

The Department of Home Affairs response and Action Plan in respect of the Report from the Public Inquiry into the Parole System.

The Department of Home Affairs welcomes the report of the Public Inquiry into parole and broadly accepts the recommendations contained within it. An action plan has been drawn up to address outstanding issues and is appended to this response.

It should be acknowledged at the outset that the Parole Committee is tasked with the very difficult challenge of trying to predict the future. It tries to assess what the behaviour will be post release of those it recommends for early release and/or recall. Since October 2011 the Committee have considered 83 cases with the following outcomes;

Parole applications	Refused	Deferred	Approved	Recalled	Successfully completed
83	16	8	59	13	46
100%	19.3%	9.6%	71%	22%	78%

In order to successfully complete their Licence requires offenders to remain out of trouble with the Police and to have adhered to the conditions imposed by their licence up until the completion of their licence period i.e. $\frac{3}{4}$ of their sentence.

Despite this generally positive picture, the Department recognises that the impact of system "failure" can be devastating and that there is a need to formalise and update its procedure and practices and resist any complacency.

The Department would also welcome an open and informed discussion about governance, specifically in respect of the relationship between the Committee, the Department and its divisions (Prison and Probation and the Police).

On Page 9 and 10 of the report Mr Karran expresses his view that:

"I am therefore advised and accept that taking into account the issues raised in Brooke, (Regina (Brooke and another) v Parole Board and another Regina (O'Connell) v Same, Regina (Murphy v Same, [2008] EWCA civ 29.) the relation that exists between the Department and the Committee does not preclude it from being perceived as to be independent and impartial.

Miss Norman (Attorney General's advisor to the Chair of the Inquiry) did suggest that if the Department were minded to do so it could decide to remove the Department from the role of appointing members of the Committee and providing administrative support and transfer its powers to the Appointments Committee and Chief Registrar. This is purely a matter for the Department and Tynwald and is not one where I consider it necessary to make any recommendation."

And further;

“ I can merely state that I have been legally advised that it is not possible at this stage to form a conclusive view as to whether the present European Court of Human Rights (ECHR) is complied with under our practices and procedures. What is certain is that we would be compliant if the actual decision making in those instances referred to earlier (Release on licence of long term detainees, Mandatory Life Detainees and the recall of certain detainees) was placed firmly in the hands of the Committee. It would be a matter for the Department and Tynwald whether decisions to release on licence (other than after recall) of detainees serving determinate sentences should also be taken by the Committee. As this would result in the committee mirroring that of the Parole Board, it would seem to be a logical step.”

The Department will take this matter forward as appropriate. Turning now to the recommendations themselves, it is clear that many have already been implemented in full, as follows:-

5. The Committee to have the benefit of an indemnity from the Isle of Man Government to cover legal claims being made against it.

Treasury have confirmed that the Parole Committee is covered by the Officials Indemnity policy. Members won't be specifically named, but fit within Zurich's definition of 'employee'. Obviously the members of the Committee would only be covered whilst undertaking their duties as a Committee Member.

7. All documents and information received by the Committee for the purposes of a parole application and for a recall shall be disclosed to the particular Applicant involved in the process.

This is the case now.

12. A Custody Release Plan (incorporating a Multi-Agency Public Protection Arrangements (MAPPA) Risk Management Plan) in the case of Applicants assessed as being on Level 2 or 3) must be prepared and in place prior to the release on licence of that Applicant. Such plan should be disclosed to the Applicant and the Committee to assist in its deliberations.

Arrangements are in place for the completion of a Resettlement Release Plan in all cases before release. With the recent changes in the timing of parole considerations there is also an opportunity to call a MAPPA meeting if deemed necessary.

14. The Department to keep actual records of all prisoners released on licence or otherwise with details of their re-offending and this information should be available to the Committee and all Probation Officers.

Probation already records this information in relation to all offenders on licence and reports back to the Parole Committee.

15. The Committee should be consulted by the Department or any other Government Department intending to submit a Bill, Regulation or Rule that affects the parole system, and the Committee should also be represented on any group whose mandate is to consider the question of parole.

The parole committee is routinely included in consultation processes.

17. If the present system is maintained and reports are to be made by inexperienced Prison and Probation Officers, no report should be filed by an Officer who has not been qualified and serving for at least 3 years before investigating and preparing his/her report, unless that report is countersigned by a Superior Officer holding those qualifications. In addition Probation Officers should make proper research into facts supporting their recommendations. I appreciate that certain recommendations contained herein may not need to be implemented if the change made by the Prison and Probation Service referred to in Chapter 9 Paragraph 9 continues to operate. (The system has been amended such that a single report from the Probation Services is supplied which contains all relevant service information about the offender).

The Prison and Probation Service management team have indicated that supervision for probation officers preparing reports for parole hearings will be appropriately delivered.

18. Any Prison or Probation Officer submitting information or a report to be contained within a Dossier being prepared for a parole application to be given, in advance of preparing his/her submission, access to all records and information on the detainee applying for parole including the PIMS report and all adjudications against the individual concerned.

ALL staff in the Prison & Probation Service have had access to PIMS since August 2014.

19. Any report or reports by Probation Officers to be submitted in a Dossier to the Committee for the purposes of a parole application should be reviewed by the Governor or Deputy Governor of the Prison, and a recommendation made by that person.

The Deputy Governor signs off all parole dossiers. Probation Officers are required to undertake a minimum of 10 supervision sessions per annum. All reports are reviewed under supervision.

21. A CP4 Custody Planning Meeting should take place before release, or if not possible then ASAP after release and in any event within seven days of the release of a person on licence, to review licence conditions and plan a probation regime.

Arrangements are already in place for the completion of a Resettlement Release Plan in all cases before release. Recent changes in the timing of parole considerations will allow for the calling of a MAPPAs if deemed necessary.

22. A formal risk assessment to be carried out on any person seeking parole at the time of the application being made and such assessment should be included within the Dossier prepared on that person.

A formal Risk Assessment is now carried out on any person seeking parole at the time of the application and is included in the parole dossier.

23. Six months good behaviour prior to consideration of a parole application should not be the benchmark for adjudicating rehabilitation. Conduct throughout the sentence should

be considered and credit given to the Applicant for parole if showing a marked improvement in behaviour, willingness to cooperate, acceptance of the authority of prison and probation officers and participation in intervention hubs. (Whether or not intervention hubs are to be introduced, the offender's participation in interventions will be included in all assessments).

Agreed.

25. The Prison and Probation Service should have an Officer on call twenty four hours per day, seven days per week, to accept a report from a Police Officer or someone else regarding conduct which could amount to a breach of parole conditions.

Arrangements now in place.

In addition, following the first part of the Inquiry, Police statements in respect of the details of the offence have been changed to include more relevant information.

A secure communications system for Committee members has also been established although due to technical difficulties this did not become fully functional until May 2017.

Of the other recommendations:

1. Amend the Custody Rules over the provision of the membership of the Committee. It was suggested that "a person with experience of the Probation Service would be a valuable member as would a former detainee within the Prison."

In considering this the Department has taken the view that the practical issues relating to the experience being up to date would require the experience to be fairly recent. However in a compact jurisdiction experience on the island would lead to them being conflicted as they would have knowledge about many of the parole applicants. Similarly recent detainees are also likely to have personal information about those who may be seeking Parole.

The Department takes the view that whilst experience may be valuable this in itself is not sufficiently important to specify in possible applicants unlike the requirement to have a legally qualified committee member. As a result the Department have decided not to pursue this element of the recommendation.

2. Provide training to the members of the Committee.

The Department accepts this recommendation and is currently approaching adjacent and similar jurisdictions to try and identify the most cost effective training. This however will involve a cost and the identification of an appropriate funding source.

3. Provide Rules and Guidance Notes in the form of secondary legislation setting out the objectives of the Committee and key factors and guidance principles to be considered and weighed when decisions for parole are made.

The Department has commenced providing guidance in general terms about the aims and objectives that we want the Parole Committee to work towards. ;

In addition we are developing procedure in respect of all activities including releases, recall, re-release and for hearings when the applicant will be in attendance to present their case, in person, or through an advocate. The Committee to be able to obtain legal advice whenever it is required.

The Department has identified an emerging trend for decisions of the Parole Committee to be challenged. Those making representation generally have engaged legal representation, and as a consequence, this is an important consideration. In addition it recognises that at times the AGC will not have the capacity to provide the necessary service and may also be conflicted. As such there are likely to be occasions when independent legal advice and representation may be needed. We will look to develop a system that facilitates such a proposal cost effectively and will seek advice from the Attorney General's Chambers to arrive a workable and affordable system.

- 6 To consider whether it is prudent to adopt under the principles of the ECHR that all parole decisions should be made by the Committee and not the Department.

This issue has been introduced in the preamble to this action plan. In order to make a final determination a working group is to be established and tasked with presenting proposals for the future governance of the Parole Committee and the ultimate decision making authority. This group will include Departmental, Parole Committee and Attorney General representation and report back by September 2017 with options and a recommendation for adoption.

8. A statement from the victim or victims of the crime for which the Applicant for parole is in prison to be included in the Dossier, if they wish to make such a statement.

The key role of the Victim in the Criminal Justice Services processes is accepted. This would be for a Victim Liaison Officer in Probation to facilitate. This role does not currently exist and is being assessed as part of the work on establishing a Victim's Code of Practice by the Head of Community rehabilitation alongside other CJ service professionals. At this stage however it must be recognised that participation must be on a voluntary basis and that there will be a real need to manage expectations as the information relating to the victim is only one aspect of a multi-faceted assessment when deciding whether or not an offender is released early.

9. The principles of MAPPA should be enshrined into primary legislation with proper Guidance Notes adopted by the Department as to the practices and procedures of all those involved in the MAPPA process.

This recommendation is accepted. The Department had already commissioned a review of the MAPPA and has received a report with a number of recommendations of which one was;

"Legislation that underpins the MAPPAs process is urgently required." This along with other recommendations in the report will be included in a forthcoming Bill.

10. If legally possible the Minutes of any MAPPAs meeting relating to a particular applicant for parole should be included in the Dossier. Alternatively, if it is found that for legal reasons this cannot be achieved, then a summary of the MAPPAs meeting in relation to that individual should be included in the Dossier.

The current Guidance for MAPPAs contains the following;

"Requests for copies of PPA meeting minutes may come from a number of sources:

- Courts (including Family and Coroners);
- Parole Board;
- Police Complaints Commissioner;
- Attorney Generals Chambers;
- Offenders; and
- Other third parties.

A full copy of the PPA meeting minutes should not be provided. Instead, an Executive Summary should be completed by the Chair. Whenever an agency or individual worker receives a request for PPA meeting minutes, they must refer this request to the PPA meeting Chair and inform the PPA Administrator. The PPA Administrator will keep a record of all such requests, noting who made the request. When receiving the request for a copy of the PPA meeting minutes, the person receiving the request should ask for clarification of exactly what information is being sought. Often, what is requested is the risk assessment completed by the Probation Service, or adjudications within the prison. Where this is the case, the requestor of the information should be directed to the service that owns and holds the original information. This third party information does not belong to the PPA Meeting. Most, if not all, of the information provided to PPA meetings by agencies is derived from information stored on the individual agency's database(s) and the provision of that information to third parties is the responsibility of **that** agency and **not** the Chair of the meeting.

Having clarified that the information that is required is information from the PPA meeting minutes, the Chair of the last PPA meeting will, using all the meeting minutes and the original PPA referral form, prepare an executive summary."

However the Prison and Probation Service is of the view that we should follow the UK model whereby minutes are not released and an Executive Summary is prepared. The onus is upon the Probation Officer to attend MAPPAs and to report upon any emerging risk issues and bring this to the attention of the Parole Committee.

Alongside the development of the MAPPAs on the Island this measure should be considered and a process to ensure that the Parole Committee has all relevant information from MAPPAs in respect of an offender whom they are considering for early release recall, or re-release, is available to them.

11. Each of the Authorities involved in the MAPPAs process should send representatives to every MAPPAs meeting.

This recommendation is accepted. The Prison & Probation Service are already represented at every MAPPA meeting. The recent review of MAPPA on the Island stated that;

"there should be a duty to co-operate agreement drawn up between Police, Probation and Prison and other agencies to increase the effectiveness of public protection arrangements. Agencies should include:

*Housing,
Drugs Action Team sic Drugs and Alcohol Team.,
Youth Justice Team,
Mental health services,
Social Services Children and Families,
,sic DHSC children and families Social care,
NHS, sic DHSC
Education Authority sic Department of Education and Children,
DHSC,
Victim Support,
Tromode House Accommodation provider.*

13. If any contact is made with a Police Officer regarding a person released on Licence during the period of that licence, or any reference is made to a Police Officer regarding that person, a report should be submitted immediately to the Supervising Probation Officer, the Committee and the Department (and the MAPPA Committee if appropriate).

This recommendation requires some work as whilst in principle the purpose of it is accepted the practical and legal elements are more difficult to overcome. We would need to identify what contact with Police that would be covered by this recommendation and how the Prison and Probation service would communicate with each other to implement the purpose of this recommendation. The Parolee may be a witness to an incident or may simply come into contact with Police in the normal course of events. The Police are already informed of every offender released on licence. The Department proposes that the Police and Prison and Probation should work together to formulate an operational plan as to how the objectives of this recommendation can be achieved. This may require legislation and will also rely on the use of technology in sharing information. The Department is committed to finding a solution and a working party will be convened immediately to look at practical implementation.

16. The case for the Prosecution and the remarks of the Deemster sentencing the Detainee to the term in respect of which he is then applying for parole should be contained within the Dossier.

At a recent Probation Liaison Meeting the Judiciary expressed the view that "the sentencing remarks would be of little value". The reasons for this view are unclear

and the Department will write to the Judiciary to seek clarification. The Criminal Justice Board should also consider this issue. We believe that if victims are to play a greater role in the future of the Criminal Justice service and parole specifically then the explanation of why a particular sentence has been imposed could have great significance. A decision about progressing this recommendation or not will be made following discussions with the judiciary.

20. The clear meaning and effect of any condition imposed in a licence for parole must be known to all involved in the parole process, and fully explained to the Detainee, and to the person or persons living where the Detainee is to reside, before his release.

A full review of all licence conditions will be carried out under the guidance of the Attorney General's Office. Guidance on licence conditions will be issued to staff and offenders. The Department has embarked on clarification and rewriting of Licence contracts that will specify exactly what the imposed licence condition means. The wording of the current conditions is enshrined in legislation but the interpretation of them is informed specifically by the risk assessed in each case. In addition a further piece of work has commenced which will result in the licensee receiving a written explanation in plain language about what the condition requires them to do, what to avoid and the consequences of them failing to meet these expectations.

24. To award three months of freedom on licence, merely because it is close to the automatic release date, should not be a major factor for the granting of parole to be included in the Guidance Rules.

The Department considers that the decision to release early or not is based on a myriad of different assessments and considerations. Award of three months of freedom on licence, merely because it is close to the automatic release date, will not feature in Probation reports. The recommendation will focus on the likelihood of re-offending. The fact that an offender is coming to the end of his/her prison term is irrelevant and will not be included in the Probation report apart from on those occasions where an early release may be desirable to facilitate something else .e.g. commencement on a training course or to take up employment. Where the timing of release is of particular significance then this will be included in the information presented to the Parole Committee. In addition there may be the opportunity to offer early release shortly before the automatic release date to facilitate closer scrutiny by imposing a short period of residence in the Tromode House Rehabilitation Centre.

26. The Police should be given power to detain a person who is found to have broken a parole licence condition or is suspected of so doing.

It is the view of the Prison & Probation Service that, as we have agreed the Police should report possible breaches of licence conditions to the Prison & Probation

Service (see 25 above), the Prison & Probation Service are best placed to consider making a decision on breach.

In addition to these recommendations, further comment was made in Part 5, Chapter 11. This section presented a number of findings and these are addressed below.

2, 1) There was insufficient investigation by the Officers preparing reports and recommendations, in particular, in relation to the proposed resident and employment of Mr Kitching.

In all release cases, the Probation Officer visits the proposed release address to assess suitability. In addition, enquiries are made around employability where possible.

v) It was not made clear if the recommendations were considered strong or borderline. What is also uncertain is what the Committee would have done if Mrs Watts' recommendation was not to grant parole if she had seen all the documents. I am led to believe that if a Probation Officer did not recommend parole the Committee would have referred the application for further investigation or comment thus delaying parole.

Where the Probation Officer considers a recommendation is borderline it is discussed with a Senior Officer.

vii) Mr Kitching should have been seen and assessed by Dr Briggs before his release.

Dr Briggs now assesses and works with offenders in the prison where referrals have been made on the basis of risk.

viii) In view of Mr Kitching's previous record and his behaviour in prison opportunities were not taken to suggest other options for release before recommending a full release on licence.

There are now arrangements for Resettlement Day Release and Resettlement Overnight Release ahead of any release on licence.

The Department of Home Affairs Action Plan in respect of the Karran Inquiry into the Isle of Man Parole system

Recommendation	Action	Accountable Office	Timescale	Partner Agencies	Outcome
Rec 2. Provide training to the members of the Committee.	The Department will seek appropriate training for new and existing Parole Committee members and identify an appropriate funding source	DHA Chief Officer's Office	September 2017	Parole Committee.	Committee members are provided with knowledge and skills to undertake their duties and the opportunity to develop expertise through continued development.
Rec 3. Provide Rules and Guidance Notes in the form of secondary legislation setting out the objectives of the Committee and key factors and guidance principles to be considered and weighed when decisions for parole are made.	Guidance will be formulated and introduced as secondary Legislation to provide more transparent consistency and application of parole considerations in the future	DHA Chief Officer's Office	June 2018	DHA, Parole Committee.	Consistent application of the direction in determining whether or not early release is granted on application.
Rec 4. The Committee to be able to obtain legal advice whenever it is	The Department will develop a system that facilitates such a proposal cost	DHA Chief Officer's Office	September 2017	Parole Secretary, Attorney General's Chamber's (AGC)	A process to identify when legal advice and representation is required and how

required.	effectively and will seek advice from the Attorney General's Chambers to arrive a workable and affordable approach.				that advice/representation is provided.
Rec 6. To consider whether it is prudent to adopt under the principles of the ECHR that all parole decisions should be made by the Committee and not the Department.	In order to make a final determination, a working group is to be established and tasked with presenting proposals for the future governance of the Parole Committee and the ultimate decision making authority.	DHA Chief Officer's Office	Report back in December 2017	Departmental, Parole Committee and AGC	Clear accountability for parole decisions
Rec 8. A statement from the victim or victims of the crime for which the applicant for parole is in prison, to be included in the Dossier, if they wish to make such a statement.	The key role of the Victim in the Criminal Justice Services processes is accepted. This would be for a Victim Liaison Officer in Probation to facilitate. This role does not currently exist and is being assessed as part of the work on establishing a Victim's	Prison and Probation services	March 2018	Victim Support	Victims' voice clearly heard

	Code of Practice by the Head of Community rehabilitation alongside other CJ service professionals.				
Rec 9. The principles of MAPPA should be enshrined into primary legislation with proper guidance notes adopted by the Department as to the practices and procedures of all those involved in the MAPPA process.	The Department had already commissioned a review of the MAPPA and has received a report with a number of recommendations of which one was; "Legislation that underpins the MAPPA process is urgently required." This along with other recommendations in the report will be included in a forthcoming Bill.	DHA Chief Officer's Office	June 2018	AGC, DHA.	MAPPA enshrined in legislation including a duty to co-operate.
Rec 10. If legally possible the Minutes of any MAPPA meeting relating to a particular applicant for parole should be included in the Dossier. Alternatively, if it is found that for	Whether or not MAPPA minutes or an executive summary of the minutes should be provided will be discussed by Police, Prison and Probation and a proposal in respect of the issue	DHA Chief Officer's Office	December 2017	Prison and Probation services, Police, AGC	Decision made and included in update MAPPA guidance.

<p>legal reasons this cannot be achieved, then a summary of the MAPPA meeting in relation to that individual should be included in the Dossier.</p>	<p>will be presented to DHA.</p>				
<p>Rec 11. Each of the Authorities involved in the MAPPA process should send representatives to every MAPPA meeting.</p>	<p>The legislation to make MAPPA a statutory provision will include a responsibility for relevant agencies together to draw up a memorandum setting out the ways in which they are to co-operate.</p>	<p>DHA Chief Officer's Office</p>	<p>September 2017</p>	<p>Safeguarding Boards, Children's Services Partnership DHSC</p>	<p>More effective risk management of those offenders who pose the greatest risk to the community.</p>
<p>Rec 13. If any contact is made with a Police Officer regarding a person released on Licence during the period of that licence, or any reference is made to a Police Officer regarding that person, a report should be submitted immediately to the</p>	<p>This recommendation requires a great deal of work. Whilst the Police are already informed about every offender released on parole, the Department believes that the Police and Prison and Probation should work together to formulate an</p>	<p>Prison and Probation services</p>	<p>December 2017</p>	<p>Police , Prison and Probation services</p>	<p>Clear and effective operational arrangements on managing those who are in the community subject to parole licence.</p>

<p>Supervising Probation Officer, the Committee and the Department (and the MAPPA Committee if appropriate).</p>	<p>operational plan as to how the objectives of this recommendation can be achieved. This may require legislation and will also rely on the use of technology in sharing information. The Department is committed to finding a solution and a working party will be convened immediately to look at practical implementation.</p>				
<p>Rec 16. The case for the Prosecution and the remarks of the Deemster's sentencing the Detainee to the term in respect of which he is then applying for parole should be contained within the Dossier.</p>	<p>We believe that the development of the Police offence information is sufficient to meet the first element of this recommendation. The Criminal Justice Board should also consider this additional issue. We believe that if victims are to play a greater role in the future of the Criminal Justice service and parole specifically then the explanation</p>	<p>Criminal Justice manager</p>	<p>January 2018</p>	<p>Criminal Justice Board, Probation Liaison Committee</p>	<p>Arrangements will be made to ensure all Deemster's sentencing remarks in cases where prisoners are sentenced to prison sentences of 4 years or more or who are sentenced to custodial sentences with extended supervision will be included in future Parole Dossiers.</p>

	of why a particular sentence has been imposed could have great significance. A decision about progressing this recommendation will be made following discussions with the judiciary.				
Rec 20. The clear meaning and effect of any condition imposed in a licence for parole must be known to all involved in the parole process, and fully explained to the Detainee , and to the person or persons living where the Detainee is to reside, before his release.	A full review of all licence conditions will be carried out under the guidance of the Attorney General's Chambers. Guidance on licence conditions will be issued to staff and offenders.	Prison and Probation services	December 2017	DHA Chief Officer's Office, AGC	Clarity for all of those concerned in the management of the risk and supervision of those released on parole supervision
Rec 26. The Police should be given power to detain a person who is found to have broken a parole licence condition or is suspected of so	The Prison and Probation Service should have an Officer on call twenty four hours per day, seven days per week, to accept a report from a Police Officer	Prison and Probation services	December 2017	Prison and Probation services , Police	Enhanced public protection through proportionate increase in Police powers

doing.	or someone else regarding conduct which could amount to a breach of parole conditions. However a further development of the Police having the power to arrest a parolee on submission of breaching his licence condition is to be considered in ensuring that the risks posed by a parolee can be managed effectively.				
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