



National Audit Office

Report

by the Comptroller
and Auditor General

Ministry of Justice

Investigation into the Parole Board

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Ministry of Justice

Investigation into the Parole Board

Report by the Comptroller and Auditor General

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National Audit Act 1983 for presentation to the House of
Commons in accordance with Section 9 of the Act

Sir Amyas Morse KCB
Comptroller and Auditor General
National Audit Office

23 February 2017

This report investigates a backlog of outstanding parole cases which led to increased delays and costs, and how the Parole Board is addressing these problems.

Investigations

We conduct investigations to establish the underlying facts in circumstances where concerns have been raised with us, or in response to intelligence that we have gathered through our wider work.

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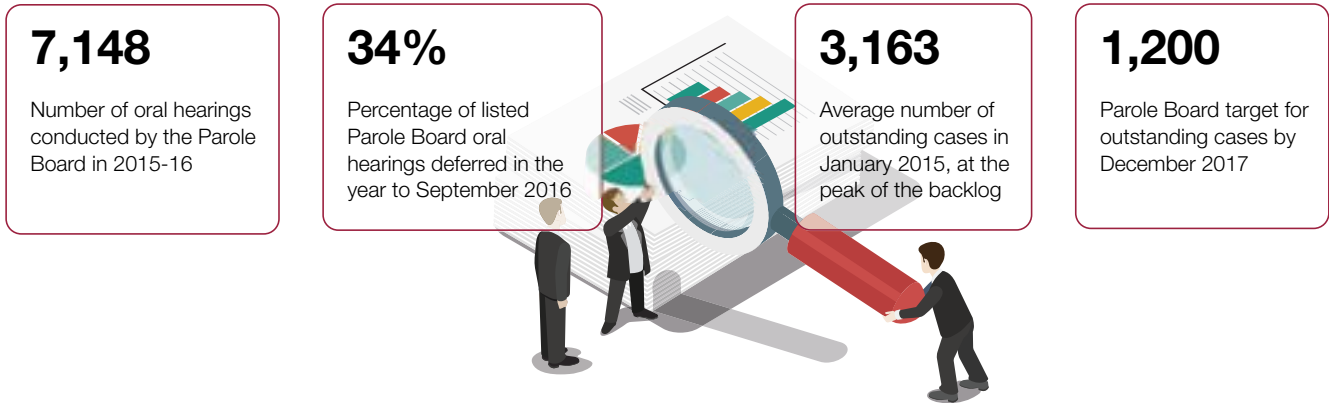
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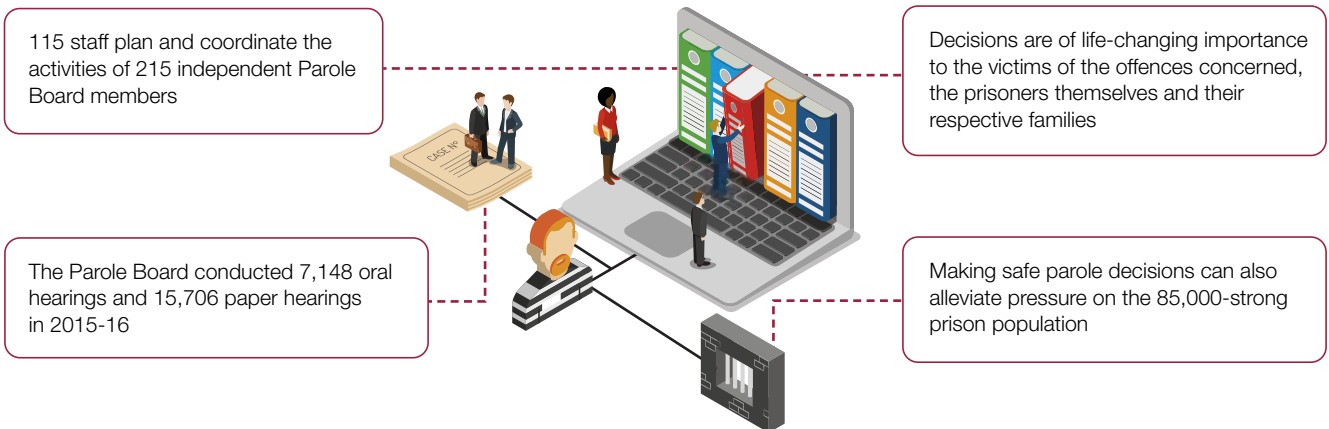
Key information

What this report is about

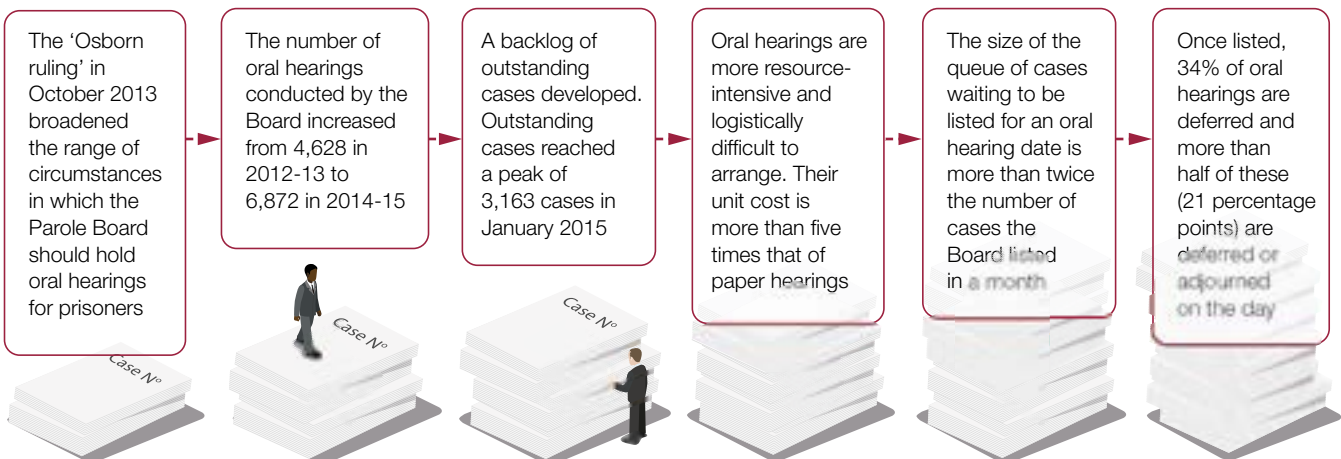
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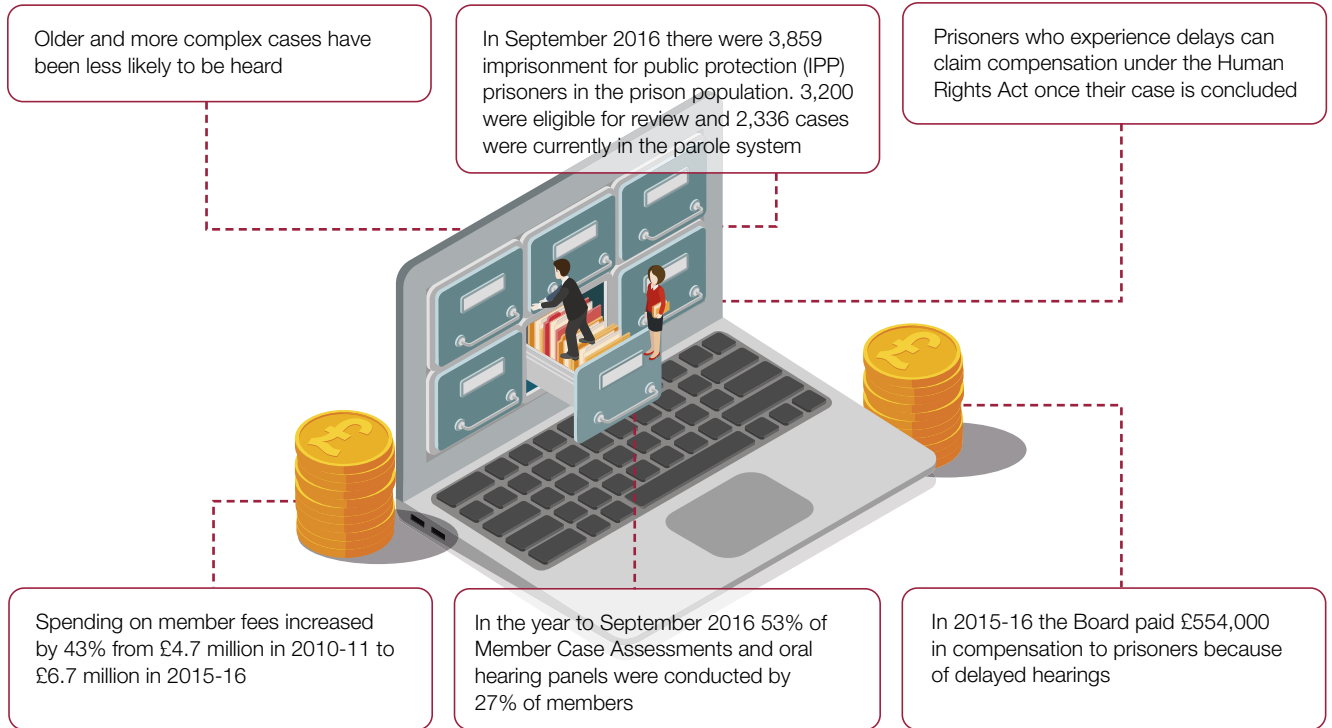
The Parole Board is an independent body which risk-assesses prisoners to decide whether they can safely be released into the community



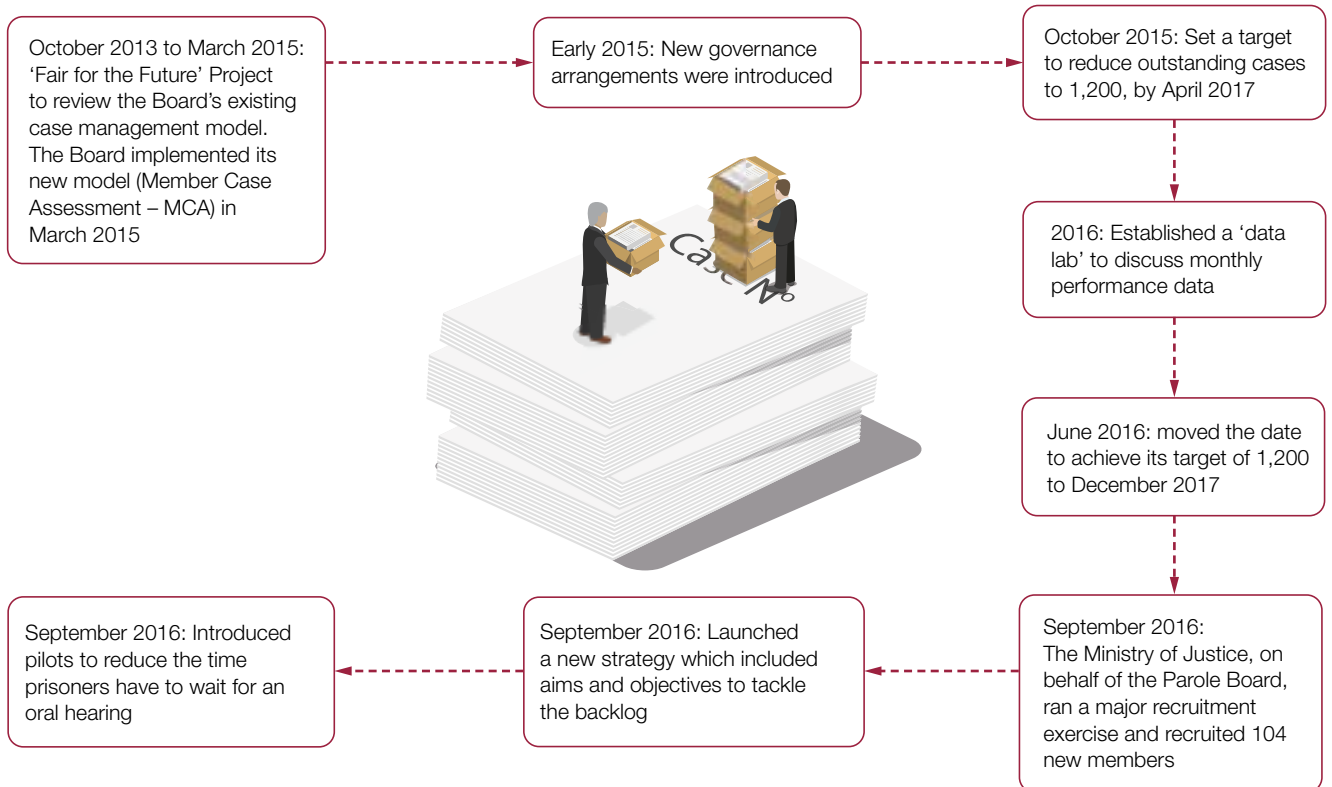
How the backlog increased



The impact of the backlog



The Parole Board's performance in tackling the backlog



What this investigation is about

1 The Parole Board for England and Wales (the Board) is an independent non-departmental public body that works with its criminal justice partners (such as prisons, probation services and the National Offender Management Service, an executive agency of the Ministry of Justice¹) to protect the public by risk-assessing prisoners to decide whether they can safely be released into the community. The Board spent £14.4 million in 2015-16 against a budget of £14.1 million. Its budget for 2016-17 is £15.6 million.²

2 The Board is responsible for:

a deciding whether to:

- release indeterminate sentence prisoners, including life sentence prisoners and prisoners given indeterminate sentences of imprisonment for public protection (IPP prisoners) after their minimum term of imprisonment has expired;
- release some categories of determinate sentence prisoners; and
- re-release some determinate and all indeterminate sentence prisoners who have been recalled to prison.

b advising the Secretary of State for Justice:

- whether indeterminate prisoners can be moved between closed and open conditions; and
- about release or recall matters, as requested.

3 The Board's 115 staff plan and coordinate the activities of 215 independent Board members. There are more than 15,000 paper and more than 7,000 oral parole hearings each year. Board members make decisions at these hearings using their judgement and the information made available to them. Members' decisions are of life-changing importance to the victims of the offences concerned, the prisoners themselves and their respective families. Making safe parole decisions can also alleviate pressure on the 85,000-strong prison population.

¹ On 8 February 2017, the Secretary of State for Justice announced that a new executive agency, Her Majesty's Prison and Probation Service, is to replace the National Offender Management Service from April 2017.

² Figures include spending in Departmental Expenditure Limits (DEL) expenditure and Annually Managed Expenditure (AME), for resource and capital.

4 In 2008 we examined the Board and made recommendations to improve efficiency, in particular to address a backlog of outstanding cases. A case becomes outstanding when a prisoner has waited longer for a hearing date than they should do against the Board's target date. The Board has had to increase the number of oral hearings it must carry out following the Supreme Court's *Osborn, Booth and Reilly* judgment in October 2013 (the *Osborn* ruling). This ruling followed appeals to the Court from three prisoners, each of whom had been refused oral hearings. It broadened the circumstances in which the law requires the Board to hold an oral hearing, with fairness to the prisoner being the overriding factor. The Board can no longer refuse to carry out an oral hearing because it considers that the hearing is unlikely to make a difference or in order to save time, trouble or expense.³

5 Following the *Osborn* ruling, a backlog of outstanding parole cases increased sharply, leading to increased delays and additional costs. We therefore decided to report on the extent of these problems and examine how the Board is addressing them. This report sets out the facts in relation to:

- how the backlog increased;
- the impact of the backlog; and
- the Board's performance in tackling the backlog.

6 We did not examine the quality of decision-making by Board members.

3 *Osborn v the Parole Board*, [2013], UKSC 61. Available on the UK Supreme Court's website: www.supremecourt.uk/decided-cases/docs/UKSC_2011_0147_Judgment.pdf

Summary

Key findings

How the backlog increased

1 The *Osborn* ruling in October 2013 had an immediate impact on the demand for oral hearings conducted by the Parole Board (the Board), which increased 48% between 2012-13 and 2014-15. The overall number of cases received by the Board has remained stable in recent years. Oral hearings conducted by the Board have increased by 70% to a high of 7,148 in 2015-16, compared with 4,216 in 2011-12. They increased by 48% between 2012-13 (4,628) and 2014-15 (6,872) (paragraphs 1.11 and 1.14).

2 The number of outstanding cases increased by more than 140% following the *Osborn* ruling. Review cases become outstanding where the Board's target date to complete the case and reach a decision has passed or will not be met. The Board has had a backlog of outstanding cases for several years, but the number of outstanding cases increased by 143% between October 2013 and January 2015, when it reached a peak of 3,163. Of the 2,117 oral cases outstanding in September 2016, 13% were more than a year past their target date for a hearing. A further 16% were more than six months past their target date (paragraphs 1.13, 1.14 and 2.2).

3 The Board's ability to reduce the number of outstanding cases is limited by the number of cases it is able to list in any month. Between February 2014 and September 2016 the number of cases waiting to be listed for an oral hearing date was more than twice the number that the Board listed in a month. In September 2016, the Board listed 701 cases for oral hearings. At the same time, its queue of cases waiting for a hearing date stood at 1,257 cases. From a review by the Board in the same month we found that 49% of the cases it was unable to list for hearings in December 2016 were due to the unavailability of a member who is a psychologist (paragraphs 1.16 to 1.18).

4 Once listed, 34% of oral hearings are deferred and more than half of these (21 percentage points) are deferred or adjourned on the day of the hearing. In the year to September 2016, 1,720 hearings were deferred or adjourned on the day of the hearing. The most common reason for deferrals, both before the hearing and on the day, is in relation to reports required by members to inform their decision-making (for example, that they were unavailable or incomplete). In the year to September 2016, 50% of all deferrals (both paper and oral) before the hearing and 69% of deferrals on the day related to reports (paragraphs 1.19 and 1.20).

The impact of the backlog

5 The increase in demand for oral hearings has meant older and more complex cases have been less likely to be heard. In 2015-16, 64% of cases were provided with an oral hearing date within 90 days of being ready to list, against a target of 90%. The oldest of the outstanding cases in September 2016 had an original target date in 2009. A further 404 outstanding cases (19%) had target dates in 2015 or earlier (paragraphs 1.16, 2.1 and 2.2).

6 At December 2016, 3,081 prisoners on indeterminate sentences of imprisonment for public protection (IPP prisoners) were in prison beyond their tariff expiry date. The government introduced IPP sentences in 2005 for specified serious violent or sexual offences. IPP sentences comprise a tariff period of imprisonment followed by an indeterminate period. IPP prisoners can only be released if the Board considers that they are no longer a risk to the public, even if they have reached the end of their tariff. IPP sentences were abolished in 2012, but this did not apply retrospectively to individuals already serving them. IPP prisoners have on average made up around half of the cases waiting more than 90 days for a hearing. Of the 3,683 IPP prisoners still in custody in December 2016, 84% (3,081) were beyond their tariff expiry date. Of these, 48% had been in prison five or more years beyond their tariff and 11% were eight years or more beyond their tariff. In July 2016, the Board announced its intention to reduce the number of IPP prisoners in prison to 1,500 by 2020 (paragraphs 1.5 to 1.7, 2.4 and 3.12).

7 Since 2011-12, the Board has paid out £1.1 million in compensation claims to prisoners as a result of delayed hearings. The backlog means some prisoners may have spent longer in prison than needed. Prisoners who experience delay can claim compensation when their case is concluded. In 2015-16, the Board paid £554,000 compensation to prisoners because of delayed hearings. As it reduces its backlog of outstanding cases, the Board is crystallising its liability for an increased number of potential compensation claims, and compensation costs may increase (paragraphs 2.9 and 2.10).

8 The Board has been addressing the backlog with falling member numbers, and spending has increased on member fees. The Board's increased oral hearing workload has been completed by fewer members. The number of members fell from 284 in 2010-11 to 218 in 2015-16 (a 23% reduction) with 171 members in post in September 2016. Spending on member fees increased by 43% from £4.7 million in 2010-11 to £6.7 million in 2015-16. In 2015-16, sixteen members earned more than £70,000 and three earned more than £100,000. Fifty-six members earned less than £5,000. In the year to September 2016, 53% of Member Case Assessments and oral hearing panels were conducted by 27% of members (paragraphs 2.11 to 2.14).

Performance in tackling the backlog

9 The Board adapted existing improvement initiatives to try to address the backlog. Its End-to-End casework review and Fair for the Future project aimed to address previous National Audit Office and Committee of Public Accounts recommendations and replace the Board's range of unwieldy and inefficient case management systems by developing and implementing a new model for managing cases. This model (Member Case Assessment) was implemented by March 2015. It has led to an increase in listings from an average of 522 per month in 2013-14 to an average of 693 cases per month in the year to September 2016 (paragraphs 3.2 and 3.8).

10 In October 2015, the Board set a target to reduce outstanding cases to 1,200 by April 2017, but this level of outstanding cases does not reflect efficiencies it has made since 2013. Before October 2015, the Board did not have a target to tackle the backlog, and based its target on the level of outstanding cases prior to the *Osborn* ruling. In June 2016 it moved the date to achieve this target to the end of 2017. In September 2016, the number of outstanding cases was 2,093. The Board's target does not reflect efficiencies it has made in case management since 2013, and the Board has not modelled what it expects the ongoing number of outstanding cases to be beyond 2017 (paragraphs 3.4 and 3.5).

11 Under its new chair and chief executive, the Board launched a strategy to tackle the backlog in September 2016. A new chief executive and chair were appointed in 2016. The Board developed a new strategy, published in September 2016. One of the aims of the strategy is to prioritise the safe release of IPP prisoners. The strategy also seeks to improve workflow by listing as many cases as possible and reducing unnecessary deferrals and adjournments. The deferral rate for oral hearings was 39% in 2013-14 and fell to 34% in 2015-16. It was 34% in the year to September 2016. The Board has not established what level of deferral it would expect in an efficient parole system (paragraphs 1.19, 3.3, 3.6 and 3.10).

12 The Board is working to improve the way it uses performance information and is piloting digital working. In 2016, it began trialling the use of tablet devices to enable members to read and download dossiers, receive updates to cases and record the outcome of hearings electronically. By January 2017, 50% of members were holding paperless parole reviews. Since April 2016, the Board has also been producing and developing a monthly performance information dashboard, including measures of demand, progress, obstacles and outcomes (paragraphs 3.14, 3.16 and 3.17).

13 In 2016, the Ministry of Justice, on behalf of the Board, launched a major member recruitment exercise for the first time in four years. The Ministry did not recruit new members between 2012 and 2016. It ran an exercise and recruited 104 members in 2016. Of these, 49 started in 2016-17, and the remainder are due to start in 2017-18. The new members include seven psychiatrist members and 20 psychologist members (paragraphs 3.18 and 3.19).

Part One

How the backlog increased

The parole system

1.1 The prison population has increased by around 40,000 since 1993, stabilising at around 85,000 since 2010. Of the sentenced prison population of 74,442 at September 2016, around 28% (21,052) will potentially be eligible for parole. The parole system enables prisoners who no longer pose a serious risk to the public to be released or moved from prison.

1.2 The parole process (**Figure 1** on pages 12 and 13) requires a series of stages to be delivered in a precise order and at a specific time. It begins when a prisoner becomes eligible for parole and the National Offender Management Service (NOMS) refers a prisoner's case to the Parole Board (the Board). All cases are initially reviewed on paper by a single Board member. Depending on sentence type, prisoners can be recommended for release, turned down for parole, directed to an oral hearing, or have their paper review deferred. By risk-assessing prisoners, the Board decides whether they can be safely released into the community.

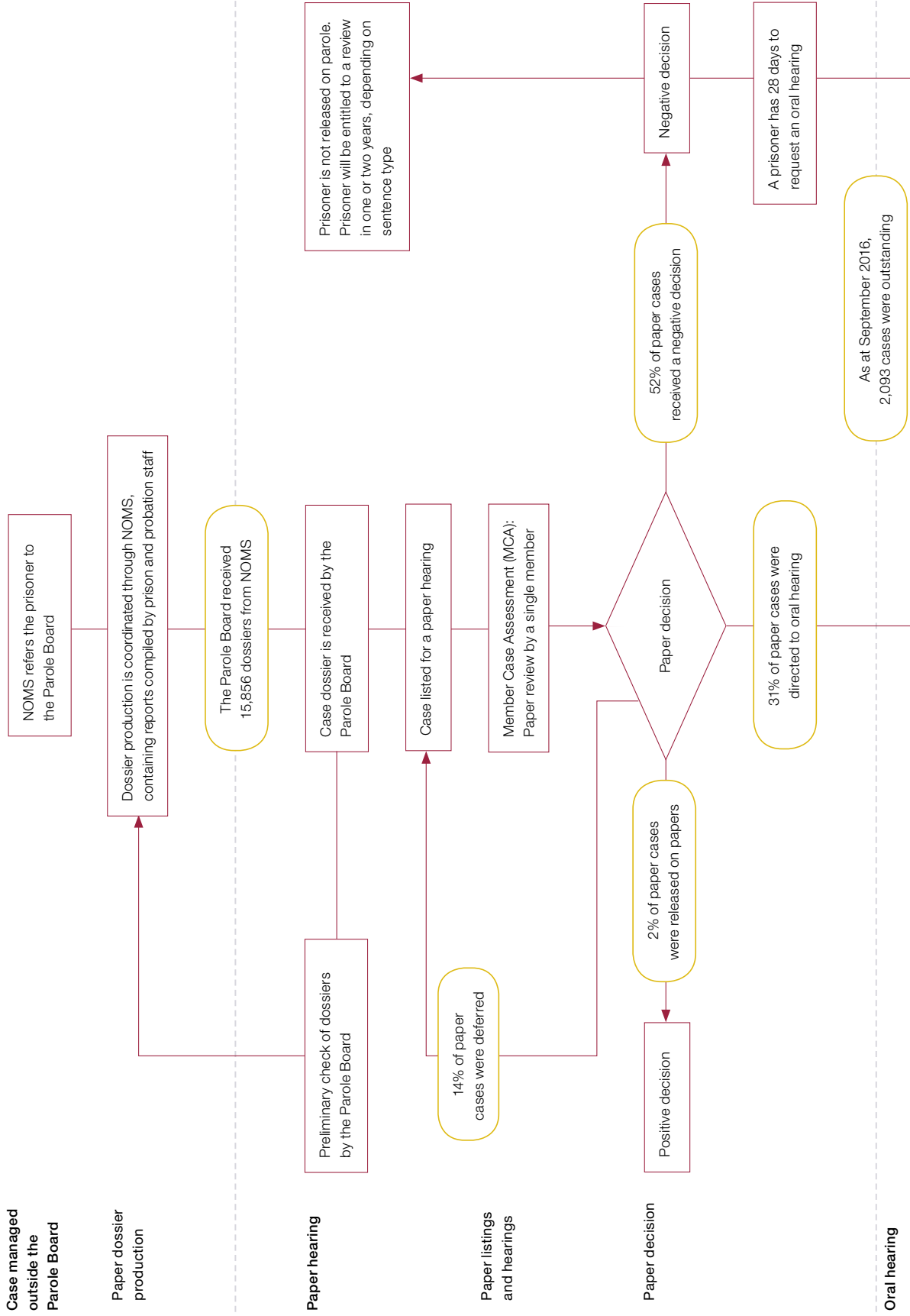
1.3 The Board mainly considers the following types of cases (**Figure 2** on page 14):

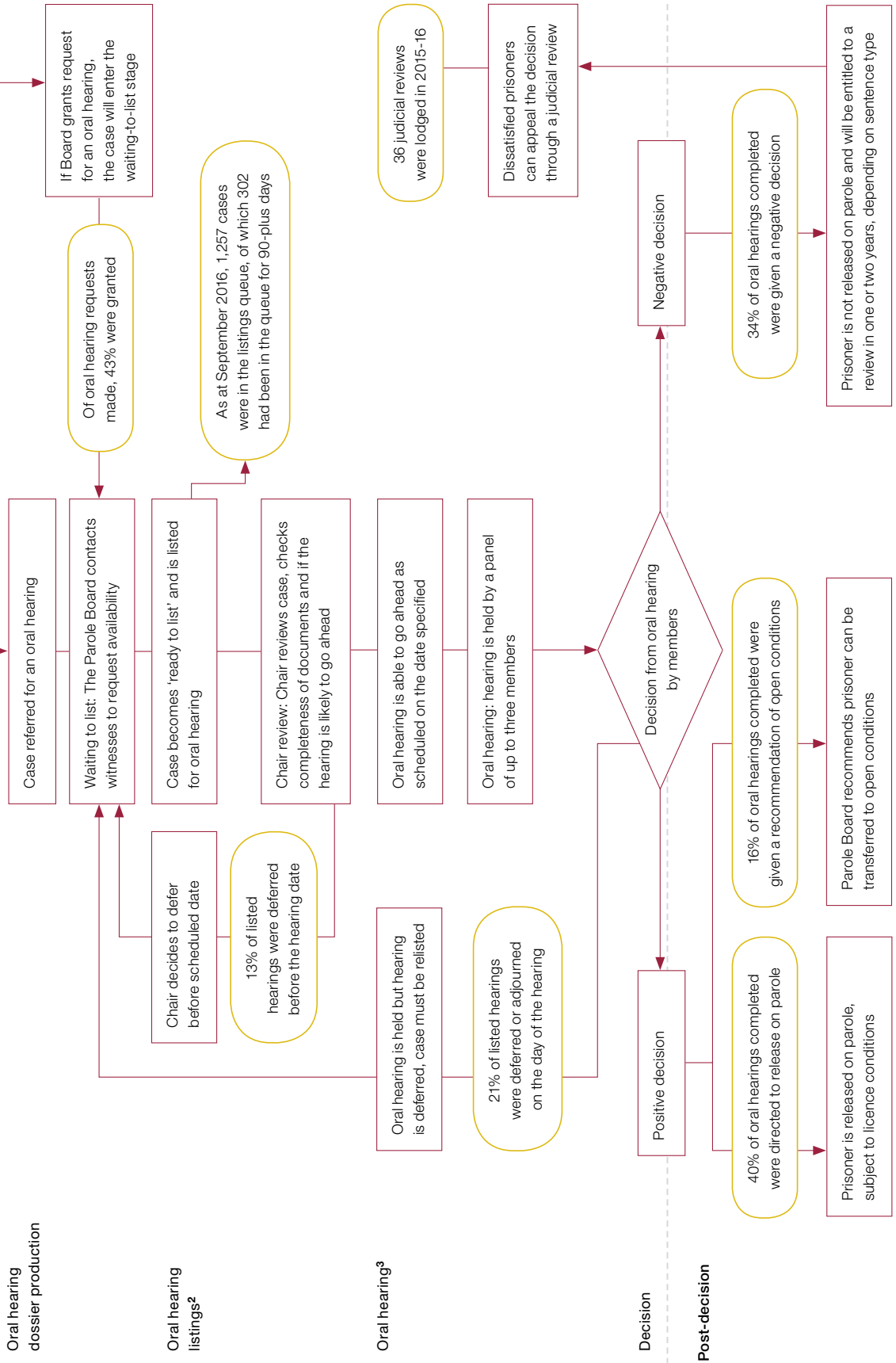
- prisoners serving extended determinate sentences;
- prisoners serving indeterminate sentences; and
- prisoners on recall.

Extended determinate sentences

1.4 These are prisoners with a fixed number of years for their sentence and an extended licence period of up to eight years. At the discretion of the Board, they have the potential for early release.

Figure 1
The parole process¹





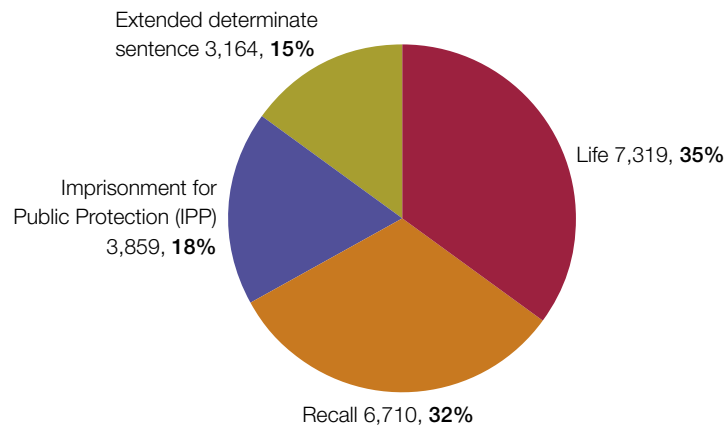
Notes

- 1 All data relate to the year to September 2016, unless otherwise stated. Percentage of outcomes for oral hearings completed will not add up to 100% due to a percentage of cases where the outcome has not been specified by the Board.
- 2 The Board manages the listings queue, which is formed of cases waiting for an oral hearing date. Cases are typically listed for a hearing date three months in advance.
- 3 Oral hearings usually take place in prisons but can also be conducted remotely using video links to the prison.

Figure 2

The prison population potentially eligible for parole, September 2016

The main types of cases which the Parole Board considers

**Notes**

- 1 The chart shows the breakdown of a total of 21,052 prisoners as at September 2016.
- 2 The above data exclude additional prisoners serving determinate sentences who are also potentially eligible for parole by the Board such as those serving sentences of more than four years for serious sexual or violent offences committed before April 2005 and sentenced before December 2012.

Source: Ministry of Justice, *Offender Management Statistics Quarterly, Prison population: 30 September 2016*

Indeterminate sentences

1.5 These are prisoners with life sentences and those with indeterminate sentences of imprisonment for public protection. In 2005, the government introduced indeterminate sentences of imprisonment for public protection (IPP).⁴ These were imposed on those who had committed specified serious violent or sexual offences and who were deemed to pose a significant risk of serious harm in the future.

1.6 Prisoners on IPP sentences must serve a tariff period of imprisonment set by the sentencing judge, followed by an indeterminate period. These prisoners can only be released if the Board considers that they are no longer a risk to the public, even if they have reached the end of their tariff. IPP sentences were applied until 2012, when they were abolished. However this abolition was not applied retrospectively to those already serving IPP sentences. Between 2005 and 2012, the courts issued 8,711 IPP sentences.

1.7 In December 2016, 3,683 IPP sentenced prisoners remained in the prison population and 84% of these were beyond their tariff expiry date. Of these, 48% were five or more years over tariff and 11% were eight years or more over tariff.⁵

⁴ Under the Criminal Justice Act 2003.

⁵ Ministry of Justice, *Offender Management Statistics Quarterly, Prison population: 31 December 2016*, January 2017.

Recall

1.8 These are prisoners who have been released on licence to serve their sentence under supervision in the community but have been recalled to prison because they are judged to have breached the terms of their licence.

1.9 The number of recall prisoners in the prison population has continued to increase, from just 150 in 1995 to 6,600 in June 2016. A factor contributing to recent increases in recalls has been the introduction of the Offender Rehabilitation Act 2014. Under this legislation, prisoners sentenced to a custodial term of more than one day would receive at least 12 months' supervision in the community, thereby facing the possibility of recall. The Board is required to review IPP recall cases and any determinate recall cases referred by the Secretary of State for Justice.⁶ In 2015-16, 13% of completed recall oral hearings were of IPP cases.

Previous findings on the Board

1.10 We reported on the Board in 2008.⁷ Our report and the subsequent Committee of Public Accounts report of March 2009 found that:⁸

- the Board was not able to handle its workload;
- it was heavily constrained by delays within the Ministry of Justice, HM Prison Service and the probation service in providing timely and complete information;
- increasing workload and difficulties in accessing timely data and reports significantly impaired the Board's ability to hold oral hearings as planned;
- more than two-thirds of oral hearings did not take place as planned and 20% were held more than 12 months late; and
- between September 2006 and June 2007, the Board incurred direct costs of £1 million due to these delays. Keeping offenders who should have been released or transferred to open conditions cost HM Prison Service nearly £2 million over that period.

⁶ Under The Criminal Justice Act 2003.

⁷ Comptroller and Auditor General, *Protecting the public: the work of the Parole Board*, Session 2007-08, HC 239, National Audit Office, March 2008.

⁸ HC Committee of Public Accounts, *Protecting the public: the work of the Parole Board*, Ninth Report of Session 2008-09, HC 251, March 2009.

The *Osborn, Booth and Reilly* judgment

1.11 Three prisoners, Osborn, Booth and Reilly, had each been refused oral hearings of their cases by the Board. All three brought appeals to the Supreme Court about the circumstances in which the Board is required to hold an oral hearing. In October 2013, the Supreme Court reached a judgment (the *Osborn* ruling), which broadened the range of circumstances, on the grounds of fairness, in which the Board should hold oral hearings. This had an immediate impact on the demand for oral hearings (**Figure 3**). Between 2012-13 and 2014-15 the number of oral hearings conducted by the Board increased by 48% (from 4,628 to 6,872). The number increased by 70% to a high of 7,148 in 2015-16, compared with 4,216 in 2011-12. Oral hearings are more resource-intensive, and logistically difficult to arrange (Figure 1). Their unit cost, in 2015-16, was more than five times that of paper hearings (**Figure 4** on page 18).

1.12 Oral hearings are required where:

- cases are referred to oral hearings by Board members, having considered them on paper;
- hearings are granted by the Board after requests from prisoners following a negative decision from a paper hearing; and
- an oral hearing has been conducted but not completed and a further hearing needs to be listed. These cases have been deferred or adjourned.

1.13 Outstanding cases are review cases where the Parole Board's target date for a hearing has been missed.⁹ These are:

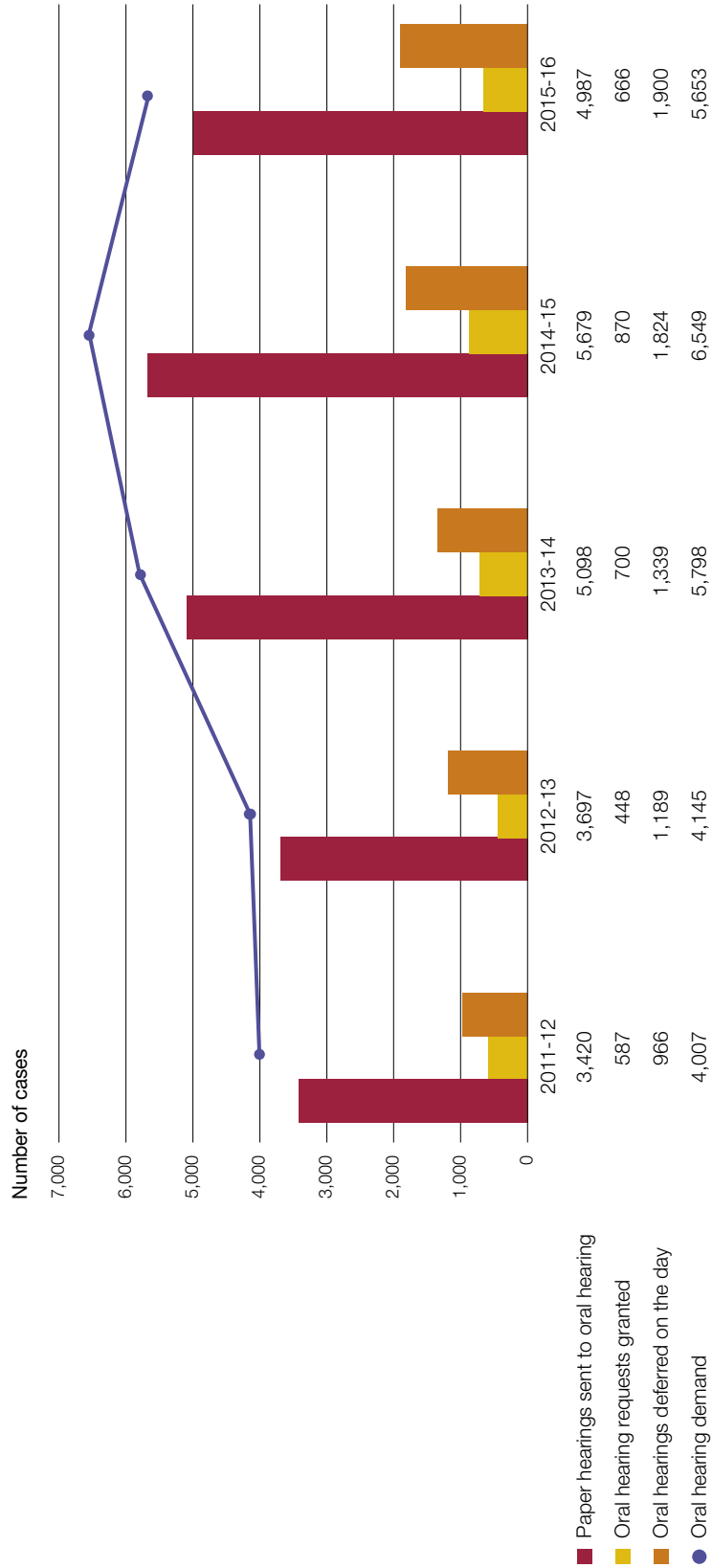
- cases that have not yet completed the paper stage; and
- cases that are ready to list for an oral hearing but which the Board has not yet listed.

1.14 **Figure 5** on page 19 shows how, between October 2013 and January 2015, while the number of dossiers the Board received remained stable, outstanding cases increased by 143% to a peak of 3,163. As a consequence, a backlog of outstanding cases developed. The Board defines its backlog as the number of outstanding cases above 1,200, broadly equivalent to the level of outstanding cases before the *Osborn* ruling. At its peak in January 2015, this gap stood at 1,963 cases.

9 Both the Parole Board and NOMS have responsibilities that underpin the target date.

Figure 3
Demand for oral hearings 2011-12 to 2015-16

Paper hearings sent to oral hearing, oral hearing requests granted and hearings deferred on the day



Notes

- 1 'Oral hearing demand' comprises paper hearings directed to oral hearing in the year and oral hearing requests granted in the year.
- 2 'Oral hearings deferred on the day' are oral hearings that are conducted but either deferred or adjourned on the day. Deferred hearings which go back for listing are an additional source of demand for oral hearings.
- 3 In 2011-12 16% of all paper hearings were sent to oral hearing. This rose to 35% by 2015-16.

Source: National Audit Office analysis of Parole Board data from its *Annual Report and Accounts 2015-16*

Figure 4

Estimated unit costs of paper and oral hearings 2013-14 to 2015-16

Unit costs of oral hearings are higher than those of paper hearings

Type of hearing	Unit cost (£)			Change 2013-14 to 2015-16	
	2013-14	2014-15	2015-16		
Paper	151	165	293	+£142	+94%
Oral	1,919	1,711	1,569	-£350	-18%

Note

1 Unit costs include all costs borne by the Ministry of Justice on the Board's behalf.

Source: Parole Board Annual Report and Accounts 2014-15 and 2015-16

Cases that have not yet completed the paper stage

1.15 We found that in September 2016 around one-third of outstanding cases had not yet completed the paper hearing stage, although the Board does not monitor this. The majority of these cases are not ready for a paper hearing, because, for example, the Board is awaiting information.

Cases that are ready to list for an oral hearing

1.16 In September 2016, 60% of outstanding cases were ready to list for an oral hearing but the Board had not yet listed them. Cases that are ready to be listed for an oral hearing form 'the listings queue'. The Board's target is that 90% of cases should receive an oral hearing date within 90 days of being ready to list. The Board met this standard in 74% of cases in 2014-15, and in 64% of cases in 2015-16. **Figure 6** on page 20 shows that the listings queue rose to a peak of 1,643 in June 2015. On average, between February 2014 and September 2016, the listings queue was 2.1 times the number of cases the Board listed in each month. The Board listed 701 cases for oral hearings in September 2016. At the same time, its queue of cases waiting for a hearing date stood at 1,257 cases.

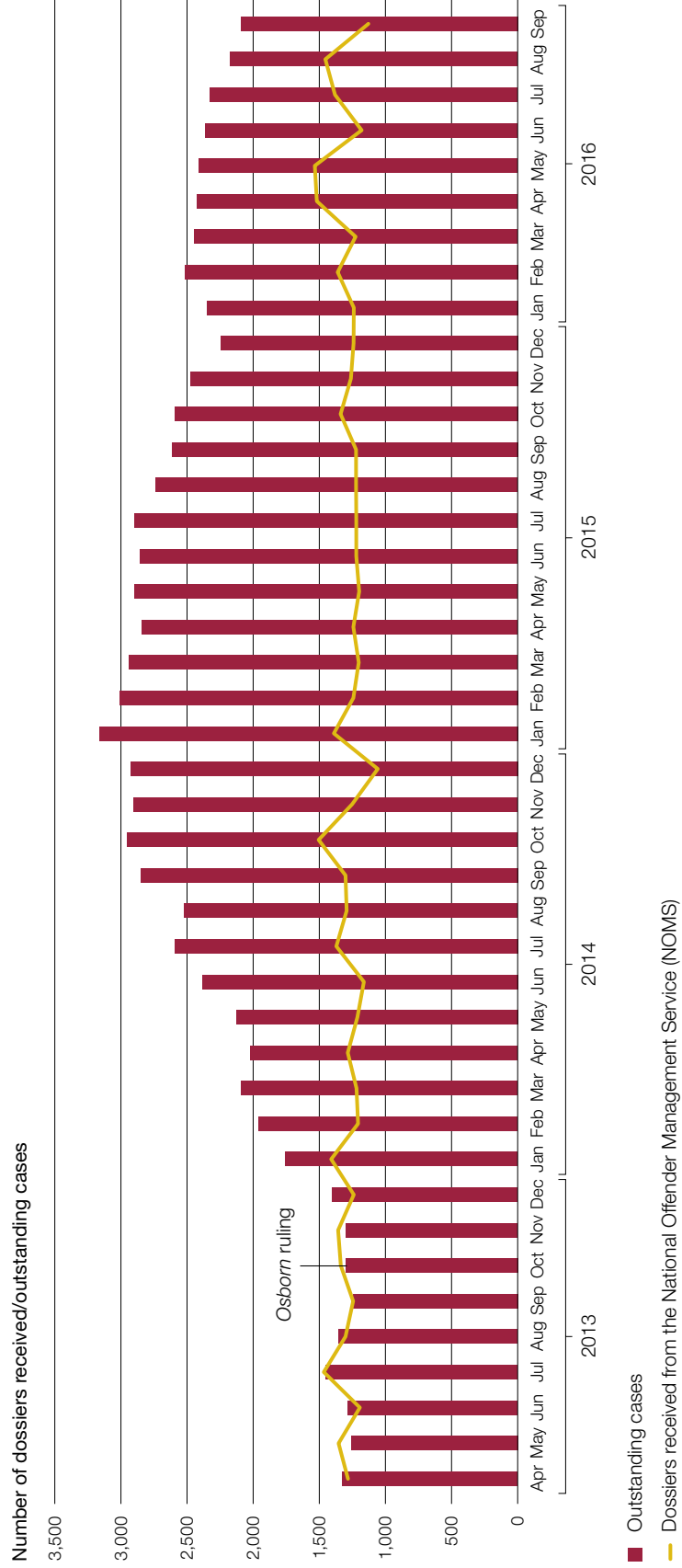
1.17 Factors influencing the Board's ability to list include:

- capacity within prisons to hold oral hearings;
- availability of Board members (in particular specialist members) and their ability to attend hearings in particular parts of the country; and
- availability of witnesses, such as offender managers.

1.18 The number of Board members fell by 23% between 2010-11 and 2015-16 (paragraph 2.12). In September 2016, the Board was unable to list 176 cases it had planned to list for hearings in December 2016. Our analysis of the Board's review of these cases showed that 49% could not be listed due to unavailability of a psychologist member to hear the case, and 38% could not be listed due to unavailability of witnesses.

Figure 5
 Outstanding cases and the number of dossiers received by the Parole Board, April 2013 to September 2016

Outstanding cases increased while the number of dossiers received by the Board remained stable



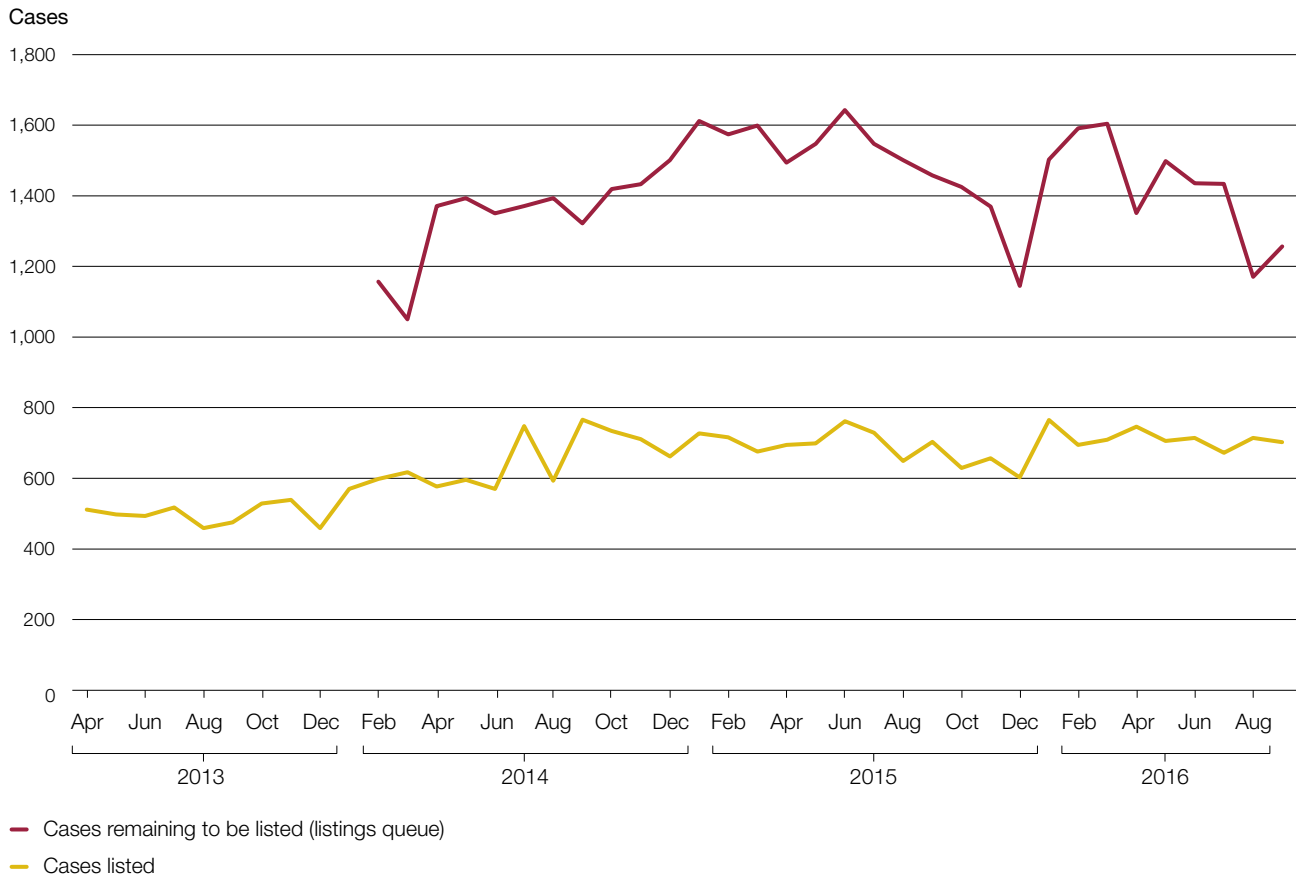
Note
 1 Outstanding cases are review cases where the Parole Board's target date to complete the case and reach a decision has passed or will not be met, and the case does not have an oral hearing date. It is an average figure based on a number of snapshots throughout the month.

Source: Parole Board management information

Figure 6

Cases listed and the listings queue by month, to September 2016

Between February 2014 and September 2016, the listings queue was on average 2.1 times the number of cases the Board listed in each month



Notes

- 1 The listings queue is an average taken from data points throughout the month.
- 2 The Board began recording the listings queue from February 2014. Earlier data were not available.

Source: Parole Board management data

Thirty-four per cent of oral hearings are deferred once listed

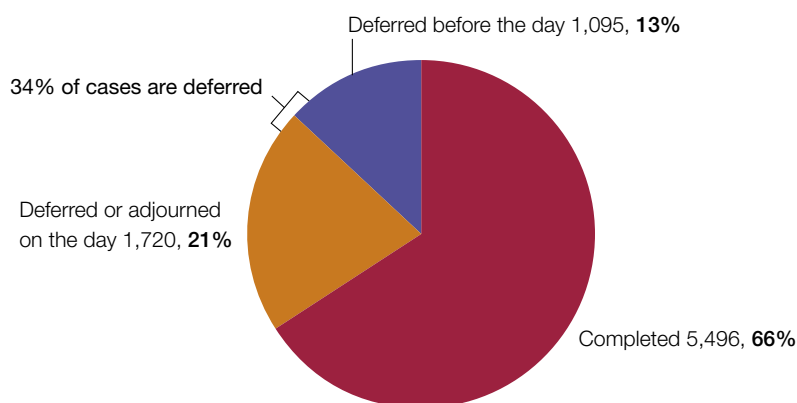
1.19 Once a hearing is deferred, the case must be re-listed for another date. For review cases these become part of the backlog again. Hearings can be deferred either at the paper review stage or oral hearing stage. In the year to September 2016, 14% (2,204) of paper hearings were deferred. The deferral rate for oral hearings was 39% in 2013-14 and fell to 34% in 2015-16. Thirty-four per cent of oral hearings were deferred once listed in the year to September 2016 (**Figure 7**) and more than half of these (21 percentage points) are deferred or adjourned on the day. Seventy-six per cent of cases conducted are completed, which means a decision is reached from the hearing.

1.20 In the year to September 2016, the most common reason for deferrals related to reports (such as psychiatric or psychological reports) not being available, or further information being required before a case could be heard. This accounted for 50% of all deferrals (both paper and oral) before the hearing and for 69% of deferrals on the day (**Figure 8** overleaf).

Figure 7

Proportion of listed cases which are deferred and completed, year to September 2016

Thirty-four per cent of listed oral hearings were deferred in the year to September 2016



Note

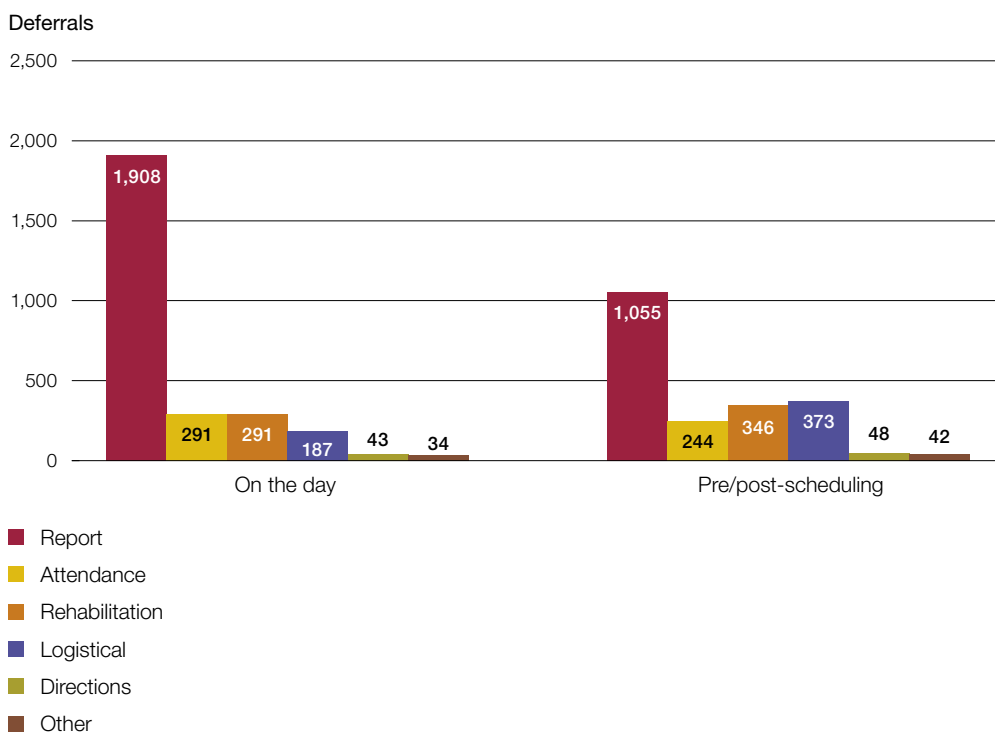
1 The chart shows 8,311 total cases listed.

Source: National Audit Office analysis of Parole Board management data

Figure 8

Reasons for deferrals of paper and oral hearings in the year to September 2016

The most common reasons for deferrals related to reports



Source: Parole Board management information

The mix of cases

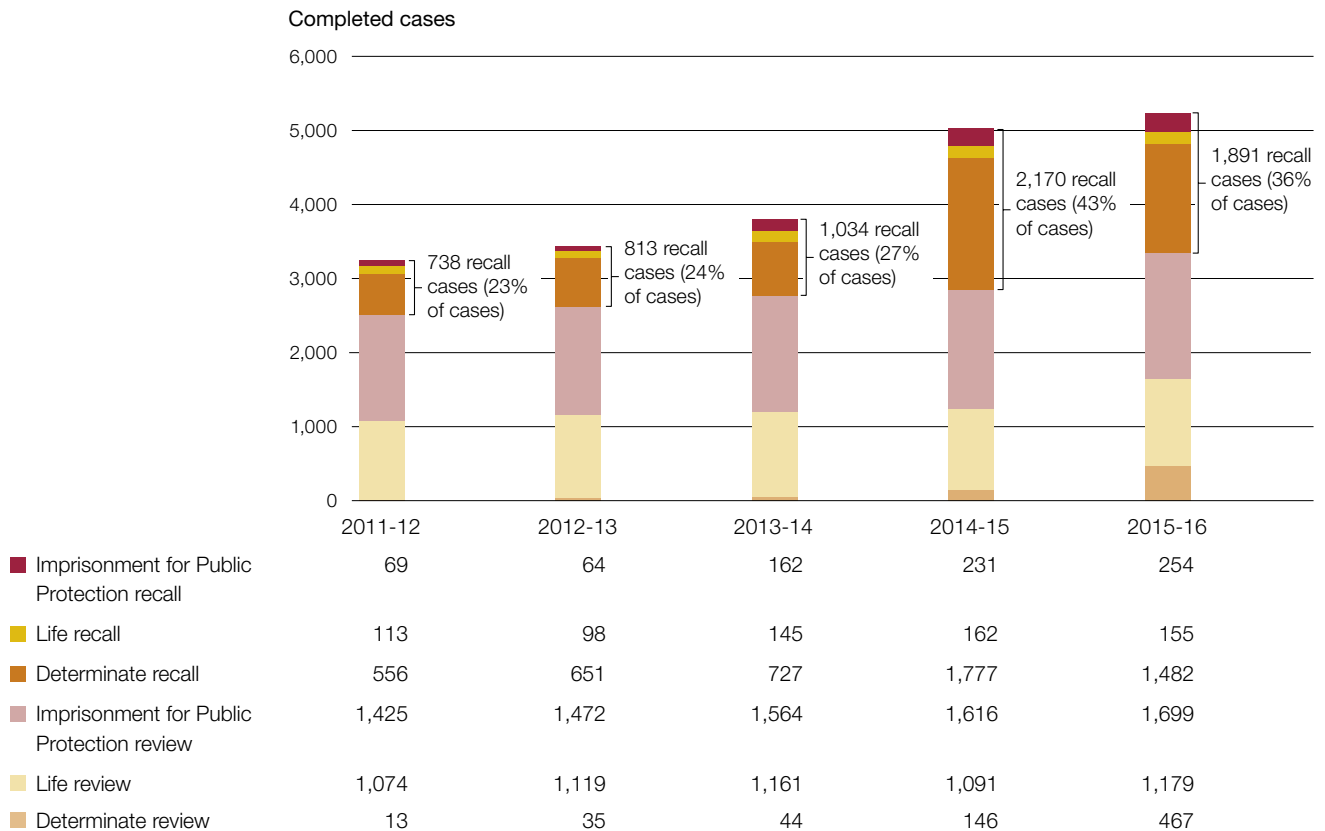
1.21 The number of oral hearings for recall cases increased by 167% between 2012-13 and 2014-15. Recall cases formed 43% of the Board's completed oral case workload in 2014-15, compared with 24% in 2012-13 (**Figure 9**). The Board does not consider recall cases to be outstanding cases, and they do not form part of the backlog. The number of recall cases the Board hears, however, affects the number of slots it has available for review cases.

1.22 When allocating oral hearing dates each month, the Board currently prioritises recalled prisoners serving determinate sentences. This has resulted in most other prisoners experiencing much longer delays before a date is set for their oral hearing. The Board is reviewing how it prioritises cases (paragraphs 3.11 to 3.13).

Figure 9

The mix of the Parole Board's completed oral hearings, 2011-12 to 2015-16

The mix of oral hearings completed by the Board is changing

**Notes**

- 1 The Board does not hold data on the case mix of dossiers incoming to the Board.
- 2 Figure does not include advice hearings. The Board conducted 32 advice cases in 2013-14, 25 in 2014-15 and 12 in 2015-16.

Source: National Audit Office analysis of Parole Board *Annual Report and Accounts 2015-16*

Part Two

The impact of the backlog

2.1 The Parole Board's (the Board's) backlog has:

- contributed to delays in prisoners receiving an oral hearing, in particular older and more complex cases, including prisoners serving indeterminate sentences of imprisonment for public protection (IPP prisoners);
- increased Board costs, as a result of;
 - increased spending on members' fees, due to the increased oral hearing workload;
 - compensation payments to prisoners for delays; and
- affected the morale of Board staff and member morale.

Impact on delays to prisoners receiving a hearing

2.2 Of the 2,117 outstanding cases on 23 September 2016, 281 (13%) had passed their target date to complete the review by more than a year and a further 336 (16%) were more than six months past their target date. The oldest case of the outstanding cases had an original target date in 2009. A further 404 outstanding cases (19%) had target dates in 2015 or earlier.

2.3 The increase in demand for oral hearings has meant delays in listing cases for oral hearings (**Figure 10**). In May 2014, 12% of cases waiting to be listed had been waiting for more than 90 days. By March 2016, this was 36% of the cases in the listings queue. By September 2016, this had reduced to 24%, which was still 135 cases above the May 2014 level.

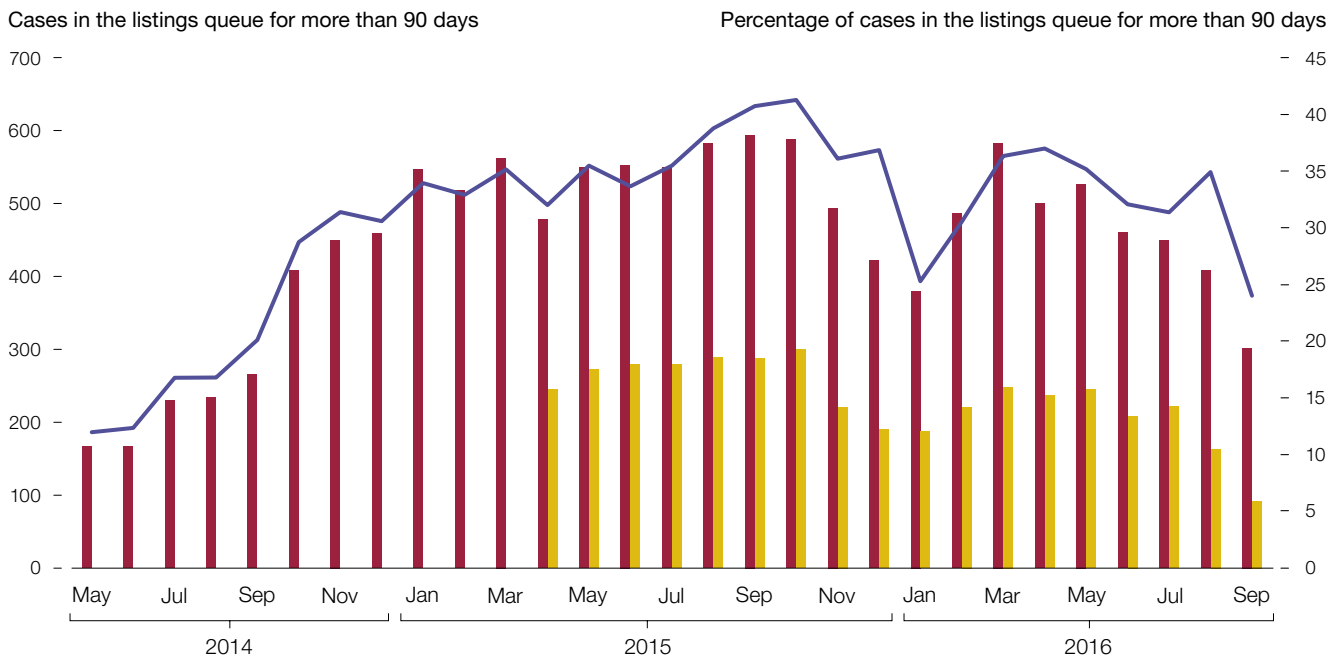
2.4 Between April 2015 and September 2016, IPP prisoners on average made up around 46% of cases waiting for more than 90 days in the listings queue. At September 2016, this figure stood at 30% (**Figure 10**).

2.5 In September 2016, the Board carried out an exercise looking at oral hearings completed in the first half of 2016-17. It found that 2% (42) of hearings were completed by their target date, and 48% (1,293) were completed more than half a year beyond the target date. IPP and lifer review prisoners (indeterminate cases) made up 48% of the cases completed but 78% of the prisoners experiencing a delay of more than a year in the conclusion of their case (**Figure 11** on page 26).

Figure 10

Cases in the listings queue for more than 90 days, May 2014 to September 2016

There have been increased delays in listing cases for oral hearings



- Cases in the listings queue for more than 90 days
- IPP cases in the listings queue for more than 90 days
- Percentage of cases in the listings queue for more than 90 days

Note

- 1 The Board began monitoring prisoners serving sentences of imprisonment for public protection (IPP) in the listings queue for more than 90 days from April 2015. Earlier data were not available.

Source: Parole Board management information

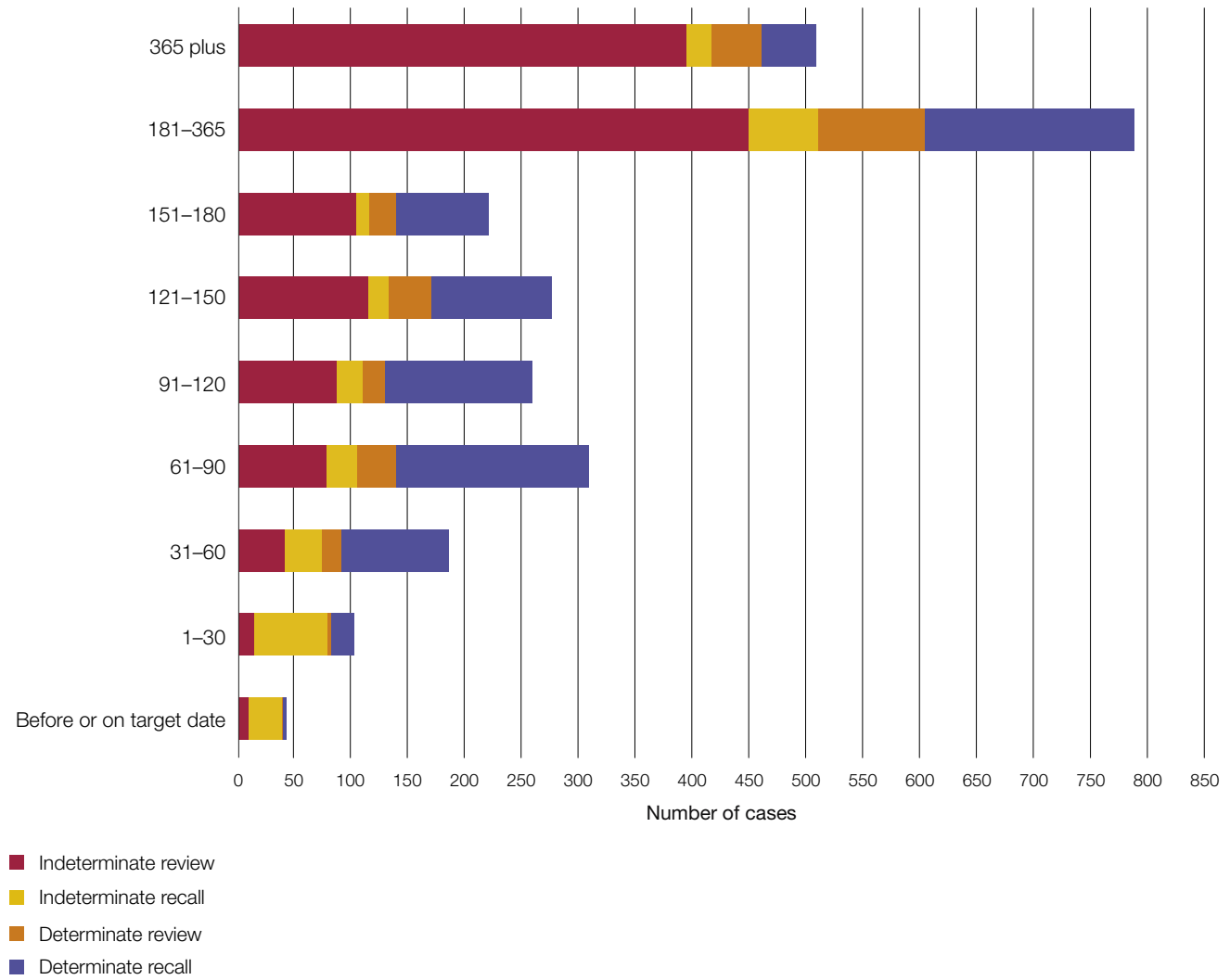
2.6 As at September 2016 there were 3,859 IPP prisoners in the prison population. The Board recorded that, of the 3,200 cases eligible for review, 2,336 were currently in the parole system at the Board. Of these, 679 (29%) were awaiting a listing; and 916 (39%) were not yet ready to list for an oral hearing, for example because the Board was awaiting the dossier from the National Offender Management Service (NOMS), awaiting others in the parole system to comply with its directions or awaiting witness availability before the case could be listed. The remaining 32% had already been heard or had been listed for a hearing.

Figure 11

Length of delay by sentence type for oral hearings completed, April to September 2016

Ninety-eight per cent of hearings were completed after their target date

Days past target date when completed



Source: Parole Board management information

Complaints

2.7 The Board has a complaints policy, which was revised and updated in February 2016. In 2015-16, the Board received 87 complaints, of which 35 were upheld or partially upheld. Of the 87 complaints received, 26 (30%) related to delays, deferral, cancellation of hearings or listing errors. Prisoners can challenge the lawfulness of decisions, failures or omissions, or matters of procedure through judicial review. The number of judicial reviews lodged has fallen over the past three years, from 102 in 2012-13 to 36 in 2015-16. The Board considers that this fall is likely to be influenced by a change in availability of legal aid funding for these claims.

Impact on victims

2.8 Delays in prisoner hearings may also affect victims. Since 2007, victims have had a right to submit a victim personal statement to the Parole Board, and can do so through the National Probation Services Victim Contact Scheme. Victims can ask to attend oral hearings in person whenever an oral hearing is granted, but most choose not to. Victim attendance at oral hearings has been low with the Board recording 63 victims and victim representatives attending in the first six months of 2015.

Impact on costs

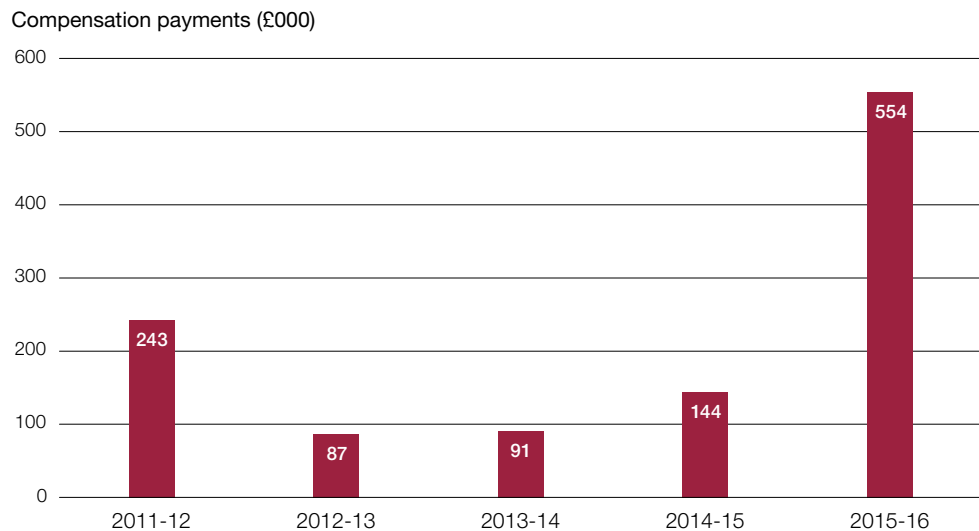
2.9 Delays mean that some prisoners may have spent longer in prison than they would have if their parole hearing had been held sooner. Prisoners who experience delays can claim compensation under the Human Rights Act once their case is concluded. Prisoners can claim at a rate of around £50 per month of delay if they are turned down for parole. If they are released following a delay, they can claim at a rate of around £650 per month. The Board makes these compensation payments from its own funds.

2.10 In 2015-16, the Board received 463 private law damages claims, more than five times the 89 received in 2014-15. Since 2011-12, the Board has paid out £1.1 million in compensation as a result of delays in hearings (**Figure 12** overleaf). In 2015-16, prisoners were paid £554,000 in compensation for delayed hearings. This had increased from £87,000 in 2012-13. As the Board attempts to reduce the backlog of outstanding cases, it will crystallise its liability for an increased number of potential compensation claims, and compensation costs may increase. In its 2015-16 accounts, the Board included a provision for £343,000 relating to known legal claims where these could be reliably estimated and which it expected it would have to pay out in the future.

Figure 12

Compensation payments to prisoners, 2011-12 to 2015-16

The Parole Board has paid out £1.1 million to prisoners since 2011-12 in compensation for delayed hearings

**Note**

1 The amounts relate to compensation claims resulting from judicial reviews and do not include legal costs.

Source: National Audit Office analysis of the Parole Board's Annual Report and Accounts 2011-12 to 2015-16

Impact on members and staff

2.11 Board members work part-time. They do not receive salaries but are paid fees based on the work they do. Spending on member fees increased by 43% from £4.7 million in 2010-11 (34% of total spend) to £6.7 million in 2015-16 (41%) (**Figure 13**).

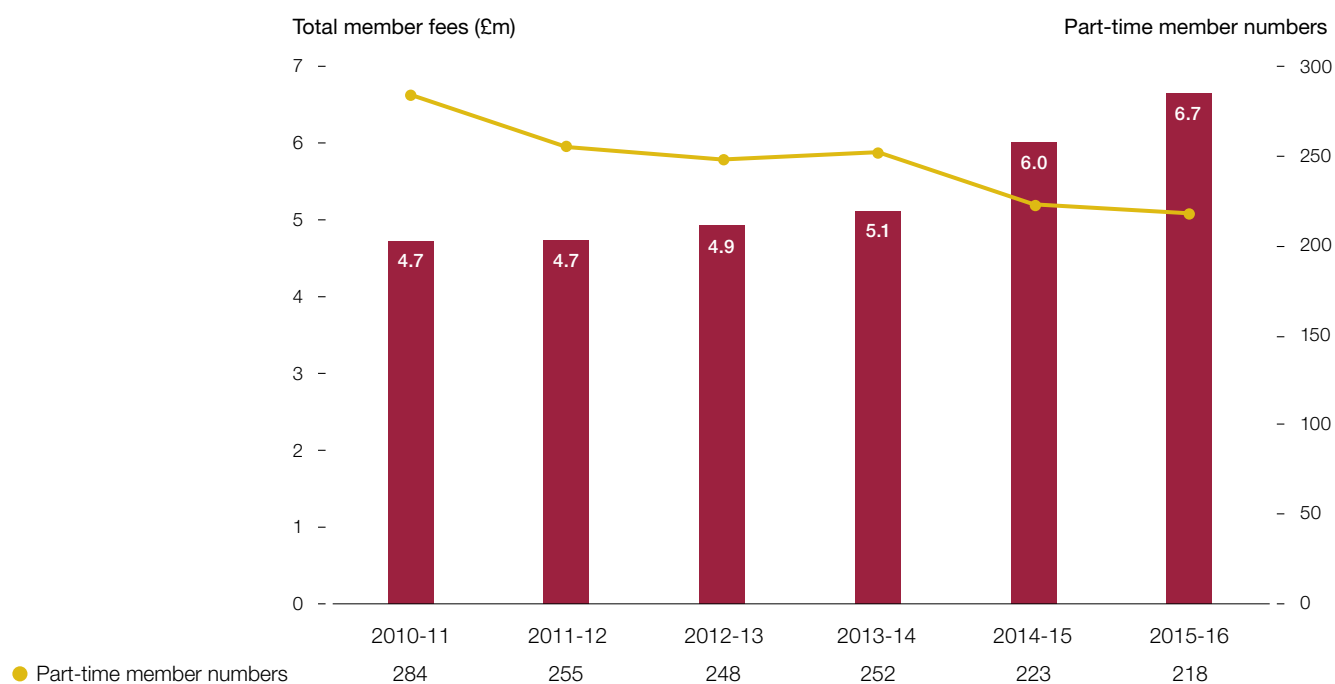
2.12 The Board's increased oral hearing workload has been completed by fewer members. The number of members fell from 284 in 2010-11 to 218 in 2015-16 (a 23% reduction) (Figure 13). In September 2016, 171 members were in post. The Ministry of Justice did not recruit new members on behalf of the Board for the four years from 2012 to 2016.

2.13 In the year to September 2016, 53% of all Member Case Assessments (MCA) and oral hearing panel activities were conducted by 27% of members (**Figure 14** on page 30). The Board has minimum time commitments expected of different types of member (for example, 115 days for independent members and 35 days for specialist members). These are included in agreements with members. The Board does not currently monitor member activity against these minimum time commitments. There are no maximum time commitments.

Figure 13

Member numbers and member fees, 2010-11 to 2015-16

Member numbers have reduced while spending on member fees has increased

**Notes**

- 1 The Board's Annual Report and Accounts show the total number who have been a member of the Board at some point during the year. Therefore the number of members shown includes those who have joined or left mid-year.
- 2 Total member fees are the sum of part-time member fees and the social security costs relating to these fees, and costs of serving judges incurred by the Board but met by the Ministry of Justice and recorded separately in the Board's Annual Report and Accounts.

Source: National Audit Office analysis of the Parole Board's Annual Report and Accounts

2.14 In 2015-16, 16 members earned more than £70,000 and three earned more than £100,000. In 2010-11, only three earned more than £70,000 and one earned more than £100,000. Fifty-six members earned less than £5,000 in 2015-16.¹⁰

2.15 In its 2016-2020 strategy, the Board stated that, following the challenges of the *Osborn* ruling and development of the backlog, "morale of members and staff deteriorated and internal divisions arose".¹¹ It also reported that it had lost experienced staff and had high staff turnover during 2013-14, and that tighter spending controls had an impact on recruiting operational staff during 2015-6. In 2015, the Board's staff engagement score in the Ministry of Justice people survey dropped to 50%, 8% lower than the civil service average and 17% lower than the average of other Ministry of Justice arm's-length bodies.

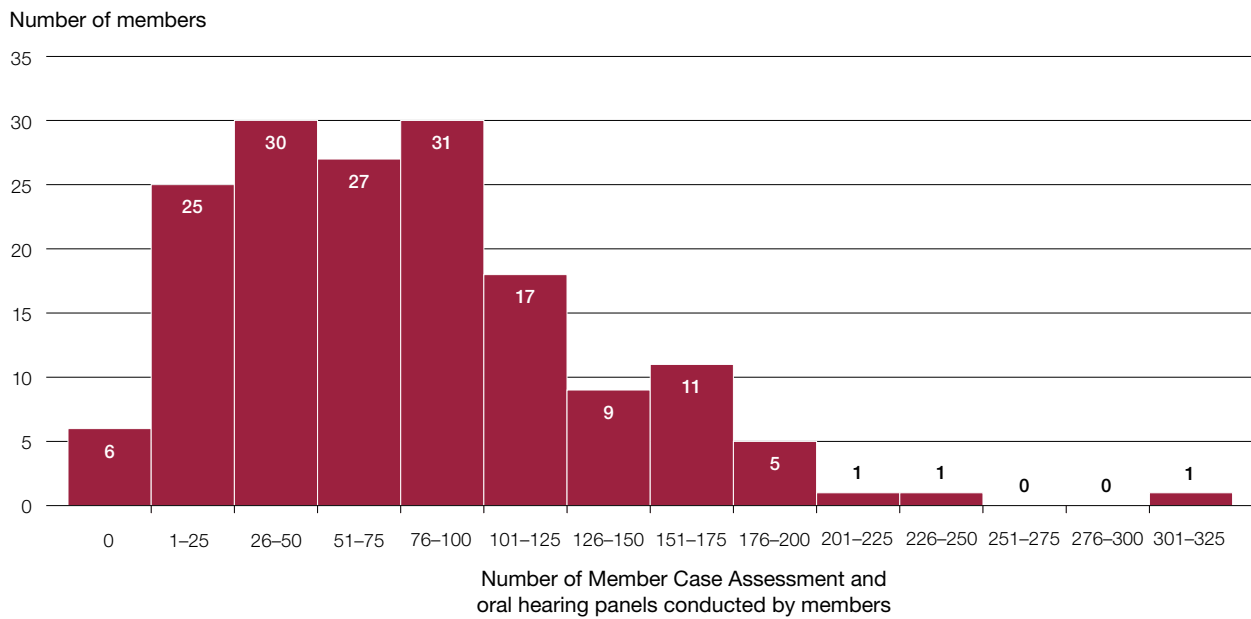
¹⁰ These figures are from the Board's Annual Report and Accounts and show the number (including serving judges) who have been a member of the Board at some point during 2015-16. They include those who had joined or left mid-year. Amounts earned do not include the costs of serving judges, which are met by the Ministry of Justice.

¹¹ The Parole Board, *The Parole Board Strategy 2016-2020*, September 2016.

Figure 14

Activity by Parole Board members in the year to September 2016

Fifty-three per cent of all Member Case Assessment and oral hearing panel activities were conducted by 27% of members



Notes

- 1 One MCA comprises a bundle of paper hearings totalling eight hours of work. An oral hearing panel consists of one day of work and on average hears 1.65 cases. The data above do not include the preparation time for hearings.
- 2 The data were a snapshot of the number of MCA and oral hearings conducted by members in the 12 months to 22 September 2016.

Source: Parole Board management information

Part Three

The Board's performance in tackling the backlog

3.1 The Parole Board's (the Board's) performance against its key performance indicators (KPIs) is shown in **Figure 15**. In 2014-15, the Board agreed six new KPIs with stakeholders. The Board has no KPI that directly measures the reduction of the backlog.

Figure 15

The Parole Board's key performance indicators (KPIs) 2014-15 and 2015-16

KPI	Target	2014-15 performance	2015-16 performance
Percentage of cases to be made ready to list within 90 days of being directed to oral hearing	90%	96% ●	96% ●
Percentage of cases to be provided with an oral hearing date within 90 days of becoming ready to list	90%	74% ●	64% ●
Average number of oral hearing panels listed per month ¹	Between 400 and 450	374 ●	361 ●
Hearings per panel conduction ratio	Greater than 1.4	1.5 ●	1.65 ●
Oral hearing completion rate	80%	76% ●	76% ●
Percentage of member time used per month in Quarter 3 and 4	Greater than 86%	88% ●	Not monitored in 2015-16

● Target met

● Target not met

Note

¹ A panel is up to three members convened to conduct one or more parole hearings.

Source: National Audit Office analysis of KPI information in the Parole Board's Annual Report and Accounts 2014-15 and 2015-16

3.2 From late 2013 the Board built on existing activities it had in train arising from earlier National Audit Office and Committee of Public Accounts reports. The Board recognised that its existing processes and range of unwieldy and inefficient systems could not accommodate the increase in work arising from the October 2013 *Osborn* ruling. Building on its End-to-End casework review, it initiated its Fair for the Future project to review existing case management processes and to design and implement an efficient case management model. The project was not specifically designed to tackle existing backlogs or reduce deferral levels. The project ran from October 2013 to March 2015, when the Board implemented its new case management operating model (Member Case Assessment – MCA). This introduced, for example, a single member panel for the paper review of cases, applying a consistent process so that each case is assessed in the same way.

Governance, new leadership and a target to reduce the backlog

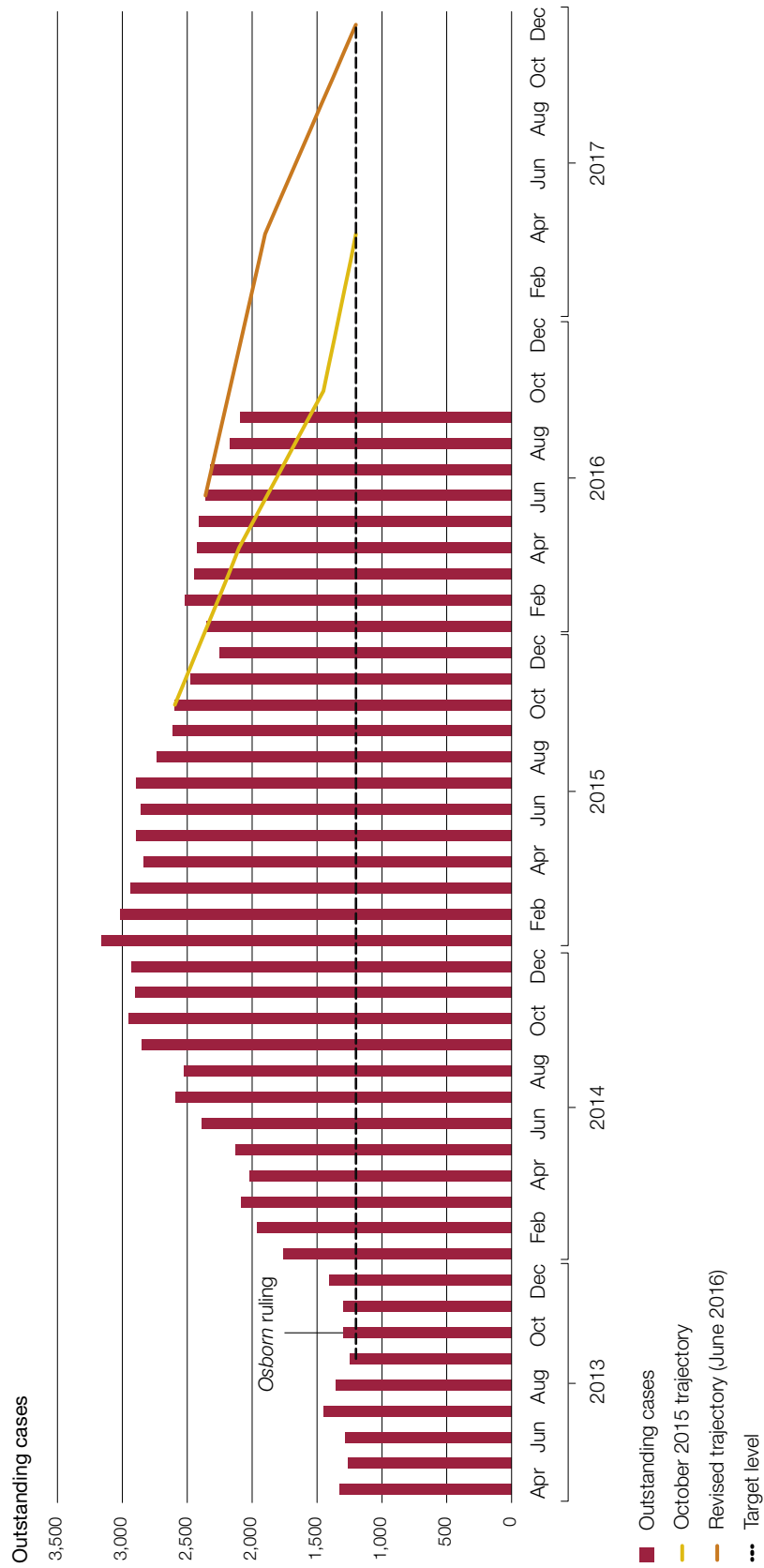
3.3 The Board introduced new governance arrangements in early 2015. These included drawing up a constitution for the Board, appointing three non-executive directors to provide external challenge and establishing a new committee structure. The interim chief executive was appointed in October 2015 and was made permanent in May 2016. A new chair started in March 2016.

3.4 In October 2015, to focus efforts, the Board set a target to reduce outstanding cases to 1,200 by April 2017, broadly equivalent to the level of outstanding cases before the *Osborn* ruling. Before October 2015, it did not have a target to tackle the backlog. In June 2016, the Board subsequently revised its trajectory to achieve this level by the end of 2017 (**Figure 16**), with an interim target to reduce outstanding cases to 1,900 by April 2017. In September 2016, the number of outstanding cases was 2,093.

3.5 The Board has worked to improve its efficiency since 2013, and now lists, conducts and completes a higher volume of oral hearings (paragraph 3.7). Its target for outstanding cases does not reflect these efficiencies, and the Board has not modelled what it expects the ongoing number of outstanding cases to be beyond 2017.

Figure 16
 Outstanding cases April 2013 to September 2016, and Parole Board targets

The Board revised its trajectory for reducing the backlog of outstanding cases



Note

1 Outstanding cases are review cases where the Parole Board's target date to complete the case and reach a decision has passed or will not be met and the case does not have an oral hearing date. It is an average figure based on a number of snapshots throughout the month.

Source: Parole Board management information

The Board's September 2016 strategy

3.6 The Board's new strategy included aims and objectives to tackle the backlog. In introducing its strategy the Board recognised that it needed to create capacity in the criminal justice system by ensuring that prisoners who are ready to be safely released do not remain in prison because of inefficiencies and delays in the parole system.¹² It aimed to safely eliminate the backlog of outstanding cases by:

- maximising the listing of cases;
- reducing unnecessary deferrals and adjournments; and
- working with partners to prioritise the safe release of prisoners serving indeterminate sentences of imprisonment for public protection (IPPs).

These aims are supported by initiatives including:

- improving performance information;
- digitalisation; and
- recruiting new members.

Maximising the listing of cases

3.7 The Board now lists, conducts and completes a higher volume of oral hearings than it did in 2013. The active caseload of each manager has increased from around 80 to just over 100. The unit costs of oral hearings reduced by 18% between 2013-14 and 2015-16 (Figure 4).

3.8 The Board increased listings of oral hearings from an average of 522 per month in 2013-14 to 691 per month in 2015-16. It listed an average of 693 cases each month in the year to September 2016, ranging from 603 in December 2015 to 765 in January 2016. If the Board could list 765 for each month and all other variables remained constant, we estimate that around 570 additional cases would be completed per year.¹³

Reducing unnecessary deferrals and adjournments

3.9 The Board has begun to make greater use of its data, for example carrying out specific 'deep dive' analyses to understand the reasons why oral hearings are deferred once listed (paragraph 1.20). On average 13% of cases listed were deferred or adjourned in the year to September 2016 before reaching a hearing, ranging from 11% in October 2015 to 15% in December 2015 and March 2016. We estimate that, if the Board could reduce this deferral rate to 11% throughout the year, and all other variables remained constant, around 125 additional cases would be completed per year.

¹² The Parole Board, *The Parole Board Strategy 2016–2020*, September 2016.

¹³ See Appendix One.

3.10 On average, 24% of cases conducted were deferred or adjourned on the day of the hearing, ranging from 19% in November 2015 to 32% in January 2016. If this deferral rate were 20%, in line with the Board's target to increase the oral hearing completion rate to at least 80%, we estimate that around 290 additional cases would be completed each year. The Board has not established what level of deferral (whether before a hearing or on the day) it would expect in an efficient parole system.

Prioritising release of IPP prisoners

3.11 The Board's 'prioritisation framework' sets out how it prioritises the different types of cases it is assessing. The Board has prioritised oral hearings for recall prisoners above hearings for most other prisoners and prisoners nearest to their review date. The effect of this is that the number of prisoners with an indeterminate sentence (those serving IPP or life sentences) awaiting parole has increased. These prisoners are experiencing much longer delays before their oral hearing date is set (paragraphs 2.4 and 2.5).

3.12 In July 2016, the Board announced that it could make progress on reducing the number of IPP prisoners by reducing delays in holding hearings and by working closely with the prison and probation services. In this way, it believed the number of IPP prisoners in prison could be reduced to about 1,500 by 2020.¹⁴

3.13 In September 2016, the Board announced that it would pilot four approaches until the end of March 2017 to focus on reducing the time prisoners have to wait for an oral hearing (**Figure 17** overleaf). Historically, IPP prisoners have not been eligible for release at a paper hearing, but since 22 November 2016 the Board has had the power to release prisoners based on the paper hearing. By the end of November 2016, two IPP prisoners had been released in this way.

Performance information

3.14 Since April 2016, the Board has been producing and developing a monthly performance dashboard, including measures of demand, progress, obstacles and outcomes. Responding to a February 2016 Ministry of Justice internal audit review, the Board set up a 'data lab' to discuss monthly performance data, agree actions and sign off information presented to the management committee. The Board has used its data lab, for example, to explore analyses about the reasons for deferrals (paragraph 1.20), and delays in completing oral hearings (paragraph 2.5).

3.15 By summer 2017, with the National Offender Management Service (NOMS), the Board plans to introduce a new case management system. The current case management system is limited in the analysis it can support. Trends and historical activity cannot be analysed easily as the system only allows snapshots of data to be extracted relating to particular points in time.

¹⁴ Parole Board, Statement on IPP prisoners from the Parole Board Chairman, press release, 26 July 2016.

Figure 17

Parole Board pilots to reduce the time prisoners have to wait for an oral hearing

Pilot

Change the listing prioritisation framework so that prisoners who have a shorter amount of time (12 months or less) before the end of their sentence will no longer be prioritised.

Extend the cut-off point for considering determinate cases for an oral hearing to 24 weeks from the end of their sentence. Currently, this only applies to prisoners within 12 weeks of the end of their sentence.

Parole Board to work more closely with NOMS to make more effective use of executive release, where NOMS rather than the Board makes a decision on release.

Use Ministry of Justice video link rooms across the UK to host hearings for determinate sentence prisoners. Currently, the Board only hosts video link hearings from its London office, limiting its capacity.

Aim

A fairer system which lists indeterminate cases, rather than most recall cases, first, so that at least 66% of available listing slots are used for them. This prioritises prisoners on post-tariff IPP and life sentences who are more than six months beyond their target date. A full review of the listing framework is planned by April 2017.

Remove cases from being scheduled for an oral hearing where the prisoner would have been released whether the oral hearing proceeded or not.

Eligible cases could be considered for executive release at an earlier stage of the parole process, before a case is directed to an oral hearing. This could reduce the number of cases waiting in the queue for an oral hearing date and allow prisoners to be released more quickly.

By creating regional hubs across the UK, the Board can increase its capacity to hold hearings. More cases could be heard more swiftly, limiting the risk of prisoners with determinate sentences being disadvantaged by the pilots.

Progress

Early data indicate that pilot changes to prioritisation have increased listing of IPP prisoner cases. In April 2016, 237 IPP cases had been in the listings queue for more than 90 days. This had been reduced to 92 in September 2016.

In the first four weeks of this pilot 37 prisoners awaiting oral hearings who were serving determinate sentences due to end within 24 weeks were not granted an oral hearing, reducing the listings queue by 37 cases.

NOMS has ordered executive release in 1,426 cases in the year to September 2016. Data are not available on how many cases were identified for executive release before reaching the Board or once these cases are in stages of the parole process. The Board also has no way of closing a case that is pulled out of its active caseload for executive release.

In addition to its two video link hubs at its London office, the Board is also piloting use of a court room at the Royal Courts of Justice once a week for video link hearings.

Source: Parole Board announcement, 26 September 2016, National Audit Office document review

Digitalisation

3.16 In 2016, the Board began trialling use of tablet devices to replace paper dossiers and to enable members to read and download dossiers, receive updates to cases and record hearings electronically. It is also supporting training for members through e-learning systems, which members will be able to access on their tablet devices. New members recruited will go straight to electronic working. The Board aims to be holding paperless hearings by October 2017.

3.17 In January 2017, the Board reported that 85% of members were starting to use the new technology and 50% of members were holding paperless parole reviews. Using mobile technology in parole hearings has logistical implications for arrangements for members. For example, in September 2016 the Board agreed a protocol with NOMS to allow access for electronic tablets to prisons.

Recruiting new members

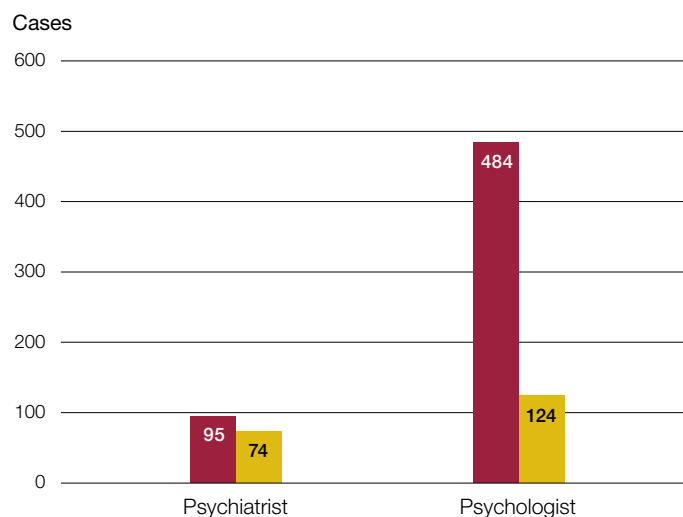
3.18 In 2016, the Ministry of Justice, on behalf of the Board, ran a major recruitment exercise for new members, its first for four years, to boost the Board's capacity and to help reduce the backlog. It successfully recruited 104 new members. Of these, 49 started in 2016-17 and the remainder are due to start in 2017-18. January 2018 is the earliest date at which the Board anticipates any of the new members could be eligible to train to chair parole hearings.

3.19 The Board has had a shortage of specialist members for oral hearings (paragraphs 1.17 and 1.18). In September 2016, demand outstripped supply almost fourfold in cases requiring a psychologist member (**Figure 18**). The Board has not historically looked at patterns in parole processes below national level. It is now beginning to explore regional variations in supply and availability of specialist members. The Ministry of Justice appointed all psychiatrist and psychologist candidates that interview panels considered appointable from its September 2016 recruitment exercise. This totalled seven psychiatrist members and 20 psychologist members.

Figure 18

Cases requiring psychiatrist and psychologist members, September 2016

Demand for psychologist members was almost four times greater than supply



■ Demand for specialist members
 ■ Average cases conducted per month

Notes

- 1 Demand has been calculated as the number of cases that are waiting to list that require a specialist member (psychologist or psychiatrist) in the September listings queue.
- 2 'Average cases conducted per month' by specialist members is an National Audit Office estimate based on panels conducted in the 12 months to 22 September 2016.

Source: National Audit Office analysis of Parole Board management data

Appendix One

Our investigative approach

Scope

1 This report investigates a backlog of outstanding parole cases which led to increased delays and costs, and how the Parole Board (the Board) is addressing these problems. This report sets out the facts in relation to:

- how the backlog of outstanding cases increased;
- the impact of the backlog; and
- the Board's performance in tackling the backlog.

We did not look at the quality of decision-making by Board members.

Methods

2 In examining these issues, we drew on the following sources of evidence:

- a** Board documentation and management information, including internal briefings, performance reporting, topic-specific Board analyses ('deep dives'), the Board's Annual Reports and Accounts to obtain financial data and governance information, and other published information about the activities of the Board.
- b** We carried out interviews and had discussions, including with:
 - the chief executive of the Board;
 - Board directors of i) business development and improvement, ii) operations and iii) member development and practice;
 - the safer custody and public protection group, National Offender Management Service; and
 - the sponsor for the Board in the Ministry of Justice.
- c** Using our expertise in examining models and projections across government, we also prepared projections of activities, building on data from the Board (paragraphs 3.8 to 3.10).
- d** We also observed Board hearings, and attended its 'data lab' and an open board meeting of the Board.

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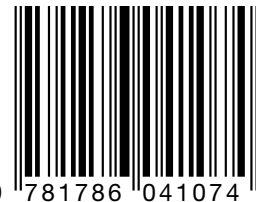


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