posed can be safely managed in the community and the

Board is required to determine if they should remain in custody.

The way in which the Board deals with these 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. Different members of the Board consider re-release from the members who considered an individual's recall to ensure fairness.

Life sentence prisoners and prisoners subject to an OLR will be considered at a Tribunal.

For re-release of extended sentence prisoners, a Tribunal of the Board requires to be held if the prisoner is recalled to custody during the extension period of the sentence. This provides for the prisoner and their legal representative to present his case to the Board orally. If the prisoner is serving the custodial term of their sentence, the case will be considered at a casework meeting.

Children and Young People

Statute requires that all Children and Young People (C&YP) sentenced to detention under Section 208 of the Criminal Procedure Act 1995 must be treated in the same way as long term adults. This means that the Board is responsible for considering the early release of C&YP cases sentenced to four years or more detention, and for setting licence conditions for all C&YP cases sentenced to less than four years detention. All C&YP cases are liable to be recalled to custody in the same way as long term adults.

Oral Hearings

In all cases which are routinely dealt with at a casework meeting, consideration must be given to whether fairness requires, in the

circumstances of the individual case, that an oral hearing should take place at which the prisoner can appear personally, along with a legal representative if they wish, and state their case.

Compassionate Release

The Board provides advice to Scottish Ministers on individual cases and these recommendations are binding on Ministers in almost all matters. Decisions on compassionate release lie with Scottish Ministers.

Home Detention Curfews

The decision to grant a Home Detention Curfew (HDC) rests with the Scottish Prison Service. A risk assessment is undertaken, which includes a report from local authority criminal justice social workers. The Board only operates as the appellate body in the case of alleged breaches of HDC conditions.

Adverse Developments

Once the Board has considered a case and made a decision, should any further information come to light which would have an impact on its decision, such as an adverse development or information which the Board did not have at the time it made its decision, the case can be formally referred back to the Parole Board.

Deportation

The Board makes decisions and recommendations in cases where the prisoner may be subject to deportation on release. In cases where the prisoner who is liable to deportation has a determinate sentence then the Board makes a recommendation which is not binding on Scottish Ministers. In cases where the prisoner who is liable to deportation has an indeterminate sentence (life sentence or order for lifelong restriction) then only the Board can direct release.

Advice to Scottish Ministers

It may be worth mentioning that it is the duty of the Board to advise the Scottish Ministers with respect to *any* matter referred to it by them which is connected with the early release or recall of prisoners. So far as can be ascertained, Scottish Ministers have never sought such advice.

Tests for Release

There are statutory tests for release in the case of life sentence prisoners and recalled extended sentence prisoners. The lifer test is "Before the Tribunal can direct release, it must be satisfied that it is no longer necessary for the protection of the public that the prisoner should continue to be confined". The recalled extended sentence prisoner test is "the Board shall direct release unless it is satisfied that it is no longer necessary for the protection of the public from serious harm that the prisoner should be confined".

There are no statutory tests for release otherwise and the test which has been applied for many years is that "the Board can recommend release where it is satisfied that such risk as the prisoner poses can be safely managed in the community". The origin of the test is not entirely clear and it has never been tested in court.

Chapter One

The Year's

Work

01.2



The tables below provide statistical details of the various cases considered by the Board during the period 1 April 2020 – 31 March 2021. Comparable historical data is contained in Appendix A.

Determinate Sentence Prisoners – 1st review for early release

Number recommended for parole by the Board including parole from a forward date	66
Number not recommended by the Board	259
Number of cases deferred for further information	41
Number of cases recommended for Oral Hearing	117
Total	483

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

Number recommended for parole by the Board including parole from a forward date	43
Number not recommended by the Board	240
Number of cases deferred for further information	41
Number of cases recommended for Oral Hearing	110
Total	413

Determinate Sentence Prisoners – review for early release following recall

Number recommended for parole by the Board	5
Number not recommended by the Board	46
Number of cases deferred for further information	5
Number of cases recommended for Oral Hearing	25
Total	81

Determinate Sentence Prisoners – other considerations

Request to transfer supervision authority	0
Total	0

Determinate Sentence Prisoners – adverse development

Recommendation for early release on parole withdrawn	1
Recommendation for early release on parole upheld	0
Number of cases deferred for further information	1
Total	2

Extended Sentence Prisoners – review for early release

Number recommended for parole by the Board including parole from a forward date	4
Number not recommended by the Board	205
Referral for licence conditions only	5
Number of cases deferred for further information	30
Number of cases recommended for Oral Hearing	57
Total	301

Life Prisoner Cases

Total number referred to the Board for consideration including those brought forward from 2019/2020	494
Number where release directed	37
Number not recommended for release	280
Number of cases postponed or adjourned	167
Withdrawn	10
Total	494

Order for Lifelong Restrictions Prisoners (OLRs)

Number referred to the Board for consideration	139
Number where release directed	4
Number not recommended for release	87
Number of cases postponed or adjourned	46
Withdrawn	2
Total	139

Extended Sentence Prisoner Cases – consideration for re-release at Tribunals and casework meetings

Total number referred to the Board for consideration	248
Number where release directed	15
Number not recommended for release	39
Number of cases postponed or adjourned	78
Withdrawn	15
Number of cases recommended for Oral Hearing	101
Total	248

Life Prisoners – other considerations received

Request to terminate supervision	12
Request for an earlier hearing by a Life Prisoner Tribunal	9
Amendment to life licence conditions	11
Total	32

Miscellaneous - other considerations received

"Non-Parole" Licences	102
Children and Young People	16
Home Detention Curfew (HDC) licence	9
Short term sex offenders	77
Compassionate Release	0

Summary of Determinate Sentence Cases Where Release Recommended – by Offence

	Violence	Drugs	Sexual	Property	Other	Total
10 years or over	1	1	2	0	0	4
Under 10 years	21	30	37	3	14	105
Total	22	31	39	3	14	109

Category of Offence	Offences Include
Violence	Culpable Homicide, Attempted Murder, Assault to Severe Injury etc. Assault and Robbery.
Drugs	Contravention of the Misuse of Drugs Act and Customs and Excise Management Act.
Sexual	Rape, Attempted Rape, Sodomy, Incest, Clandestine, Injury, Lewd and Libidinous Practices.
Property	Theft, Conspiracy to Rob, Embezzlement.
Other	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. In addition, 18 extended sentence prisoners self-rejected from having a further review, at a Tribunal, following recall. The Coronavirus (Scotland) Act 2020, which came into effect in April 2020, changed how these types of prisoners were considered. More information is available in the Progress Report section of this report.

Year	2018/19	2019/20	2020/21
Eligible	516	848	925
Opting Out	44	35	77
%	9	4	8

Extended Sentence Prisoner recall

Cases considered where licensees behaviour was a cause for concern	117
Recalled to custody	80
Warning Letters	28
No Action	0
Deferred	9
Withdrawn	0

Grounds for recall – Parole Licensees

Reported for possible grounds for recall	38
Recalled to custody	21
Warning Letter	17
Re-Released	2
Not Released	15
Withdrawn	3
Oral Hearing	9

Grounds for recall – Non Parole Licensees

Cases considered for those released on non-parole licence	101
Recalled to custody	78
Warning Letter	21
No Action	2
Re-released	0
Withdrawn	5
Not Released	30
Releases which required Oral Hearing	6
Not Released which required Oral Hearing	24

* Non-Parole licence - Those released having served two-thirds of their sentence or 6 months before expiry of their sentence depending on when they were sentenced and those who were released on parole, but the discretionary period had expired whose behaviour in the community was giving rise for concern.

Extended Sentence Prisoner - consideration for immediate re-release

Number of Immediate re-release Tribunals	13
Number of cases that directed re-release	4
Number of cases not re-released	9
Number of licenses revoked by Scottish Ministers	7
Number of licensees re-released after Scottish ministers recall	0

Extended Sentence Prisoners first and subsequent review following recall

Cases considered a further review following recall	248
Re-released on licence	5
Not Re-released	176
Self-rejected from further Tribunal	18

Life Sentence Prisoners recall

Cases considered where licensees allegedly breached their licence conditions or behaviour was of concern in the community	55
Recalled to custody	26
Released	12
Not Re-released	27
Withdrawn	0
Warning Letter	25
Deferred	4
Cases outstanding	7
Ineligible	0
Number of licenses revoked by Scottish Ministers	0
Number of licensees re-released after Scottish Ministers recall	0

Life Sentence Prisoners Tribunal

Number of re-release Tribunals	38
Re-released on licence	12
Not Re-released	26

HDC licence Breach

Cases considered of those on HDC returned to custody	9
Grounds for appeal upheld	0
Appeal refused	8
No Action	0
Deferred	1

STSO Determinate sentences recall

Cases referred from Scottish Ministers where licensees have given cause for concern	79
Recalled	52
Warning Letter	21
Deferred	5

STSO Determinate sentences - consideration for immediate re-release

Released	4
Not Re-released	40
Withdrawn	3

“Non-Parole” Licences

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

Those prisoners sentenced to four years imprisonment or more are automatically released on licence when they have served two-thirds of their sentence in custody or 6 months before the expiry of their sentence depending on when they were sentenced. 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 2020/21, the Board recommended that 90 conditions be attached to the licences of prisoners who were not released on parole.

A further 102 cases were re-referred to the Board to enable it to recommend specific licence conditions to the prisoners 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 custodial term is less than four years but where the aggregate sentence (i.e. custodial term and extension period combined) is four years or more.

During 2020/21, Scottish Ministers referred 1 case to the Board where the courts had imposed extended sentences where the aggregate term totalled four years or more in order that the Board could recommend the conditions to be attached to the prisoners' release licences.

Orders for Lifelong Restriction Prisoners (OLRs)

During 2020/21, Scottish Ministers referred 90 Orders for Lifelong Restriction to the Board for consideration by Tribunal. Of those 90 considered, 4 were released on licence.

Children and Young People

The Board has responsibility for considering the case for early release of children and young people sentenced to four 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 2020-21, there were 4 children and young people cases sentenced under section 208 of the Criminal Procedure (Scotland) Act 1995 referred to the Board.

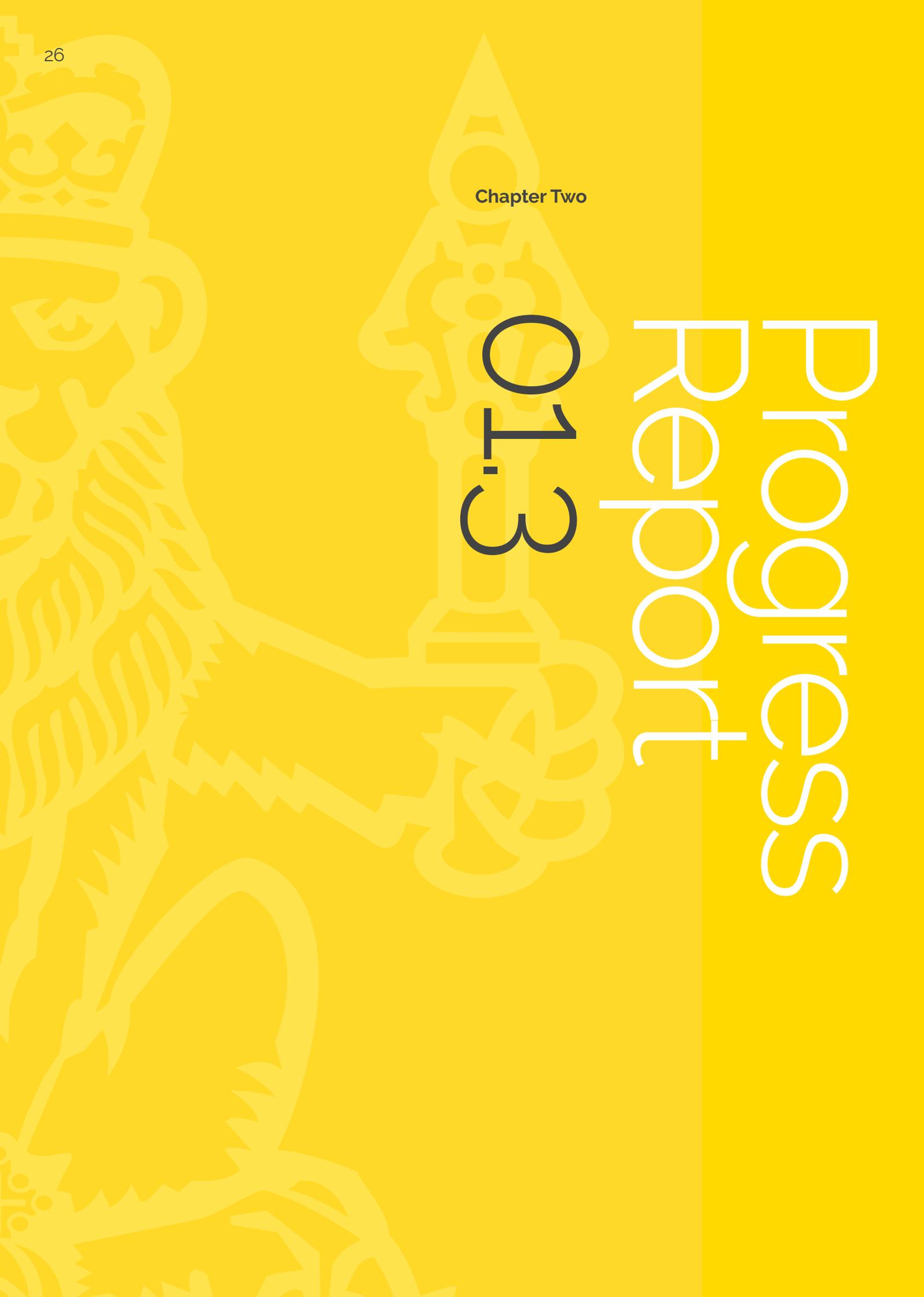
These cases involved a child or young person who who was due to be released on licence and whose case was referred in order that the Board might consider the conditions to be attached to their release licence.

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 2020-21 the Board held 683 oral hearings which included prisoners who were considered more than once.

Progress Report

01.3



COVID-19

The Board's primary focus during this financial year was on addressing the challenges presented by the COVID-19 pandemic, and mitigating their impact while ensuring business continuity.

Significant changes were required to the methods in which the Board conducted its business. The imposition of a lockdown at the end of March 2020 meant that practically overnight, Members and Parole Scotland staff were prevented from accessing not only the Board's office, but also prison establishments and other locations where parole hearings either took place, or where video link facilities were utilised for this purpose.

Due in large part to the Board's recent move to full electronic working, a new operating model was developed and implemented at short notice which enabled Members and staff to work entirely remotely from their homes. As a result, only three days of business were lost. Throughout the year, the Board continued to work with Scottish Ministers and the Scottish Prison Service (SPS) to further improve remote access to systems and other methods of conducting business.

The Business Continuity Planning Group (BCPG), established at the commencement of lockdown, met regularly during the first half of the year to refine the new operating model and resolve any issues arising. In addition, the BCPG ensured compliance with the provisions of the Coronavirus (Scotland) Act 2020, which came into effect in April 2020.

The most significant change brought about by the Act was that Extended Sentence Prisoners who were to be considered for re-release in the extended part of their sentence were managed as Part III cases and considered at casework meetings rather than tribunals. If the Board could not make a decision then an Oral Hearing was granted in the interests of justice and fairness. The Board considered 228 cases and, of those, 99 were granted an Oral Hearing in the interests of justice and fairness.

To prepare for eventual recovery following the pandemic, partway through the year the Board formed a Recovery Working Group. This was broken down into several workstreams, each focused on a different area and comprised a mixture of Members and staff based on their individual experiences and skill sets.

The Board regularly produced and published information on its 'state of play' during 2020/2021.

The Parole Board (Scotland) Amendment Rules 2021 ("the Amendment Rules")

The Amendment Rules came into effect as of 1 March 2021 and apply to all cases referred to the Board from that date onwards. They enhance the rights of registered victims – those who are registered with the Victim Notification Scheme (VNS) - in a number of ways:

- by requiring the Board to take into account "the effect on the safety or security of any other person, including in particular any victim or any family member of a victim, were he or she to be released on licence, remain on licence, or be re-released on licence as the case may be".

- by requiring the Board to publish anonymised summaries of all release decisions in Part IV cases (those considered by way of a tribunal hearing), having first sent a copy to any registered victims.
- by providing registered victims with the opportunity to request attendance at the tribunal hearing, as an observer.

Release summaries are now published in the *Case Decisions* section of the Board's website.

Restrictions imposed during the pandemic meant that it was not possible for registered victims to attend tribunal hearings from 1 March 2021; however, the Board has been in ongoing discussion with Scottish Ministers, SPS, Victim Support Scotland and other relevant bodies in developing processes to allow this to happen in a safe, secure manner. To this end, a dedicated Victims Team will be established during the next financial year.

Decision-making

The Board's decision-making process is rigorous, fair, defensible and independent. The Board makes fully informed decisions based on all of the evidence available to it. Each case is subject to a test for release, with public safety central to every decision made. Some of the tests for release are statutory but most are not and have evolved over time although it is difficult to identify the origins of the non-statutory tests or how they have developed to where they are today. In comparison to the previous year, the number of cases considered by the Board increased by 6% in 2020-21. This included a record number of tribunal and oral hearings.

The Board is committed to strengthening the openness and transparency of decision-making, and published its guidance for Members in the *Publications* section of its website on 16 November 2020.

Our people

The Board is committed to being an inclusive, open and diverse organisation which reflects the community it serves. Members come from a variety of backgrounds and experiences and are appointed by Scottish Ministers through a rigorous selection process to ensure transparency, objectivity and fairness. No new appointments were made during the reporting year.

The Board continued to focus on professional development of its Members this year. Two training events were organised for Members, covering a broad range of topics including Mental Health and Risk Assessment. The members' peer review scheme restarted after it was put on hold due to the prioritisation of essential work during the pandemic, two members were reviewed this year.

The Board continues to strive to create a more diverse organisation which allows everyone to be themselves at work, knowing they will be treated fairly and supported to achieve their potential. It is committed to working in collaboration with Parole Scotland staff on the decisions and issues that affect them, and established a number of working groups during the year to enable staff to influence and manage change.

Working arrangements

The Parole Board Management Group (PBMG) met seven times in 2020-21 to discuss the Board's operational performance and oversee the implementation of the Board's business plan.

PBMG members during 2020-21 were:

John Watt - Parole Board Chair
 Ian Bryce - Parole Board Member, Vice Chair
 George Connor - Parole Board Member, Vice Chair
 Jill Malloy - Parole Board Member
 Rona Sweeney - Parole Board Member
 Colin Spivey - Chief Executive
 Yasmin Ali - Deputy Chief Executive

The following corporate risks were actively managed during the course of the year:

- COVID-19
- Casework Management System
- Records management
- Budget constraints
- Corporate governance

PBMG continue to review the Board's corporate risk register quarterly and the Senior Management Team, with support from an established internal Risk Management Team, review the operational and corporate risks on a monthly basis.

The Board's COVID-19 recovery plan will be a key priority for the 2021-22 year.

The Management of Offenders (Scotland) Act 2019 received royal assent in July 2019. On 1 October 2020, the remaining sections (Parts 3 and 4 of the Act) as they relate to the Board and its parole processes were commenced. In amongst other sections that were commenced,

except for section 51 which remains un-commenced. Section 40 restates independence of the Board, and Section 46 moved oversight of the Board's appointments process from the Commissioner for Ethical Standards in Public Life to the Judicial Appointments Board for Scotland (JABS).

Despite the challenges encountered as a result of the pandemic, 2020-21 has been a year of significant achievements for the Board. This includes the successful delivery of a number of key internal workstreams and no backlog of cases.

Technology

The Board was able to introduce a model which enabled hearings to proceed remotely by teleconference so it continued to consider cases within statutory timescales. This approach has minimised the impact on prisoners and victims and has enabled hearings to proceed in the interests of fairness and justice. The Board is continuing to explore technological opportunities to expand the current model to include remote video conference options and it is hoped this will be tested by the end of 2021.

Owing to other priorities in light of COVID-19, we have been unable to redesign our electronic casework management system but this workstream will be started as soon as resources become available. As well as other business and technological improvements, the redesign will support future victim service delivery.

Raising awareness

The Board continued to raise awareness of what we do and how we contribute to the wider Scottish justice context with partners and the

public through remote attendance at a number of meetings and events across the country throughout the year. During the year, a number of events were attended which included a series of sessions delivered to Local Authority Social Work teams, presentations to professional staff within SPS establishments and criminal law and public sector conferences. Recognising the importance of continuing to strengthen the Board's profile, the delivery method and format of the outreach sessions were redesigned to enable these to continue to be delivered despite the challenges encountered as a result of COVID-19.

The Board recognises the important role legal professionals have in ensuring prisoners are supported during the parole process, and its Solicitor User Group met twice during the year to provide a platform for the sharing of key information and discussion of any identified operational issues.

Victims

In this reporting year, we have met with 16 victims of life sentence prisoners to receive representations. Owing to COVID-19 restrictions, 12 of these meetings were held by telephone, which was agreed in advance with the victims and 4 were conducted face to face.

As a result of COVID-19 a new mechanism of video conferencing was developed to enable the Board to continue to conduct victim interviews safely, and was rolled out for use in 2021/2022.

We have continued to work with the Scottish Government (SG) on proposals about parole reform and victim engagement. In addition, quarterly meetings are held with Public Scottish Criminal Justice Agencies to take stock of victim-related work. We are focused on how we can best support victims through the parole process by working closely with victim support organisations although, owing to other priorities in light of COVID-19, we have been unable to develop a victim referral protocol.

We support the principle of victims having a greater understanding of the parole process and continue to consider and work through the practical issues that need to be addressed to enable victims to attend Tribunals. We have been able to use what we have learned so far to safeguard all parties involved in the process and to ensure that our practical arrangements are robust.

Victim Service Delivery will be a key element of the Board's Business Plan for 2021/2022, and Corporate Plan 2021/2024.

Full Membership 2021

Board Membership

Parole Board members come from a variety of backgrounds and are appointed by Scottish Ministers through a rigorous selection process to ensure transparency, objectivity and fairness. Members come from a diverse range of professional backgrounds which includes psychologists, social workers and professionals from mental health services and the criminal justice system.

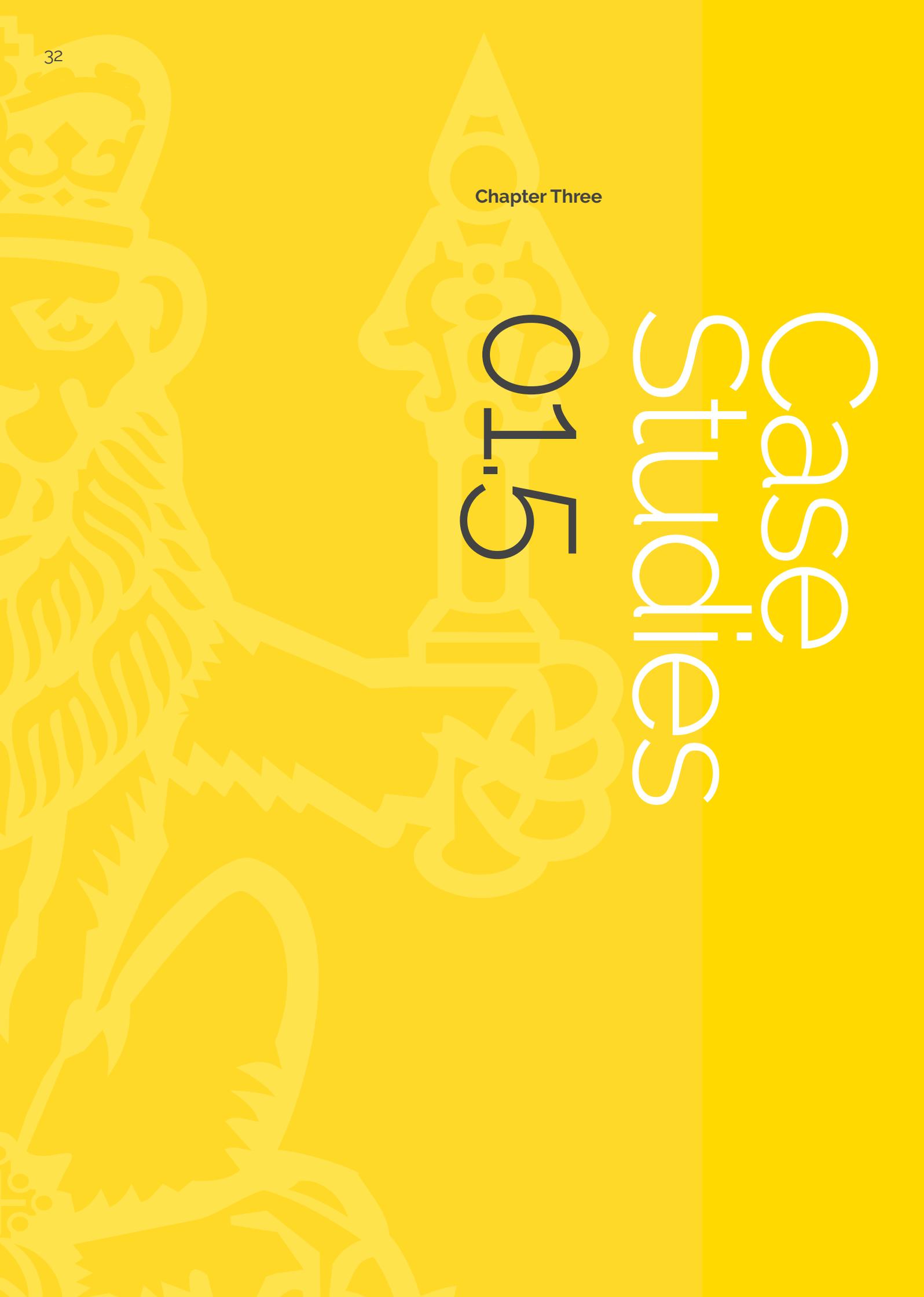
The Board is committed to continuous personal development and training its members to recognise and understand equality issues to ensure that there is no discrimination when considering offenders for parole. Once appointed, members receive extensive training and development to ensure they are appropriately equipped with the skills and knowledge to undertake their role effectively. Further information about our membership is available on our website scottishparoleboard.scot

Gender Balance of Board

Member	Male 	Female 
Chair	1	-
General	8	13
Legal	7	7
Psychiatrist	-	1
Judicial	1	-
Total	17	21

Case Studies

015



Case studies – judicial reviews

This year's annual report contains case studies of those judicial reviews against the Board which concluded during the reporting year.

Extended Sentence Prisoner Case Study

This review concerned a convicted sex offender who had been released on non-parole licence, having served two-thirds of the custodial term of their extended sentence. They challenged the legality of a licence condition which required them to immediately inform their supervising officer of any friendships, associations, or intimate or domestic relationships that they entered into with anyone.

The offender submitted that the condition was unlawful under both common law and Article 8 of the European Convention on Human Rights (ECHR).

The offender submitted that the condition was invalid under common law as its terms lacked clarity and precision, to the extent that the offender did not know what they meant. Their position was that the terms of the condition were insufficiently clear and precise, and gave rise to practical difficulties.

With regards to ECHR, the offender submitted that collection of data about their personal relationships amounted to interference with their Article 8 rights if nothing was done with the data. They accepted that the condition was lawful as it had been imposed under domestic legislation, and had a legitimate aim in pursuance of the protection of public safety; however, the condition lacked a required quality to make it lawful in that it was not sufficiently precise, accessible and foreseeable. Nor was it proportionate, as a less intrusive measure could have been adopted. Overall, the terms of the condition went too far and did not strike an appropriate balance.

The Board submitted that the test under common law had been set out in case law.

Terms contested had been used in other conditions of the offender's licence and these had not been challenged. Neither was there difficulty in understanding their meaning. The condition had been imposed to ensure that the supervising officer could undertake their duty and protect the public against repeat offending by the offender. The condition was also noted as being regularly imposed for sex offenders. The terms of the condition were reasonable and necessary for the purposes of proper supervision and public protection.

With regards to ECHR, the Board submitted that this added nothing of substance to the offender's case. Given the seriousness of their offending and of the risk posed to public safety, the condition was proportionate. The offender, with the benefit of appropriate advice if required, could foresee the consequences which a given action might entail.

Scottish Ministers submitted that the wording of the condition was unambiguous and its meaning clear. The offender would have been able to ascertain with reasonable certainty when they entered into the type of relations set out in the condition. The requirement to inform their supervising officer "immediately" was not difficult or impossible to comply with, and had been recognised in law as valid and enforceable in various contexts for many years. The offender could contact their supervising officer with reasonable speed in any particular circumstances in which they had entered into the kind of relations specified in the condition. The condition was lawful and proportionate given the aim of protecting the public against sexual offending. A less intrusive measure could not be used without compromising that aim. Restricting the range of relations requiring reporting would result in less effective supervision.

The opinion of the court was that in this case it would be inappropriate to interfere with the judgment of the Board in recommending the condition, or with the decision of Scottish

Ministers to include it in the licence. Given the circumstances of the offender's conviction and the assessments of the risk presented to public safety, the condition was justified. The meaning and effect of the condition were clear; they gave rise to no significant ambiguity. Its terms were capable of being readily and easily understood and applied in practice. The condition was lawful and entirely proportionate to the aim of protecting public safety, which it was devised to promote.

Order for Lifelong Restriction Prisoner Case Study

This judicial review concerned a prisoner serving an Order for Lifelong Restriction (OLR), who had been refused release on life licence.

The prisoner sought review of the Board's decision on the grounds that:

- the Board should not be regarded as a "court" in terms of Article 5(4) of the ECHR when dealing with OLR cases; and
- the Board's decision was reached in circumstances which were procedurally unfair, as the reasons given for the decision were inadequate.

On the first matter, the prisoner submitted that the Board did not have sufficient powers to deal with OLRs, as in order to be able to make proper decisions it required to take a proactive role in obtaining and assessing information on risk. It had been seen as a court for the purpose of Article 5(4) on multiple occasions, but for OLRs it did not fulfil the required conditions as it needed to be able to do more than it was able to do in such cases.

Several points were put forward:

- The test applied by the Board was vague. The word "risk" did not feature in the test. The Board opposed applications for release of its reasons. The process lacked transparency and was inconsistent with the principle of open justice.
- The process was a co-ordinated procedure undertaken by the lead authority, the Risk Management Authority (RMA) and the Board as "court". The court required to have the

power itself to achieve its aim, its powers could not be supplemented by other bodies.

- The role of the RMA in the above emasculated the Board as the tribunal had to "have regard to" the terms of the risk management report, and RMA standards and guidelines indicated that the Board must comply with the risk management plan (RMP) or explain itself to the other bodies.
- Tribunals considering the prisoner's case had been concerned by lack of progress. There was no indication they had used their powers to attempt to resolve this. If they had, the powers were ineffective. *O'Leary v Scottish Ministers* suggested the powers did not work in practice.

On the second matter, the prisoner submitted that that the tribunal's decision had been reached in circumstances that were procedurally unfair, as it had provided inadequate reasons for its decision. It had failed to say why it rejected the view of one particular professional, and appeared to have "preferred" the view of another.

The Board submitted that, on the first matter, the Board's role as a court had been decided by the courts on numerous occasions. The tribunal in this case had been able to evaluate the material before it and reach an objective judicial decision.

In response to the points put forward:

- That the word "risk" did not appear in the test was irrelevant, as the necessity of public protection meant risk was an inherent part of the assessment. In respect of open justice, rule 9 of the Parole Board (Scotland) Rules 2001 ("the 2001 Rules") permitted publication of decisions.
- Each of the three bodies which carried out functions and worked together did exactly as they should, in accordance with the recommendation of the MacLean Committee Report.
- The Board's role was not emasculated. While the tribunal required to have regard to the RMP, it was not bound to follow it.

- *O'Leary v Scottish Ministers* was in fact an example of the procedure working: when additional information became available, the tribunal was able to make a rapid decision when necessary.

On the second matter, the Board submitted that the tribunal had provided adequate and comprehensible reasons for its decision not to direct the prisoner's release. It had fully explained why it did not accept the view of one particular professional, and had reached its decision on consideration of all the available evidence. The decision left the reader in no real doubt as to the reasons for it, and the considerations taken into account in reaching it.

The Lord Advocate and Risk Management Authority (RMA) also made submissions on the first matter.

The court noted that the Board's role as a court for the purposes of Article 5(4) had been established by the courts, and that a lack of particular powers did not prevent it from being a court for the same purposes. The prisoner had not identified what power was alleged to be lacking, and as a result which aspect of the test had not been met. Nor had they shown that there was an absence of power resulting in the criteria not being met.

In regard to the points put forward on the first matter, the court concluded:

- The fact that the word "risk" did not appear in the statutory test applied by the Board was of no relevance, as the fundamental concept of protection of the public meant that risk must be an inherent factor in the tribunal's assessment. Rule 9 of the 2001 Rules permitted publication of the Board's decision, and no challenge had been made to this.
- There was nothing in the MacLean Committee's recommendation that was inconsistent with the statutory framework enacted, the 2001 Rules, or what the tribunal did in the prisoner's case. The three bodies were fulfilling what the Committee recommended. The roles of the lead

authority and the RMA ensured the Board's independence in making its decision. The checks and balances, and the respective roles of the three bodies, were clear.

- The Board was not emasculated. The tribunal was not bound by the conclusions of the RMP, and its requirement to have regard to the RMP did not prevent it from being a court. Other evidence (including for the prisoner) was available to it.
- *O'Leary v Scottish Ministers* illustrated the ability of the Board to quickly review its decision in the light of fresh information becoming available. There was no basis for the Board to have a more "proactive role" involving widening its remit to embrace matters relating to risk assessment that fell within the roles of the lead authority and the RMA. The Board's powers allowed it to examine all of the available evidence and the submissions advanced by the parties in making its decision on release of an OLR prisoner. The tribunal was able to evaluate material placed before it and reach its own objective judicial decision. If the prisoner was suggesting the Board, as decision-maker, should be involved in preparing material on which it will, in part, base its decision, that would risk compromising the Board's objectivity and independence.

On the first matter, the court concluded that the powers and function of the Board in respect of OLR prisoners met the requirements of being a "court" for the purposes of Article 5(4).

On the second matter, the court concluded that the Board had not merely "preferred" the views of one professional over another, but had considered and scrutinised both. The Board had identified solid evidential grounds for disagreeing with one particular view, and had provided adequate reasons for its decision. Should there be any ground for contending that the Board had misdirected itself or acted irrationally, the availability of an application to the supervisory jurisdiction of the court ensured that there was a mechanism for that to be challenged.

Background Tables

Appendix A

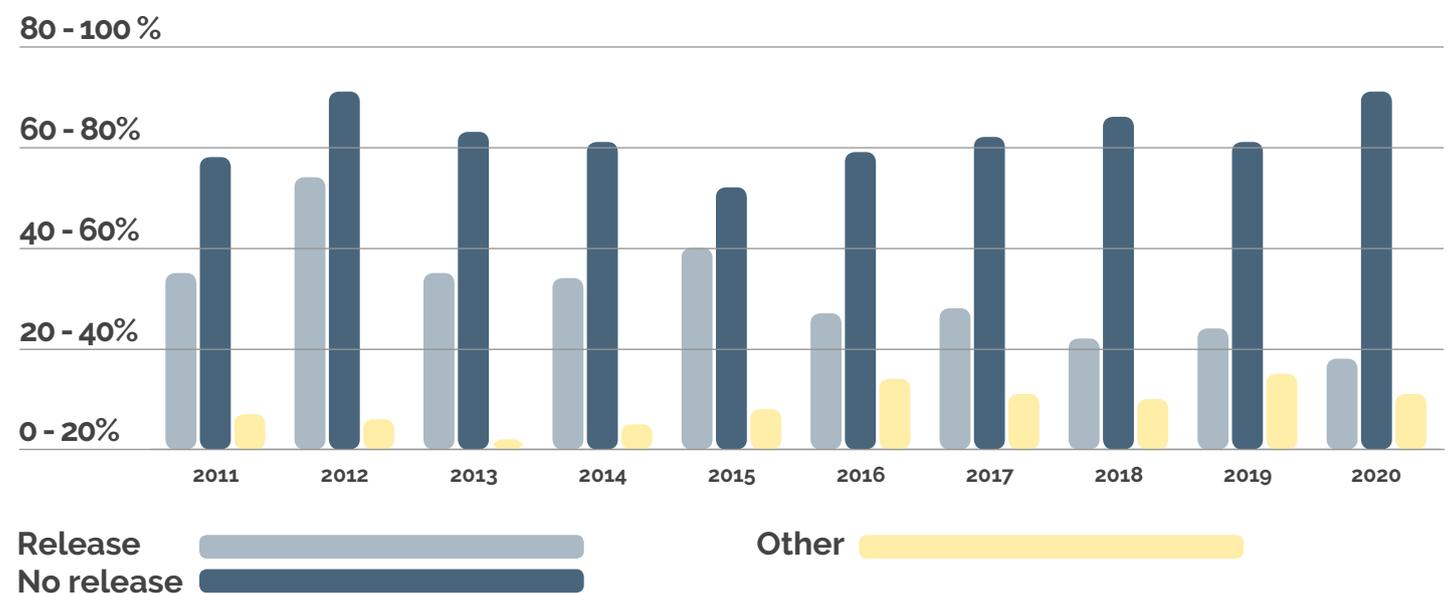
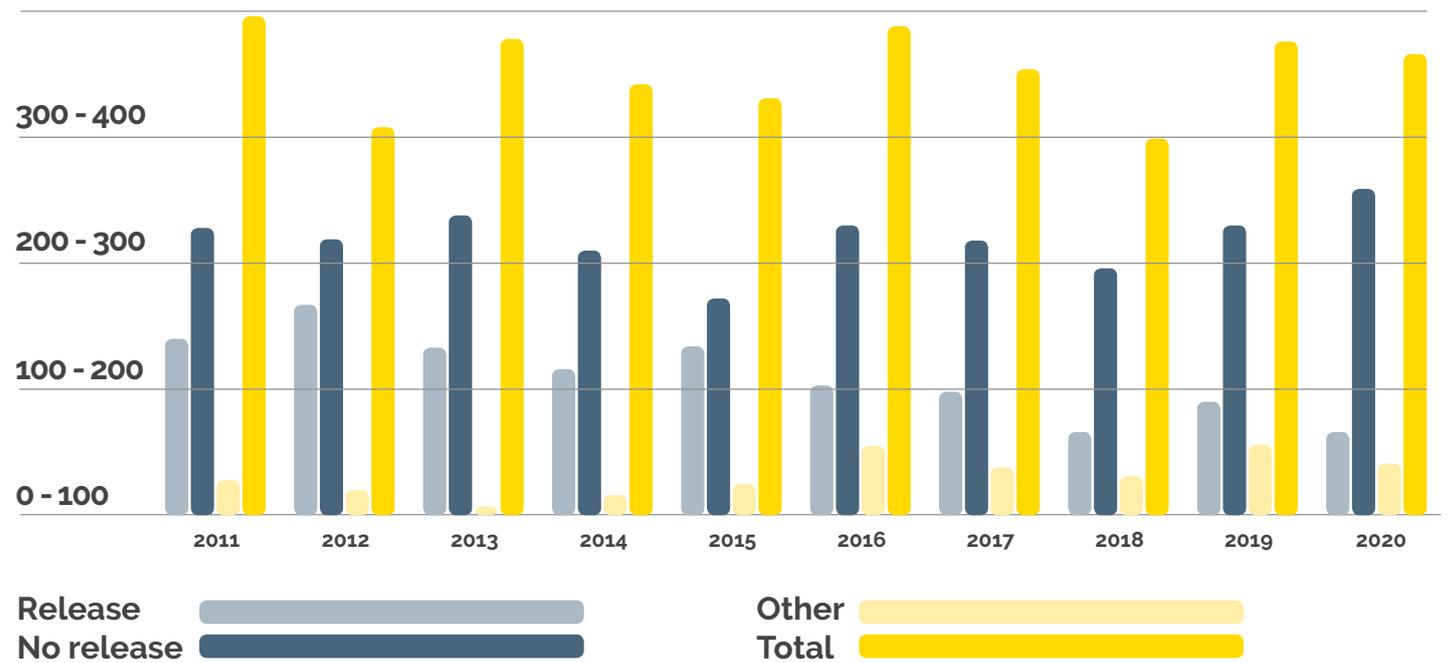
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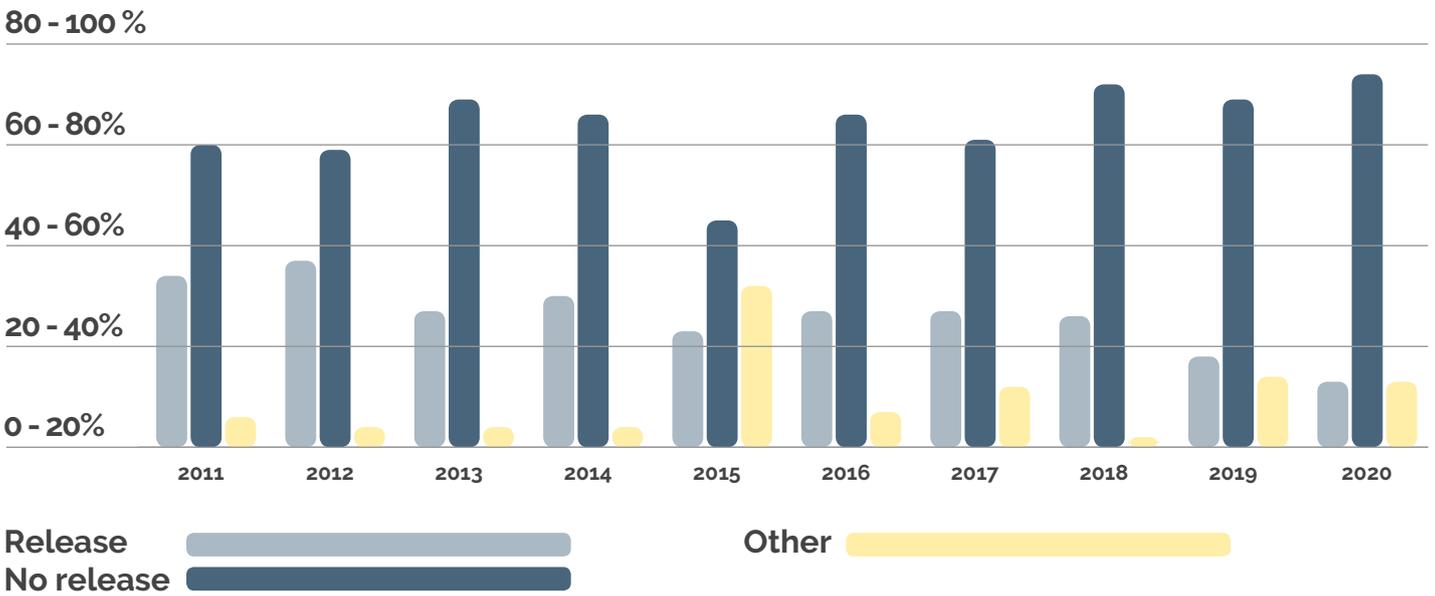
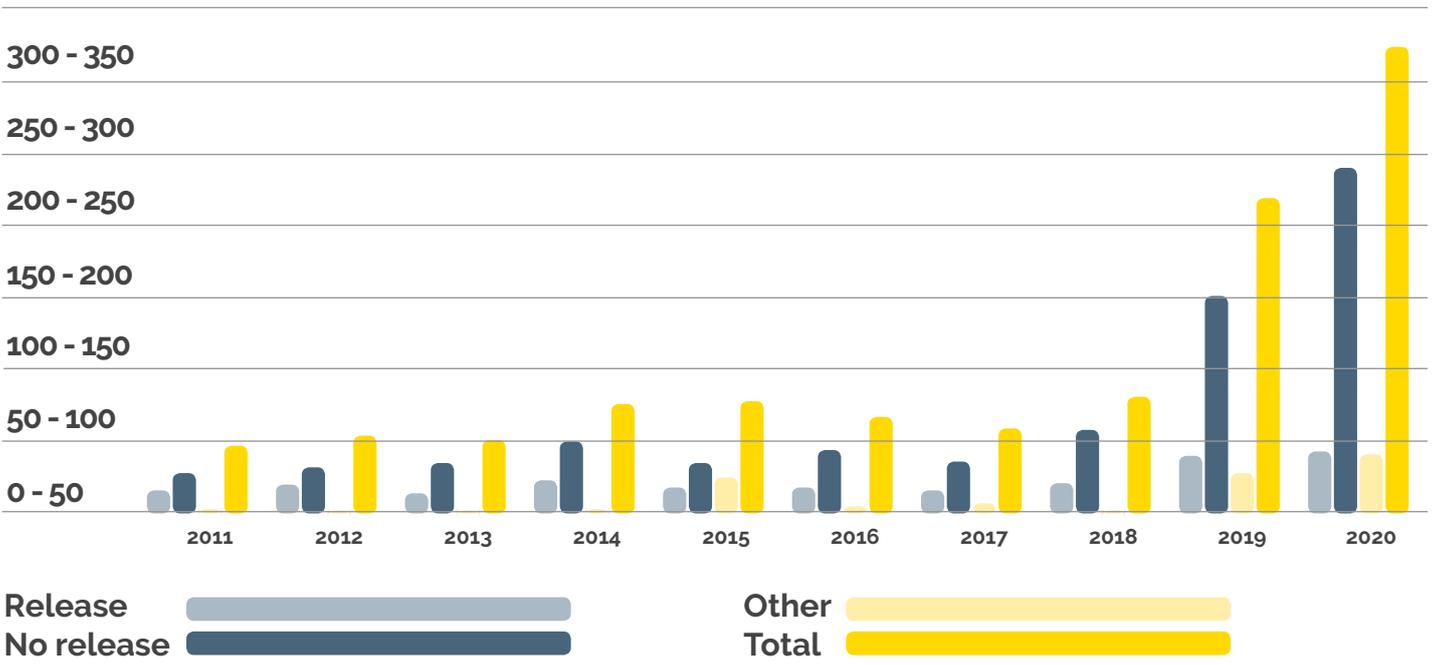
Year of Release	Time Spent in Custody by Persons First Released from Life Sentences									Total
	Under 7	7 - 8	8 - 9	9 - 10	10 - 11	11 - 12	12 - 13	13 - 14	over 14	
2018-19	0	0	0	2	2	5	6	2	20	37
2019-20	0	0	0	0	1	1	3	3	11	19
2020-21	0	0	0	0	0	2	3	3	13	21
Total	0	0	0	2	3	8	12	8	44	77¹

Note 1 does not include those recalled to custody and subsequently re-released.

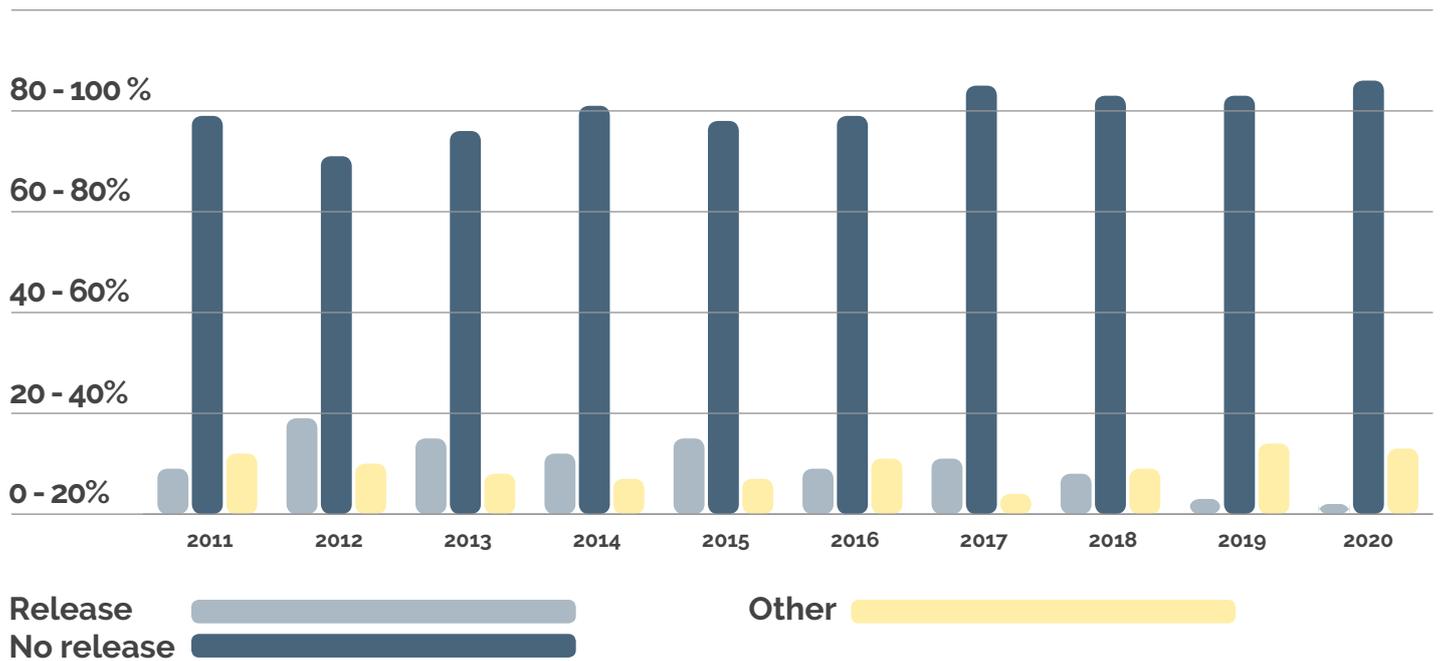
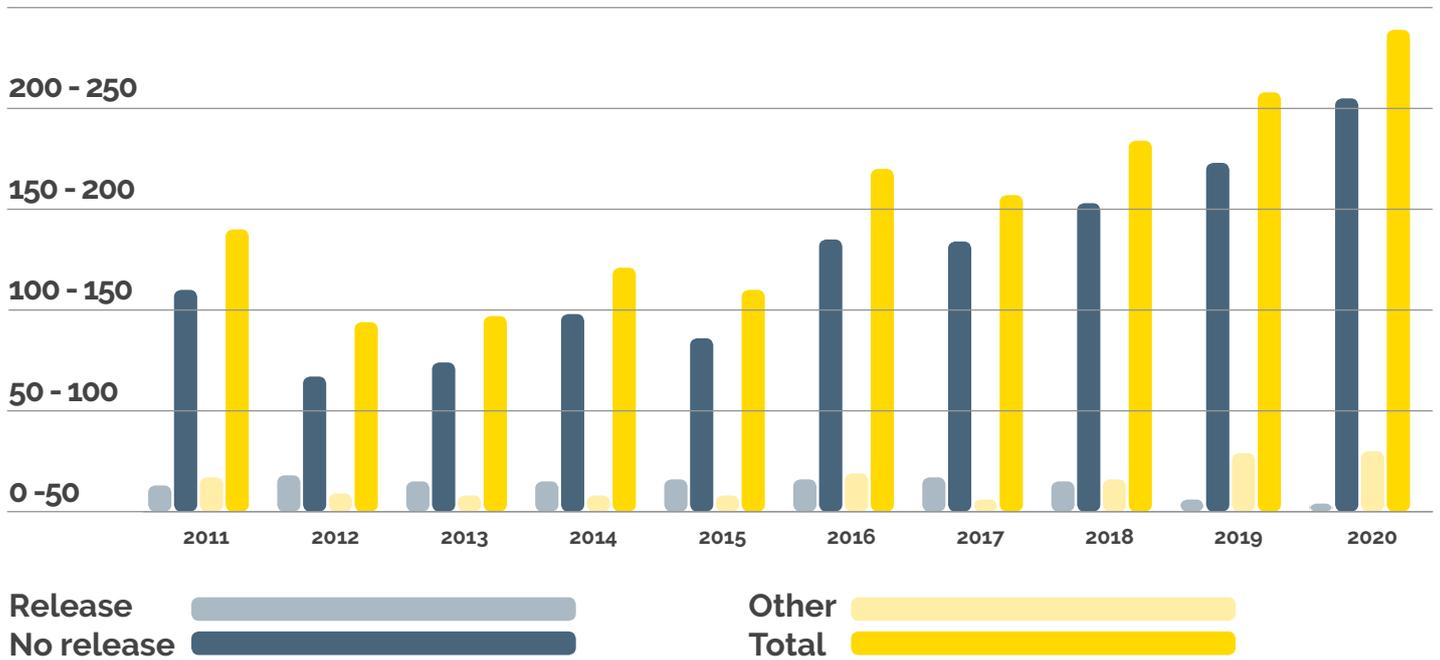
Determinate Sentence Prisoners - First review for Early release



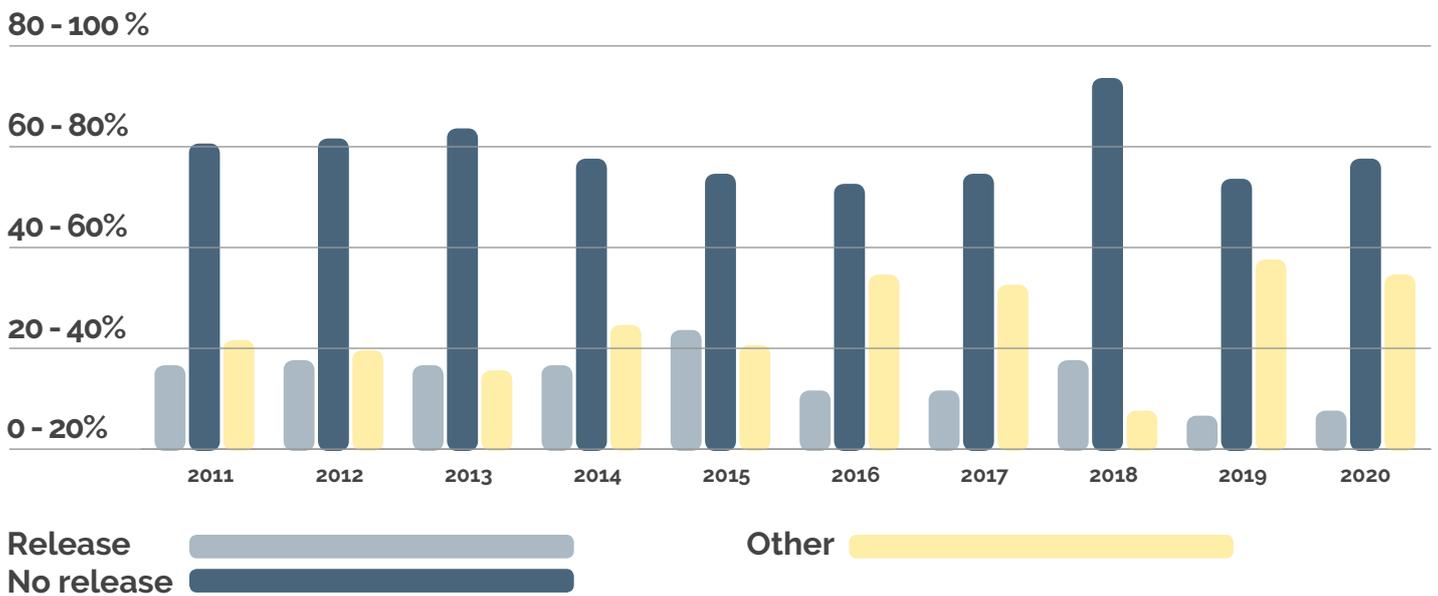
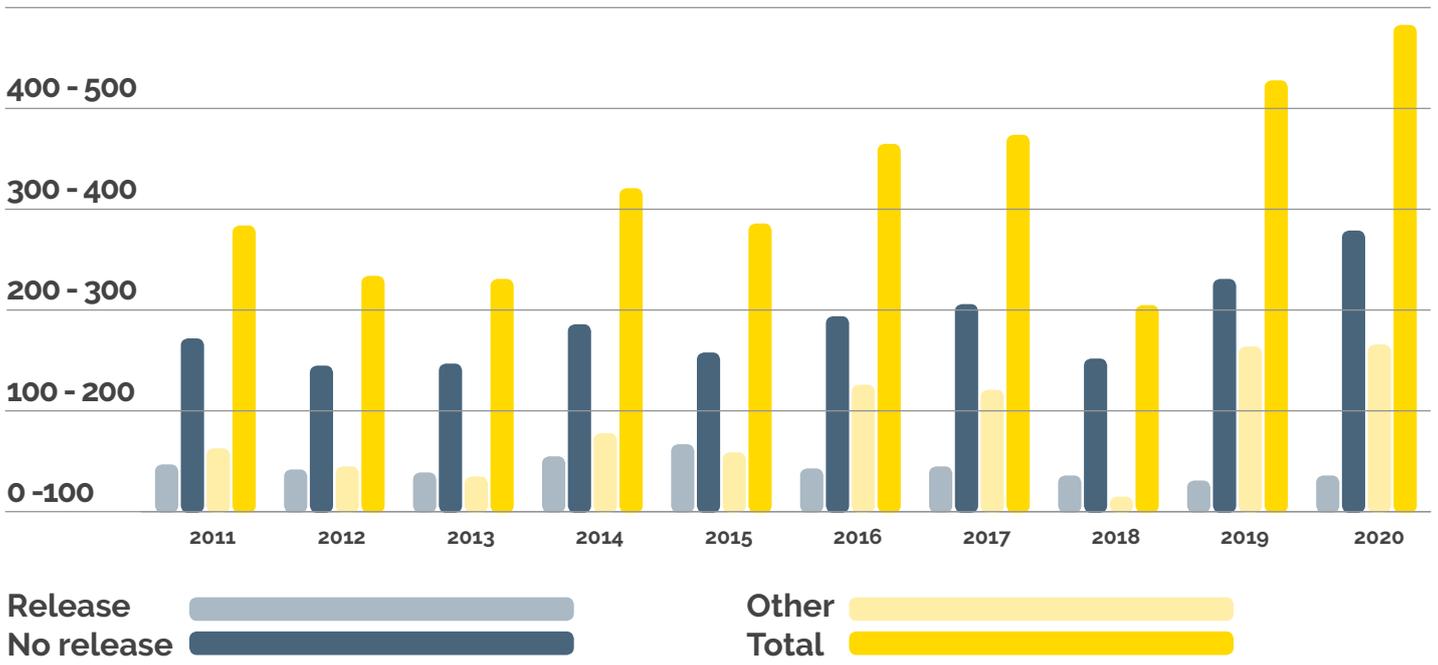
Determinate sentence prisoners - Second or subsequent review for early release



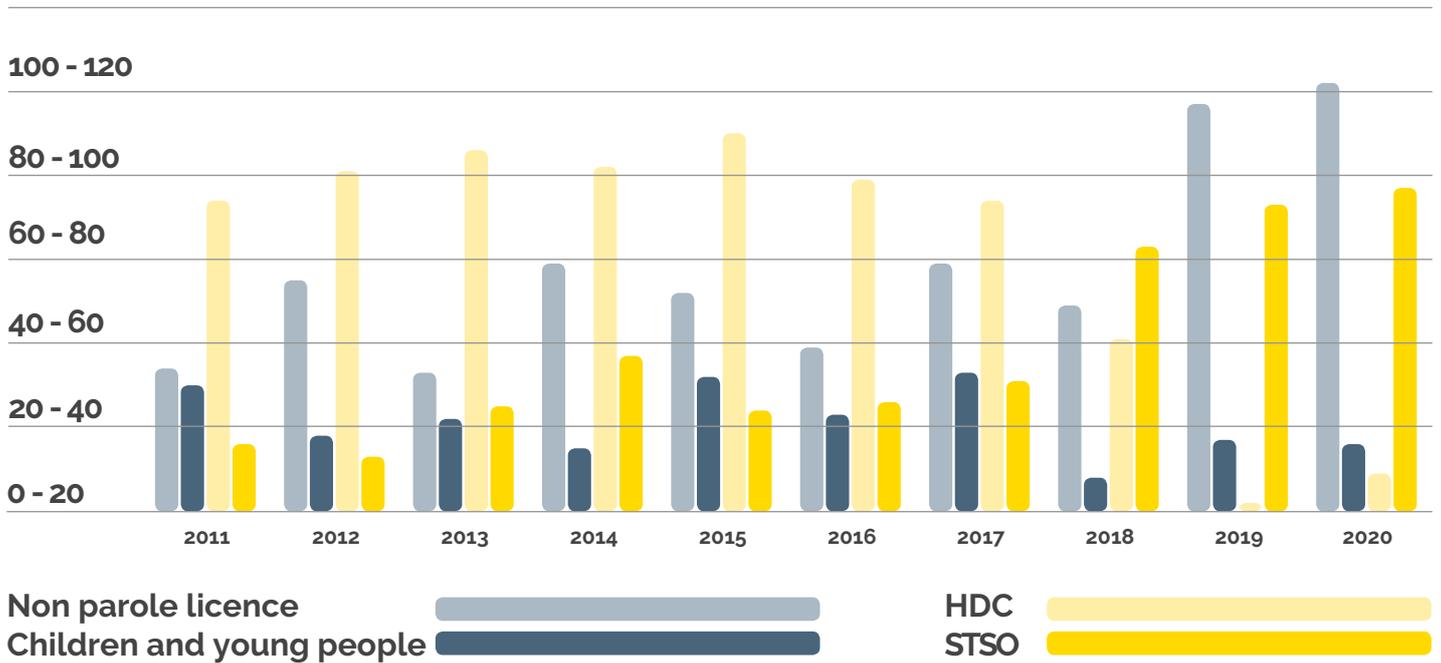
Extended Sentence Prisoners - Review for Early Release



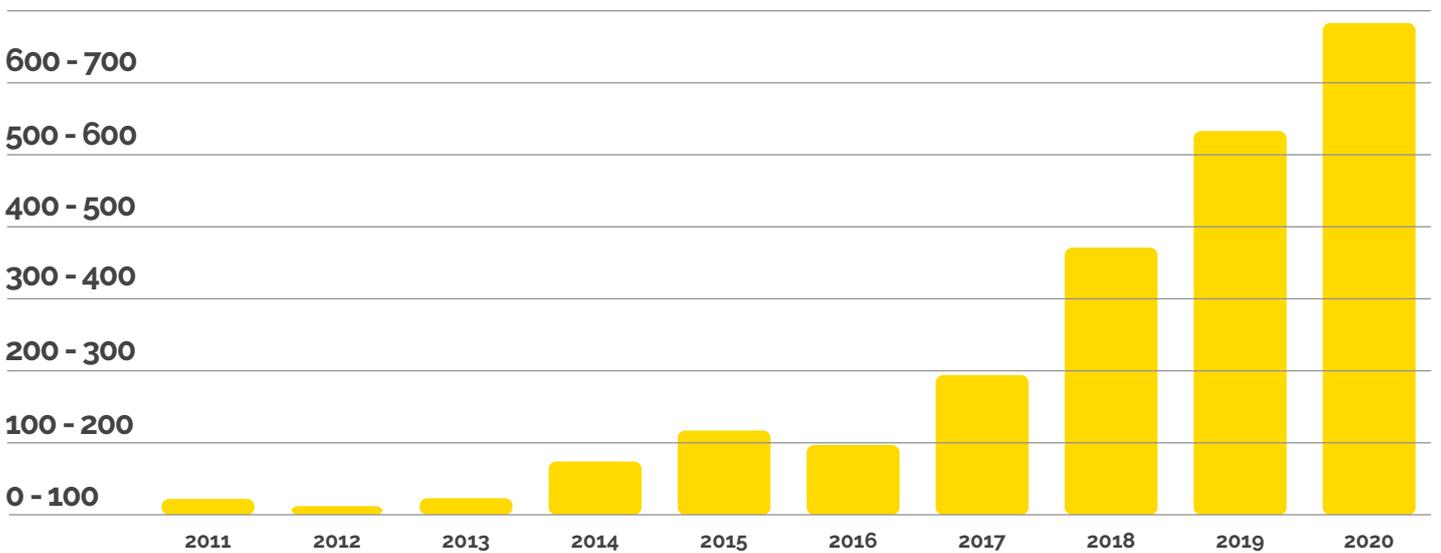
Life sentence Prisoners



Miscellaneous



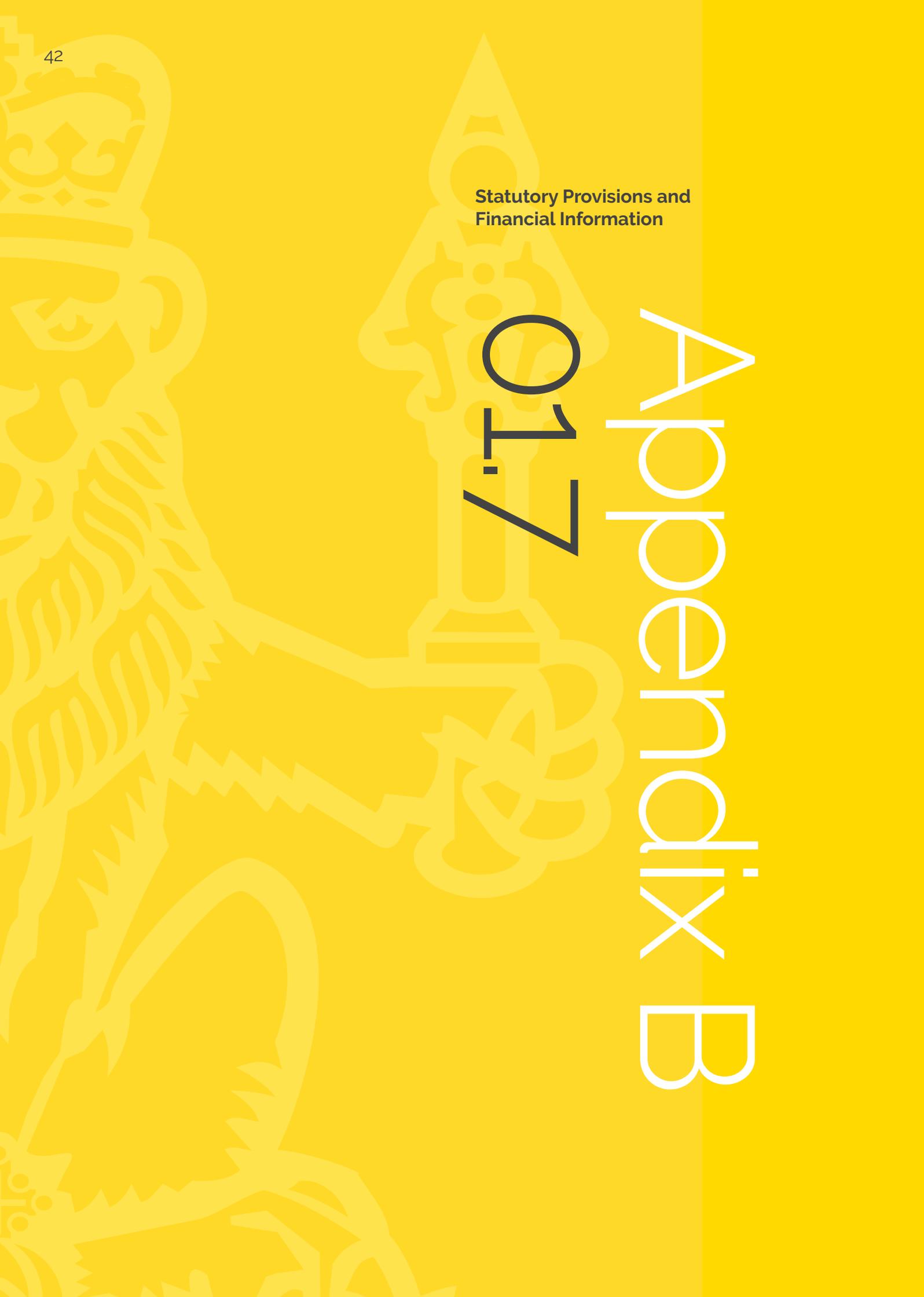
Oral Hearings



Statutory Provisions and
Financial Information

Appendix B

O1.7



**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:
 - (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 the period of 5 years beginning with the date of appointment as 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.
 - (1) A person who has been a member of the Parole Board is eligible for appointment to the membership on a subsequent occasion.
 - (2) The exception to this is where the person's membership has previously ceased by virtue of—
 - (a) paragraph 2C, or
 - (b) paragraph 2D.

Automatic reappointment

- 2HA (1) A member of the Parole Board is to be reappointed to the membership on the expiry of the period of the member's appointment, unless—
- (a) in any case, sub-paragraph (2) applies, or
 - (b) where the member is not the chairperson, sub-paragraph (3) applies.
- (2) This sub-paragraph applies if the member has declined to be reappointed.
- (3) This sub-paragraph applies if the Scottish Ministers have accepted a recommendation made to them by the chairperson that the other member should not be reappointed.
- (4) A recommendation of that kind may be made to the Scottish Ministers only if the chairperson is satisfied that—
- (a) the other member has failed to comply with any of the terms and conditions of membership by which the member is bound, or
 - (b) the number of members required for the Board to carry out its functions is such that the services of the other member are no longer needed.
- (5) The instrument of appointment of the member may be annotated or reissued so as to show that the member is reappointed under sub-paragraph (1).

- 2HB (1) Sub-paragraphs (2) and (3) apply in connection with paragraph 2HA(1).
- (2) The reference in paragraph 2HA(1) to the period of the appointment includes each period of reappointment under that paragraph.
 - (3) In addition—
 - (a) the provisions of paragraphs 1 to 2D apply in relation to reappointment under paragraph 2HA(1) as well as applying otherwise, and
 - (b) the references in paragraphs 1 to 2D to appointment are so far as necessary for this purpose to be read as including reappointment, which in particular means that reappointment is for 5 years at a time."

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 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 during 2020-21 were as follows:

	1/4/20 - 31/3/21
Chairman	£514
Legal Member	£338
Psychiatrist	£338
General Member	£219
Case Work Meeting Chair	£50

2. Members of the Board are also paid allowances for travelling and subsistence in accordance with prescribed scales.
3. The Board's expenditure during 2020-21 was £2,721,849 made up as follows:

Members Fees, Staff Salaries and Travel/Subsistence	£2,457,087
Legal Costs	£143,912
Other	£120,850
Total	£2,721,849

Cost Effectiveness

4. 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 2020-21 reveals that the work of the Board continues to represent good value for money. The average cost of Tribunals convened in 2020-21 for life prisoners and extended sentence prisoners is £1000. The average cost of considering a case at a meeting of the Board is £200.

5. The average cost to carry out these functions includes members' fees; and their travel and subsistence costs.

Judicial Review – Compensation Payments

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

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 Parole Board for Scotland continues to be committed to providing an effective and efficient method of service delivery. Owing to Covid 19, the Board had to change its service operating model to ensure that business continued to be delivered within statutory timescales. This meant that all business was delivered electronically utilising available technologies. We will continue to optimise our processes and procedures to ensure we are maximising our resources and consider innovative approaches which will provide value for money whilst also delivering our corporate objectives. Lessons learnt from full electronic working, during the pandemic, will be considered by the Board's Management Group and decisions made on whether these working methods become the new standard will be made during financial year 2021/2022.

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