PAROLE BOARD REVIEW – PUBLICATION OF REPORTS

I wrote to you in July last year to set out my approach to the ongoing review work looking at the Parole Board and the wider system in which it operates. I am pleased to now advise you that on Monday I will publish the findings of the Review of the Parole Board Rules. Alongside this, I will publish the Government’s response to the consultation on proposals to create a reconsideration mechanism for Parole Board decisions. At the same time, I will also formally launch a Tailored Review of the Parole Board. I am attaching embargoed copies of the two publications and the Tailored Review’s terms of reference.

Background

The publication on 28 April 2018 of the Review of the law, policy and procedure relating to Parole Board decisions made a number of commitments to improve victim engagement and communication in the parole process and to increase transparency in decision making. Chief among those was a change to the Parole Board Rules to allow the Parole Board to provide summaries of its decisions to victims and others who request one. This came into force in May and victims are now routinely requesting and being provided with reasons for the Board’s decisions, with over 800 summaries provided so far; a significant step towards greater transparency.

I also published in April a public consultation on proposals to create a mechanism within the parole process to allow flawed decisions to be reconsidered without the need to go down the onerous route of pursuing a judicial review. That consultation ran until the end of July and I am pleased in the Government’s response to confirm my intention to proceed with such a mechanism and to set out how I envisage it should operate.

I commissioned a review of all the Parole Board Rules as well to explore other opportunities for reform and to ensure the system is operating as transparently and effectively as possible. That review was completed at the end of last year and the report published tomorrow sets out all the measures that are being taken forward and a programme of further reform that will be delivered in the coming months.

I have decided that the time is also right to conduct a Tailored Review of the Parole Board. This will not only build upon, and complement, the policy reforms underway, but also consider broader, strategic questions about the Parole Board’s future governance, including whether to change the powers or responsibilities conferred on the Parole Board or whether it should be reconstituted to deliver its functions in a different way.
The review work to date has been looking at the improvements that could be made to the parole system in the short term under the current primary legislation and constitution of the Parole Board by making changes to the Rules and operational practice. The Tailored Review, however, will have the remit to consider whether there is a case for going further over the longer term, including options for more fundamental reform that may require changes to primary legislation.

Together, therefore, I see this complementary work as an opportunity to make sure that we have comprehensively examined all options for reform to deliver a parole system that is as robust, fair, transparent, efficient and effective as possible – both in the short and longer-term. I recognise, in particular, the importance of rebuilding confidence in parole decision making that has been shaken over the last year and I hope the announcement of these reforms will go some way towards achieving that.

Review of the Parole Board Rules

This review looked at the Rules governing the Parole Board to identify whether any changes could provide for and support more effective procedures and processes; the review also considered other opportunities for reform that could deliver further improvements. The review did not limit itself to changing the statutory procedural Rules but also explored other operational reforms and new approaches to address the areas identified in the terms of reference that were published in April.

The outcome of the review will see the introduction of a number of measures to improve the transparency and overall effectiveness of the parole process. This includes:

- A series of Standard Practice guidance documents which will be published by the Parole Board. This will improve transparency and public awareness of the approaches the Board follows in reaching its decisions – and will support greater consistency in how the Board reviews cases.

- A new Operational Protocol between the Parole Board and Her Majesty’s Prisons and Probation Service (HMPPS) which will clarify roles and responsibilities within the parole system and set out how the two organisations will work with each other.

- A new Policy Framework on the parole process will be published, setting out the HMPPS policy and approach, which will include improvements to the timescales the review found could make the process more efficient.

Following on from the commitments I made in April to improve communication and engagement with victims, the report also sets out further measures published as part of the Government’s Victims Strategy on 10 September to strengthen the entitlements and support for victims.

Reconsideration Mechanism for Parole Board decisions

We have devised an operating model that will allow the parties to the hearing (the prisoner and the Secretary of State) to apply for reconsideration if a decision appears to be legally flawed. The criteria will be on JR-type grounds – where it appears the decision may have been illegal, irrational or procedurally flawed.

Victims will be able to access the scheme by raising their concerns through the Secretary of State rather than having to put a case together directly to the Parole Board. My officials are best placed to consider representations from victims because they have access to all the
evidence and documentation – and legal resources where necessary – which will enable a fully informed application for reconsideration to be submitted to the Board where the evidence suggests there is an arguable case. This will ensure the process is as simple and straightforward for victims as possible; it avoids the need for victims to engage legal representation or to present detailed legal argument. It will also ensure that applications for reconsideration can be submitted quickly in cases of concern – which I envisage being very few – as I recognise the importance of avoiding unnecessary delay or uncertainty for the majority of prisoners for whom reconsideration will not be required.

The mechanism will apply to parole decisions on the release of indeterminate sentence prisoners or those serving extended determinate sentences. It will not apply to all decisions taken by the Parole Board – in particular those relating to the re-release of standard determinate sentence prisoners who have been recalled for breaching their licence conditions.

Decisions on reconsideration applications submitted to the Parole Board will be taken by mostly judicial Parole Board members accredited to undertake this role. They will decide whether the decision was flawed and, if so, how it should be dealt with – whether a fresh hearing is required or the error can be corrected in some other way.

The scheme needs to be kept proportionate and workable and not interfere with the effective operation of the parole process or create delays more widely, while providing the opportunity to identify and challenge genuinely flawed decisions without having to resort to the courts. I believe the proposed model will achieve that balance.

We will continue to engage with stakeholders as we put in place the changes necessary to implement this mechanism. In particular, we will be developing guidance, training, information and other support for Victim Liaison Officers to ensure they are properly equipped to guide and support victims through the reconsideration process where that may be needed.

I envisage this mechanism being introduced via changes made to the Parole Board Rules in the coming months. This will be in tandem with the other Rules changes and operational reforms that I have outlined above. Between now and then, my officials will continue to work with stakeholders to set in place the necessary operational and procedural measures to implement these reforms.

*Tailored Review of the Parole Board*

The Tailored Review will follow Cabinet Office guidance and will review the functions of the Parole Board, its delivery model, as well as its efficiency and effectiveness. The review of delivery models will include consideration of alternative approaches, such as reconstitution as a tribunal within HM Courts and Tribunals Service. This idea was also considered in the 2015 Triennial Review in the context of a previous public consultation in 2009 which examined the implications of such a change in detail. The Tailored Review will therefore provide a fresh opportunity for this, and other possible alternative delivery models, to be explored to ascertain whether material benefits could be delivered through any such transition.

I have also written to the Lord Chief Justice and the Senior President of Tribunals to notify them of my plans for the Tailored Review.
I recognise that the Committee is likely to have a keen interest in the outcomes of the Tailored Review. As such, I have attached the review’s terms of reference to this letter which outline precisely what the review team will be considering. I have asked my officials to contact you with regard to specific timings and to provide you with the opportunity to input into this review.

I would be pleased to offer an informal briefing with my officials on both this and the findings of the Review of the Parole Board Rules and proposals for a reconsideration mechanism if the Committee would find this helpful.

RT HON DAVID GAUKE MP