



National Audit Office

MINISTRY OF JUSTICE

Protecting the public: the work of the Parole Board

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Protecting the public: the work of the Parole Board

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SUMMARY

1 The Parole Board for England and Wales (the Board) is an independent body which has the overarching aim of working with others to protect the public and contributing to the rehabilitation of offenders.¹ The Board works with, and is dependent upon, other parts of the criminal justice system including HM Prison Service and the probation service in reaching its decisions to release offenders from custody. The Board is an Executive Non-Departmental Public Body of the Ministry of Justice² and in 2006-07, its budget was £6,641,000.³ At the heart of the Board's

structure are its members who make decisions on cases: judges, psychiatrists, psychologists, probation officers, criminologists and independent members.

2 The main types of case the Board considers are:

- **Determinate** sentenced prisoners serving four years or more, and those given extended sentences for public protection.
- **Indeterminate** sentences for public protection (IPP) and life sentenced prisoners.
- **Recalls** to custody for breaches of licence.

¹ The Parole Board Corporate Plan 2007-2010.

² From 9 May 2007. Until that date the Board had been sponsored by the Home Office.

³ All of this was received as grant-in-aid from the Home Office which previously was the sponsoring department.

3 The number of cases handled by the Board has increased sharply in recent years, (31 per cent between 2005-06 and 2006-07) and its workload totalled 25,000 cases in 2006-07, 23 per cent more than the Ministry of Justice had estimated. There has also been a shift from paper panels to more demanding oral hearings, which looks likely to continue, and has significant future resource implications for the Board.

4 This study examines whether:

- Members of the Board are well equipped to make decisions;
- the Board manages its workload in a timely and efficient way; and
- the Board has adequate processes for reviewing its performance and learning lessons.

Conclusions on whether Board members are well equipped to make decisions

5 Assessing the risk posed by offenders is difficult and members do not always receive all the information they should have to make an informed decision. In particular we found that 97 of the 276 indeterminate cases we examined did not contain either an Offender Assessment System report (OASys) or a Life Sentence Plan, key documents produced by prison and probation staff which assess the risks posed by offenders. We also found that the Board does not use a set format for members to record reasons for their decisions as happens at the Parole Board for Scotland.

6 We found that release rates arising from the Board's decisions for determinate sentenced offenders fell from 50 per cent in 2005-06, to 36 per cent in 2006-07 and for indeterminate sentenced offenders fell from 23 per cent to 15 per cent. Neither the Ministry of Justice nor the Board could identify a change in policy or procedures to explain these decreases. Members told us they have felt under additional pressure in the light of the publicity surrounding two high profile cases where offenders released on parole had gone on to commit serious further offences and a speech made by the then Home Secretary at the Board's 2006 Annual Lecture. An increased level of caution is understandable but the reduction in release rates raises concerns about the consistency of the Board's decisions.

7 During the period from 2002-03 to 2006-07, the number of determinate sentenced offenders recalled for having committed a further offence⁴ remained stable at six per cent. The number of offenders on life licence recalled for having committed a further offence⁵ also remained stable at 6 per cent in 2005-06 and 2006-07. These figures suggest that patterns of re-convictions have remained broadly constant, and that standards of risk assessment by the Board are being maintained when identifying those offenders ready for release into the community.

8 The Board wants to increase the number of judges, psychiatrists and psychologists it has as members to cope with its increasing workload but it is finding it difficult to find suitable candidates. We found that the Board is not always making the best use of its existing membership. In the 12 months to 30 September 2007, 22 of its existing members contributed fewer than the minimum number of days set out in the Board's guidance. Members told us that some are not happy with the level of remuneration offered; the location of some hearings; the increasing risk of hearings being cancelled at short notice resulting in nugatory work; and the receipt of incomplete or late information for the dossiers.⁶

9 We found that the membership of the Board does not reflect the current structure of society in England and Wales. While the composition of the membership is equally balanced between the sexes, the average age of members is currently 50⁷ and despite efforts by the Ministry of Justice to recruit more members from the ethnic minorities only four current members describe themselves as being non-white.

10 Members like the New Member Training they receive and also appreciate mentoring from more experienced members. Some though had concerns about the amount and suitability of follow up training. The appraisal of members is also generally well liked. The members told us that generally they find written guidance 'helpful' or 'very helpful'.

⁴ Expressed as a proportion of the average number of determinate sentenced offenders on licence.

⁵ Expressed as a proportion of all life licensees.

⁶ The terms dossier and case file are used interchangeably in this report.

⁷ Of the 110 non-Judicial members at 1.10.07 who disclosed their age at joining.

Conclusions on whether the Board manages its workload in a timely and efficient manner

11 The Board has performance targets for each of the main types of case it considers. We found that it is meeting its targets for handling determinate sentence cases on time. However, only 32 per cent of oral hearings for indeterminate sentences are being held on time. Two thirds of oral hearing cases we examined had been deferred at least once including 45 per cent deferred on the day of the hearing. The most common reasons were that the Board had not received the information required to make a decision or that the Board could not arrange the required panel of three members. Only 65 per cent of the deferrals we found were recorded in the Board's database.

12 In 2006-07, the Board also failed to meet its target to review decisions to recall offenders to custody within six days, in part because the large rise in the number of recall cases had been underestimated by the then Home Office and was not funded accordingly. It is now meeting its Business Plan target to consider cases within six days in part by re-appointing former Board members on a temporary basis to assist with this work, however, it is often not able to reach a conclusion at these hearings primarily because it does not have all the information it requests. The Board has also been unable to meet its targets for the timely holding of oral hearings where the decision to recall the offender has been challenged primarily because of the non-availability of members and the short timescales involved.

13 Delays, deferrals and missing information can lead to prisoners spending longer in custody than necessary, placing additional pressure on the prison system and potentially contravening the human rights of the prisoner. There is also a cost to the taxpayer of the additional time that prisoners spend in custody or in closed rather than open conditions. For the Board to arrange and hold hearings efficiently, it relies on timely and complete information being provided by the Ministry of Justice, HM Prison Service⁸ and the probation service as well as timely handling by the Board itself. However, each of these organisations is facing difficulties and not always providing the necessary information complete and on time.

14 The Board has recently introduced a new system for processing oral hearings: Intensive Case Management which involves a trained Board member checking whether a complete dossier has been received at the appropriate time and if not, issuing a reminder to the prison. If the information does not arrive promptly the case is deferred. However, the process still relies on prisons and probation providing timely information and, despite taking considerable steps, the Board has to date been unable to successfully publicise the process amongst staff at these organisations. It is too early to say what the results of Intensive Case Management will be.

Conclusions on whether the Board has adequate processes for reviewing its performance and learning lessons

15 The Board has established a Review Committee of Board members and external representatives to examine the validity and quality of the decision in cases where offenders on licence commit a serious sexual or violent offence after release. This Committee provides rigorous feedback for the members who made the decision and identifies wider learning points for all members.

16 Over the past five years the Board has faced an increase in the number of challenges to its decisions broadly in line with the overall increase in its workload. In 2006-07, the Board received over 2,900 challenges and as a result re-panelled over 300 cases. The cases were re-panelled either because new information was brought to the attention of the Board, or because the offender considered the Board had made a procedural error or there was a factual error in the Board's reasons for its decision. If offenders are not content with the way the Board handles their challenge they can call for a Judicial Review of their case. The Board is currently contesting 58 Judicial Reviews, over 40 per cent of which have been brought because of delays on the part of the Board in hearing the case. The increase in Judicial Reviews means higher legal costs for the taxpayer and increases the risk of having to pay compensation to prisoners although to date the Board has only lost four Judicial Reviews.

⁸ The references to HM Prison Service in this report include the contracted sector of privately operated prisons.

Value for Money conclusion

17 The Board is working hard to improve its performance in managing its work, but is not able to handle its own workload, and is heavily constrained by delays within the Ministry of Justice, HM Prison Service and the probation service in providing timely and complete data for the parole system. Incomplete and late information makes it harder for the Board's members to make their decisions, posing a greater risk that the wrong decision may be made although figures suggest that patterns of reconvictions have remained broadly constant from 2002-03 to 2006-07 and therefore that standards of risk assessment by the Board are being maintained. Delays in the parole process also means that prisoners are sometimes being kept in prison or held in closed conditions longer than they should be at a time when the Ministry of Justice is looking for ways to reduce the prison population. Failures to release on time and the cost of the administrative delays at the Board resulted in an additional cost of nearly £3 million in the nine months to 1 June 2007.

Recommendations

On the membership of the Board and the way it records its decisions

- The Ministry of Justice should, along with the Board, examine the composition of the Board's membership to consider whether it can be made more representative. In particular the Ministry of Justice and Board should identify ways of attracting more members from different ethnic backgrounds.
- The Board should build on the steps it has already taken to monitor closely the amount of time members are making available for casework, to ensure that all members meet their minimum workload commitment. The Ministry of Justice, in consultation with the Board, should also re-appoint former Board members to help with the backlog of oral hearings.
- The Board should introduce a template to record the reasons for all decisions which should follow the checklist of issues that members are expected to consider. All members of panels should sign off the agreed written reasons after hearings. All written guidance to members should be made available online.

On the processing of cases

- The Ministry of Justice should:
 - ensure that all parties are providing all the required information for the Board on indeterminate sentenced prisoners, including OASys reports, in a timely manner.
 - from 2009-10, it should also introduce a target which covers the entire process of providing information and holding hearings for indeterminate sentenced prisoners. This should embrace specific targets for:
 - the provision of information by HM Prison Service;
 - a new target for the probation service; and
 - a time target for holding oral hearings for the Board.
- The Board should take further steps to publicise its Intensive Case Management process to prisons and probation so that the timetables and quality standards are understood by all, and monitor the results.
- The Ministry of Justice needs to produce more realistic workload forecasts and formally revisit these and agree them with the Board at least twice a year so that all relevant changes in the criminal justice system are reflected in the forecasts.
- The Board needs to ensure that by June 2008, all relevant information is included in its database of oral hearing cases. It should also issue new guidance to staff on how to record information and introduce exception reporting.

On the way the Board reviews its performance and learns lessons

- Release rates for both determinate and indeterminate cases fell sharply in 2006-07 without any change in policy or procedure; the Board and the Ministry of Justice should identify why.
- The Review Committee does a valuable job in reviewing past decisions where offenders on parole or life licence have gone on to commit a further serious violent or sexual offence. The Board should review random samples of other completed cases to assess the quality of the reasons for the decisions taken.

PART ONE

Introduction

Background

1.1 The Parole Board for England and Wales (the Board) is an independent body which works with other parts of the criminal justice system to protect the public by deciding whether prisoners can be safely released into the community. In 2006-07, the Board's budget was £6,641,000.⁹ The Board was established by the Criminal Justice Act 1967 and the first releases under the parole system began in April 1968. The independence of the Board was challenged in a ruling by the High Court in September 2007, which stated that the Government's arrangements for the Board, "do not sufficiently demonstrate its objective independence of the Secretary of State as required by the English common law and Article 5 (4) of the European Convention on Human Rights".¹⁰ This decision was upheld in the Court of Appeal in February 2008. The latter judgment stated that, "The intervention of the sponsoring Minister and his Department in relation to the exercise of the functions of the Parole Board has gone beyond those necessary or appropriate to the sponsoring relationship and that the sponsoring arrangements have contributed to the perception that the Board is not independent".¹¹ The Ministry of Justice is not going to appeal against this judgement. If the judgement stands then sponsorship of the Board would likely have to be transferred to another body, the way Members are appointed and length of tenure of Members would probably have to change and the remaining influence the Secretary of State has on the work of the Board would have to be removed. **Figure 1** provides a timeline of the main developments of the Board since 1967.

The current responsibilities of the Board

1.2 The main types of cases the Board considers, and we examine in this report, are set out below:

- **Determinate sentenced prisoners** (also known as Discretionary Conditional Release (DCR) prisoners) who are serving four years or more, and prisoners given Extended sentences for Public Protection. Board members examine paper dossiers of information and make their decisions on the basis of those papers. The Board handled nearly 8,000 determinate cases in 2006-07.
- **Indeterminate sentenced prisoners** which include Indeterminate sentences for Public Protection (IPP), discretionary life, mandatory life and automatic life sentence prisoners and those detained at Her Majesty's pleasure. Cases for possible release or transfer from closed to open conditions in prison are handled through an initial sift which decides if the case can be resolved without an oral hearing with the possibility of a subsequent oral hearing where the prisoner is present. In 2006-07, the Board handled over 500 cases through a sift and held over 1,800 oral hearings for prisoners in these categories. Life sentence prisoners who are recalled to prison because they have breached their licence conditions or committed a further offence are also handled by the Board, primarily through oral hearings.

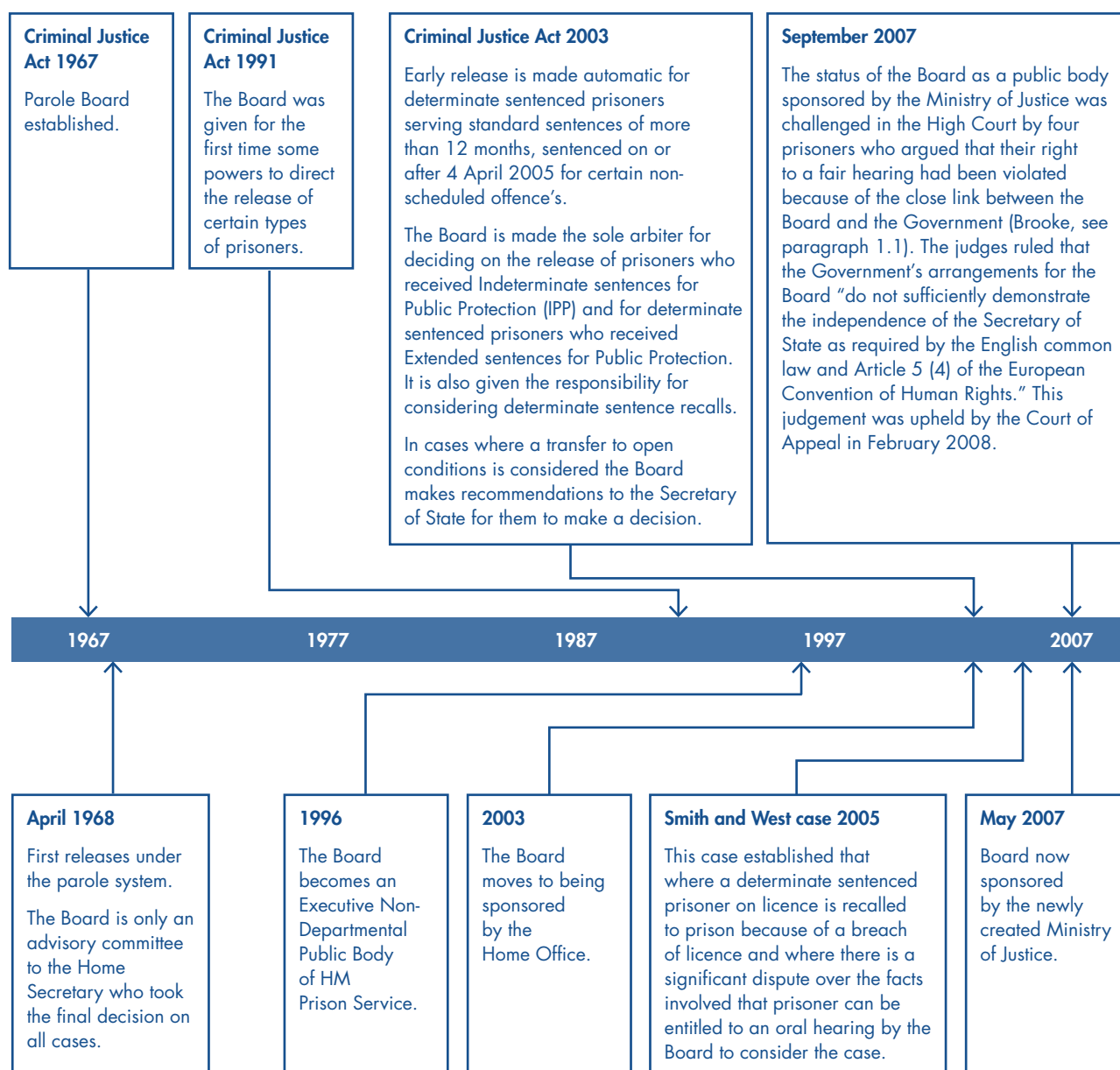
⁹ All of this was received as grant-in-aid from the Home Office.

¹⁰ R (Brooke & Ors) [2007] EWHC 2036 (Admin).

¹¹ R (Brooke & Ors) [2008] EWCA Civ 29.

- Determinate sentence recalls.** The decision to recall an offender to custody is taken by the Secretary of State. The Criminal Justice Act 2003, gave the Board the responsibility to consider every such case, following the offender's readmission to prison, to decide whether it is necessary for the offender to remain in custody and when their case should be reviewed. These cases are considered by one or two member panels who examine paper dossiers. They may also be subsequently heard at an oral hearing. In total the Board considered nearly 15,000 recall cases in 2006-07.

1 Timeline showing key events in the history of the Parole Board



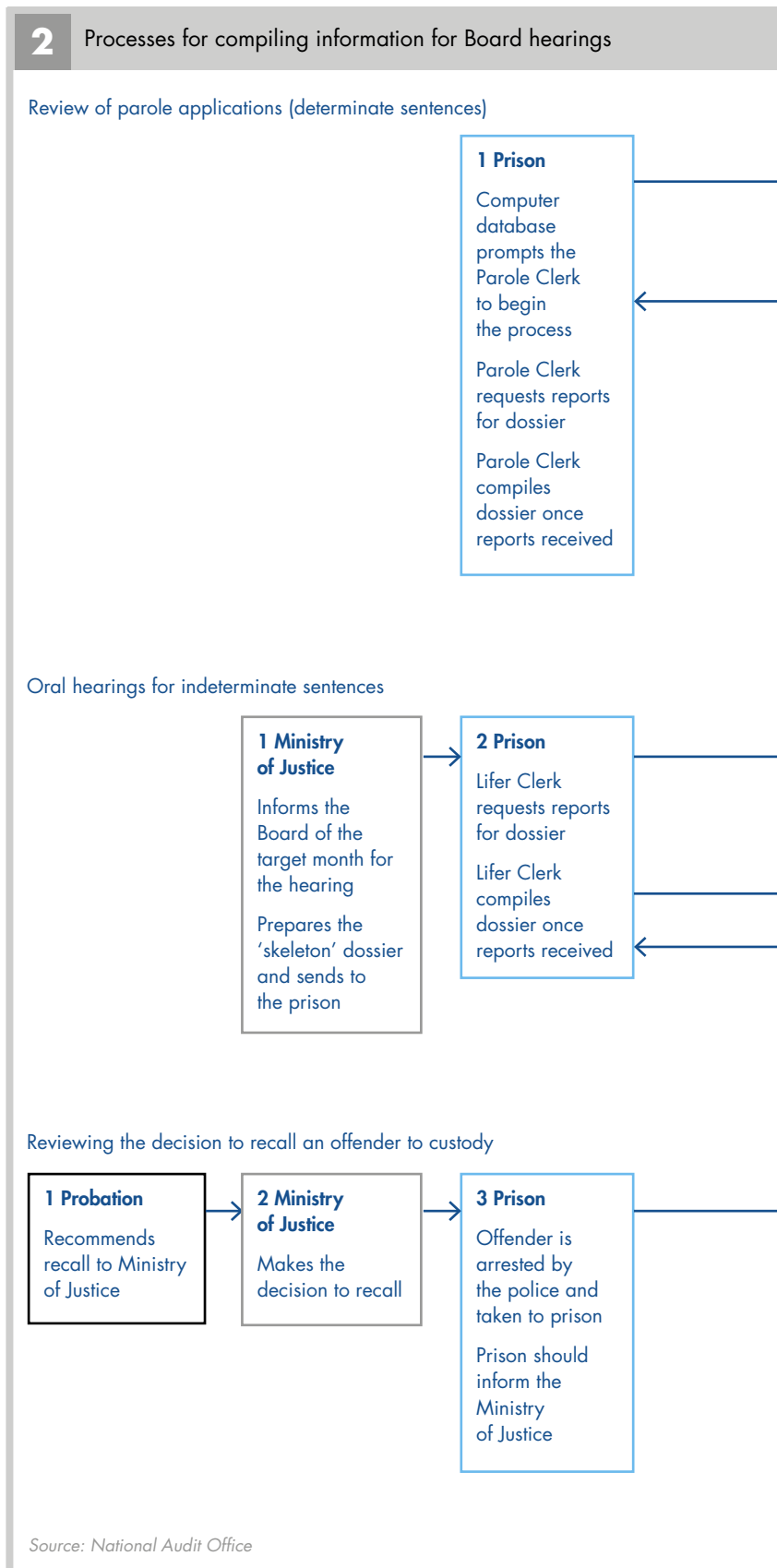
Source: National Audit Office

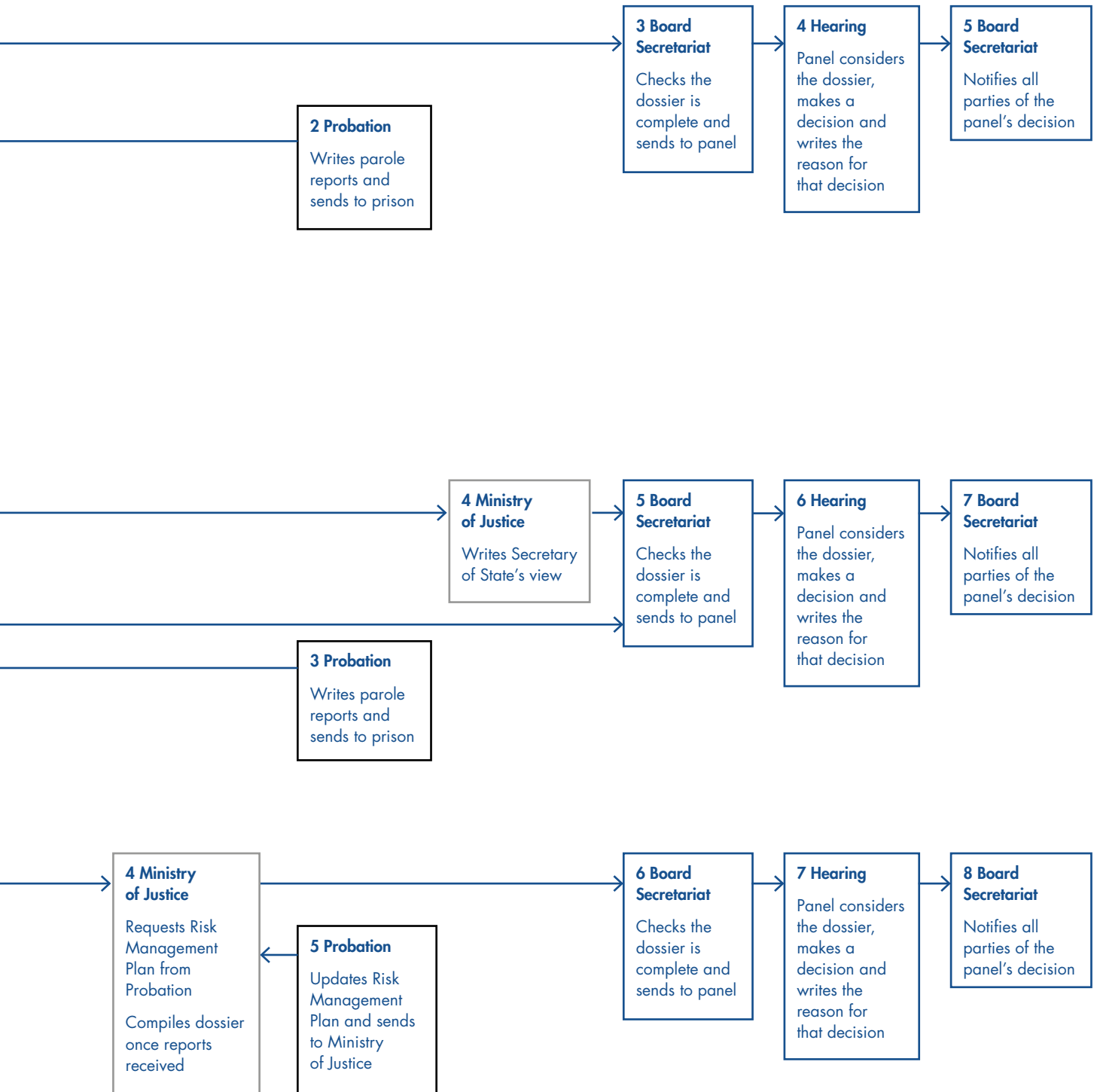
1.3 Each type of case involves different processes undertaken by various parts of the criminal justice system to ensure that the Board has the information it needs to make an informed and timely decision. **Figure 2** provides a summary of the key stages of each type of case and which part of the criminal justice system is responsible for which stage.

The structure of the Board

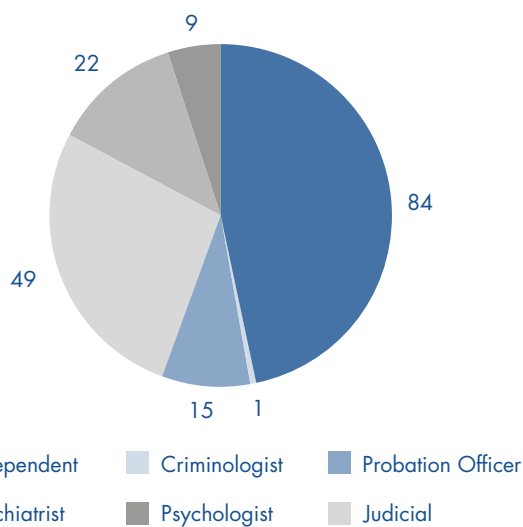
1.4 At the heart of the Board’s structure are its members who make the decisions on cases. They are not civil servants but are appointed by the Secretary of State for a fixed term of three years with the possibility of a further three years subject to performance. Legislation requires that the Board must include within its members those who have held or hold judicial office, psychiatrists, people with experience of the supervision or after care of prisoners, and others who have made a study of the causes of delinquency or the treatment of offenders. **Figure 3 on page 12** shows a breakdown of the 180 current members of the Board.

1.5 The Board’s members are supported by a Chief Executive and a Secretariat of 82 staff based in London. The Parole Board is headed by a Management Board of the Chairman, the Vice Chairman, the Chief Executive, the two full-time Director members of the Board and four further Members. One of the full-time director posts has been vacant for all of the financial year 2007-08 to date. The Secretariat is headed by an Executive team led by the Chief Executive.





3 Breakdown of the 180 Board Members by category as at 1 October 2007



Source: The Public Protection Unit in the Ministry of Justice

NOTE

Independent members can come from any profession.

The issues and scope of the study

1.6 This report examines how effectively and efficiently the Board is operating. In particular whether:

- the Board's members are well equipped to make decisions (Part 2);
- the Board is managing its workload in an efficient and timely manner (Part 3); and
- the Board has adequate processes for reviewing its performance and learning lessons (Part 4).

1.7 Our principal methods are shown below in **Figure 4** and in more detail in Appendix 1.

4 Our sources of evidence in carrying out this evaluation

Method

A detailed examination of 276 indeterminate case files and 100 determinate case files held by the Board.

Analysis of the results of our case file examination.

A survey of all current Board members as at 1 July 2007 (to which 94 of 172 replied).

Two focus groups of members (involving 16 members in total).

Observation of a paper panel, an oral hearing, and a Review Committee meeting.

Interviews with the Deputy Director of HM Prison Service and the Director of Probation and visits to two prisons and two probation boards.

A review of the Board's performance data and its management information system.

Structured interviews with 13 key staff at the Board and 11 key staff at the Ministry of Justice.

Visit to the Parole Board for Scotland.

Source: National Audit Office

Purpose

To identify factors that result in delays in processing, and to assess the completeness of the dossiers.

To analyse the extent, reasons for and financial impact of the delays in processing cases.

To ask them about their training, guidance, mentoring and working practices.

To explore the survey results in greater detail.

To give us an understanding of how the panels and Review Committee work in practice.

To understand their role in the parole process and to identify factors which make it difficult for them to supply timely information to the Board.

To assess the Board's performance. We also compared the results of our case file examination with the data contained on the Board's database to assess the completeness of its management information.

To gain an understanding of all the issues related to the parole system.

To discuss issues such as risk assessment, their processes for arranging hearings and the challenge and review of Board decisions.

PART TWO

Board members are generally well equipped to make decisions but there remain risks to the decision making process

The Ministry of Justice follows a rigorous recruitment process

2.1 The Ministry of Justice is responsible for the annual recruitment of new Parole Board members. The process includes a half-day assessment centre where applicants undertake a written analysis and group discussion of a case study and a verbal reasoning test. Members are assessed for the following core competencies: analysis; judgement and decision-making; oral and written communication; planning and organising; teamwork; promoting equal treatment; and victim awareness.

The composition of the membership is gender balanced but does not reflect the ethnic make up of the population

2.2 We found that the composition of the Board's membership of 180 is generally balanced between the sexes with women making up 51 per cent of the non-judicial members. The current average age of members is 50¹², a figure which has increased each year since 2003. In respect of their ethnic background, all but four members described themselves as white. At the focus groups, members accepted they were all of a similar social background and argued that the low remuneration available was a barrier to the Board's goal of widening access to its membership. The Ministry of Justice has taken measures over the years to address the Board's lack of diversity of ethnic backgrounds but these measures to date have not been as successful as either the Board or the Ministry would have wished.

The limited availability of judicial time and of psychiatrists and psychologists limits the number of oral hearings for indeterminate sentences that can be held

2.3 Under current Board rules, a Judge must always chair an oral hearing for indeterminate sentence cases. However, recruiting judges is difficult and although serving Judges allocate three weeks of their time to the Board, they often find it difficult to fulfil this commitment. The Board has looked to solve this by appointing retired judges but again there are limits on availability. The Board currently has 49 current and retired judges¹³ amongst its membership but the limited availability of judges constrains the number of hearings that can be held. The Board also has a requirement that psychiatrist members sit on selected panels and the limited availability of psychiatrists and psychologists can also constrain the setting up of panels. The Board is planning to have recruited a further 29 judges and 48 more psychiatrists and psychologists by 2009-10.¹⁴

¹² Of the 110 non-Judicial members at 1.10.07 who disclosed their age at joining.

¹³ Information provided by the Ministry of Justice. Includes High Court, serving and retired Judges.

¹⁴ Information provided by the Board. Increases based upon figures at 1 October 2007.

The time that members allocate to the Board's work varies greatly

2.4 The Board sets an absolute minimum and an absolute maximum number of days that each type of Board member is expected to work. **Figure 5** shows that in the 12 months to 30 September 2007, 18 members exceeded the absolute maximum number of days and 22 members worked under their absolute minimum number of days.¹⁵ In November 2007, the Director of Performance and Development tasked an experienced member with contacting the 18 members who were not meeting the expected number of days to discuss issues preventing them from undertaking more Board casework.

Members can be deterred from undertaking more Board case work by several factors

2.5 At the Focus Groups and in survey responses members identified the following key factors which can deter them from undertaking more Board work:

- low remuneration for Board casework;¹⁶
- uncertainty over whether the hearing will go ahead (members do not get paid for attending cancelled hearings);¹⁷
- conflict with other work commitments;
- the location of the hearing can be inconvenient, particularly indeterminate hearings at prisons;
- the late receipt of dossiers can mean days set aside for preparation work are wasted; and
- uncertainty over how long hearings will last.

5 The number of members failing to meet the minimum requirements for number of days worked or exceeding the maximum number of days, during the year to 30 September 2007

Category of Member	Absolute minimum number of days to be worked per year	Number of members not meeting this absolute minimum number of days	Absolute maximum number of days to be worked per year	Number of members exceeding this absolute maximum number of days
Independent and Criminologist	58	14	200	15
Probation Officer	25	1	200	1
Psychologist and Psychiatrist	18	5	200	0
Judge	8	2	200	1
Retired Judge	8	0	200	1
Total		22		18

Source: Parole Board Member Handbook and National Audit Office analysis of Parole Board data

NOTE

The Parole Board calculated a 'standard' amount of time taken by members for each casework activity, to cover both preparation work and attendance at the panel. For example, one determinate sentence paper panel (where 24 cases are considered) is considered to be four days work and one oral hearing is considered to be two days work.

15 This is based upon statistics on the days worked by each member provided by the Board. The 27 members who started working in September 2007 have been excluded from this analysis.

16 For oral hearings: independent, probation and criminologist members receive £229; psychiatrists and psychologists £322; and retired Judges £418. These fees cover the day of the hearing, plus up to two days preparation work in advance of the hearing. Serving Judges are not paid fees.

17 Members receive £53 to cover the time spent reading information in preparation for a cancelled hearing.

The initial training of Board members is well received but members consider they do not always receive sufficient training after this initial period

2.6 On appointment to the Board, all members undertake New Member Training; a week's residential course which gives new members information about the Board and provides guidance on how to assess risk, make decisions and document the reasons supporting these decisions. Ninety two per cent of the survey respondents who had attended this training described it as 'good' or 'excellent'.

2.7 Members are also expected to attend two Development Days each year, the Annual Lecture and the two day Annual Conference. Attendance at these events is not compulsory, or monitored. Members told us that they are not given the opportunity to specify what topics they would like to cover at the annual training events and, as a result, their specific training needs are not always met. Almost half of respondents felt they would benefit from additional or refresher training particularly in the areas of risk assessment and new case law, and suggested that a selection of sessions on different subjects would allow members to have refresher training in areas relevant to their needs. Members are required to complete specific training modules before undertaking new types of casework. The Focus Groups and the results from our surveys were positive about these specific training courses.

Members indicated the Board's mentoring scheme is a good source of advice

2.8 For the first year of their appointment, members are assigned a mentor, who is an experienced member as a source of reference and advice. The mentor attends the first hearing involving the new member and discusses issues arising after their following two hearings. Seventy one per cent of survey respondents found the mentoring scheme useful.

Members are notified in advance of an appraisal

2.9 Appraisals occur in years one, three and five of a members' appointment. If a member undertakes both paper panels and oral hearings, they will be appraised once in each. An experienced member attends a panel and observes the member's performance. The appraiser also assesses the quality of the reasons for the decision written by the member. Feedback is given and the report clarifies whether or not further training is necessary to meet the required standards. If a cause for concern is identified, additional training and support is offered to the individual. All impending appraisals are notified in advance.

Board members have written guidance to help them but can face problems in making their decisions

2.10 In addition to the training they receive all members are provided with a detailed members' handbook which contains the Board's policies and practice for each type of case they may examine. The guidance also includes a checklist of the issues members should consider when making their decisions on determinate and indeterminate cases. The Board has also provided specific written material on how members should assess risk on the cases they examine. The Board is progressively supplementing this material with academic papers detailing how risk can be assessed in specific instances. We asked the members in our survey for their opinion on the written guidance they receive. Eighty three per cent of respondents stated that they consider the written guidance they receive as 'helpful' or 'very helpful' in reaching decisions while 80 per cent responded that they found the written guidance on assessing risk as 'helpful' or 'very helpful'.

2.11 Members can face a number of difficulties when making their decisions on cases. Members are often faced with dossiers that are incomplete and they often receive significant additional information on the day of the hearing. This can make what is already a difficult role harder. Members are also sometimes faced with differing opinions from those responsible for supervising offenders. For example, in our sample of 100 determinate dossiers we found 11 cases where the opinions of the home and seconded probation officers on whether offenders were suitable for release or for transfer to open conditions differed. In seven of the 100 cases at least one of the probation officers providing reports had not put forward an opinion on how the offender should be handled.

Assessing the risk of harm posed by offenders effectively is crucial to the parole system but can be undermined by the absence of important documents

2.12 Assessing risk posed by offenders is fundamental to the effective working of the Board. No system is going to eliminate all risk but it is important that all possible steps are taken to ensure risks are minimised. The consequences where the necessary actions are not taken can be severe as demonstrated by the cases of Anthony Rice and Damien Hanson where offenders on licence committed serious further offences. Because of their particular seriousness these cases were subsequently investigated by Her Majesty's Inspectorate of Probation.¹⁸

2.13 One key document which Board members use in assessing risk is the Offender Assessment System (OASys) reports jointly produced by HM Prison Service and the probation service. This is a detailed report template which amongst other information considers both the 'static' risk and the 'dynamic' risk of further offending posed by offenders and gives a calculation of the likely risk of reconviction and of causing serious harm to others or themselves. OASys reports were initially introduced in 2003-04 for all offenders serving over 12 months and are mandatory for determinate sentenced prisoners. We examined a sample of 100 determinate offender dossiers processed by the Board between July and September 2007 and found an OASys report on all but two cases. For indeterminate cases, OASys reports became mandatory from May 2007, when they replaced the existing Life Sentence Plans. In our sample of 276 indeterminate cases heard by the Parole Board between September 2006 and May 2007 we found 97 case files (35 per cent) which did not contain a Life Sentence Plan or an OASys report.¹⁹

The way members record the reasons for their decisions could be made more consistent

2.14 Members have to record formally the reasons for the decisions made at hearings:

- For paper hearings, where normally 24 cases are considered in a day, each member will have been allocated responsibility for taking the lead on eight of those cases. Before the hearing, they will prepare written reasons for the decisions they are proposing. They then read out their reasons for the decisions and the other two members comment on the reasons and may add their own comments to the written document. These written reasons are then formalised after the hearing.
- For oral hearings, which are always chaired by a judicial member of the Board, the judge will draft the written reasons for the panel's decision to which the other members of the panel can contribute. Again these written reasons are formalised after the hearing. We found that some members are concerned that some panel chairs re-write the reasons for the panel's decision after a hearing, and that these final reasons can differ from those agreed during the hearing.²⁰ There is currently no requirement for all three panel members to sign off the final reasons as happens at the Parole Board for Scotland and the other panel members usually do not see the final version of the reasons.

2.15 To date, the Board has not had a standard template which members can use to record their decisions. Members write the reasons for their decisions in long hand taking account of the factors they should consider outlined in the checklists (paragraph 2.10). This means the written reasons that members produce can vary in quality. The Board has recently devised a template for determinate cases which requires members to provide set information on the case but this does not provide a structure for the reasons that members have put forward for their decision. A formal template based on the checklist of issues members are required to consider when examining cases as used by the Parole Board for Scotland would help to prevent some of the difficulties we discuss in Part 4 in the context of the work of the Board's Review Committee and the Board's Post Panel team.

¹⁸ HM Inspectorate of Probation *An Independent Review of a Serious Further Offence Case: Anthony Rice*. http://inspectors.homeoffice.gov.uk/hmiprobation/inspect_reports/serious-further-offences/AnthonyRiceReport.pdf. HM Inspectorate of Probation *An Independent Review of a Serious Further Offence Case: Damien Hanson & Elliot White* http://inspectors.homeoffice.gov.uk/hmiprobation/inspect_reports/serious-further-offences/HansonandWhiteReview.pdf?view=Binary.

¹⁹ Extrapolated across the number of oral hearings heard by the Board from 1 September 2006 to 31 May 2007 this would have meant that 474 of the 1,350 cases assessed would not have contained a Life Sentence Plan or an OASys report.

²⁰ Issue raised during Focus Groups and in survey responses.

The proportion of offenders released by the Board fell sharply in 2006-07

2.16 The Board reports the number and percentage of both determinate and indeterminate sentenced prisoners it has released each year (Figure 6). This shows that the percentage of determinate sentenced prisoners released in the six years to 2006-07 was consistently around 50 per cent until that year when it fell by over a quarter to 35.8 per cent of cases considered. The percentage of indeterminate sentenced cases where release has been directed has been less constant but also showed a significant reduction in 2006-07 from 22.6 per cent to 14.6 per cent; a reduction of over a third. We asked the Ministry of Justice and the Board if there had been any changes in policy or procedure which could explain the fall. The Ministry and the Board confirmed that there had been no such formal changes but that the Board and its members cannot be immune to changes in attitudes and the views of the public on criminal justice issues and that these changes do have an impact on how members assess risk. The Board also considers that its members are being more rigorous in making demands for more robust evidence on offenders.

2.17 We asked members if they could identify any changes that might explain the reduction in release rates. They confirmed there had been no specific changes but referred to the additional pressure they felt under in the light of cases such as that of Rice and of Hanson, and a speech made by the then Home Secretary at the Board's 2006 Annual Lecture. In the light of these events the Board provided some advice to its members in the Newsletters reporting the work of the Board's Review Committee on the sorts of issues members should consider when examining the cases of serious offenders. An increased level of caution amongst members is understandable but in the absence of a change in policy or procedures, the reduction in release rates raises concerns about the consistency of the Board's decisions. This reinforces the need for the written reasons provided by members to be as full and clear as possible and based upon all relevant information.

6 The percentage of determinate and indeterminate sentenced prisoners released by the Board on licence from 2001-02 to 2006-07

Year	Percentage of determinate sentenced prisoners released on licence	Percentage of indeterminate sentenced prisoners released on licence
2001-02	50.6	Not known
2002-03	52.8	18.4
2003-04	53.1	25.0
2004-05	52.0	21.6
2005-06	49.4	22.6
2006-07	35.8	14.6

Source: The Parole Board

The proportion of prisoners recalled to prison who committed a further offence has been broadly constant

2.18 The Board records the number of determinate sentenced prisoners on licence recalled to prison in any year and the reasons why they were recalled including for further offences. Figure 7 overleaf presents this data for the five years from 2002-03. It shows that as a proportion of the average number of determinate sentenced offenders on parole the number recalled for having committed a further offence has remained stable at around 6 per cent which suggests that standards are being maintained by the Board.

2.19 In respect of indeterminate sentenced prisoners the reported data on the number of life licence prisoners recalled to prison is less comprehensive but again seems constant at six per cent (Figure 8 overleaf). The table shows that the proportion of prisoners recalled while on life licence under active supervision is increasing each year although the proportion of those on life licence recalled for having committed a further offence remained constant at 6 per cent of the life licence community population in that year.

7 Number of determinate sentenced offenders recalled while on licence

Year	Average number of offenders on parole	Number of offenders recalled in the year	Number of offenders recalled for a further offence in the year	Number of offenders recalled for a further offence expressed as a proportion of the average number on parole (per cent)
2002-03	3200	420	188	6
2003-04	3600	601	252	7
2004-05	4034	712	265	7
2005-06	4683	993	302	6
2006-07	4285	1214	246	6

Source: The Parole Board's Annual Reports

8 Number of offenders recalled while on life licence

Year	Average number of life licensees under active supervision	Number of life licensees recalled	Number of life licensees recalled for a further offence	Number of life licensees recalled for a further offence expressed as a proportion of the average number under active supervision (per cent)
2002-03	Not known	30	Not known	Not known
2003-04	1350	52	Not known	Not known
2004-05	1368	90	Not known	Not known
2005-06	1495	140	87	6
2006-07	1622	178	97	6

Source: The Parole Board's Annual Reports

PART THREE

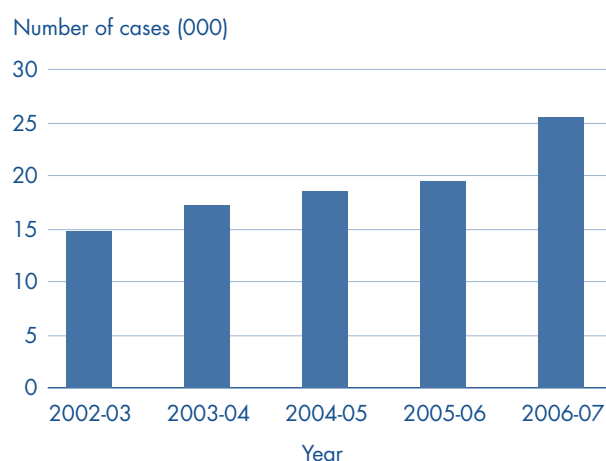
The Board is struggling to cope with its increasing and changing workload

The Board's workload has increased sharply in recent years with a 73 per cent rise in the number of cases between 2002 and 2007

3.1 The Board's annual caseload increased from 14,668 in 2002-03 to 25,436 in 2006-07²¹, an increase of 73 per cent (**Figure 9**). The most significant annual increase of 31 per cent occurred between 2005-06 and 2006-07 when the changes brought in by the Criminal Justice Act 2003 came into effect. The Act made the Board the sole arbiter for deciding on the release of prisoners who received Indeterminate sentences for Public Protection (IPP) and for determinate sentenced prisoners who received Extended sentences for Public Protection. The Act also gave the Board the responsibility for considering all determinate sentence recalls, following the offender's readmission to prison, to decide whether it is necessary for the offender to remain in custody and when their case should be reviewed.

3.2 Over the same five year period the Board's budget increased from £3.73 million in 2002-03 to £6.64 million in 2006-07 an increase of 78 per cent. Its budget for 2007-08 is £7.79 million, an increase of 17 per cent on the previous year. The large size of this increase was primarily because the Board was allocated an extra £1 million for the introduction of Intensive Case Management (see paragraph 3.33) for both oral and paper hearings. However, the Board did not begin to use Intensive Case Management on oral hearing cases until September 2007. As a result as at 30 November 2007 the Board had underspent its budget on members by £513,000 in 2007-08.

9 Annual caseload of the Parole Board from 2002-03 to 2006-07



Source: National Audit Office analysis of Parole Board data

The Ministry of Justice's forecasts of the Board's workload have been inaccurate and led to the Board setting an unrealistic budget for 2006-07

3.3 The Board relies upon the Ministry of Justice to forecast its future caseload but these figures have historically been inaccurate. In 2004-05 the caseload was overestimated by 10 per cent and in 2005-06 by 14 per cent. The 2006-07 workload was underestimated by 23 per cent. In that year the Board dealt with 25,436 cases but had forecasted and budgeted for only 20,750 cases. The number of recall cases was underestimated by nearly 3,700 cases and determinate cases by over 1,000 cases. The outcome was that the Board suffered a significant mid-year budget short-fall and had to stop handling some cases. The Board received additional in-year funding to alleviate this problem (paragraph 3.38).

21 From the Parole Board's annual reports.

The workload of the Board has changed with a reduction in the number of paper cases and an increasing number of oral hearings and recall cases

3.4 The Board has faced a shift from paper panels to the more demanding oral hearings. The introduction of the Indeterminate sentence for Public Protection (IPP) under the Criminal Justice Act 2003, and the judgement in the Smith and West case²² were factors contributing to a 32 per cent increase in oral hearings between 2005-06 and 2006-07. This is partly because judges have passed more of the new indeterminate sentences with short tariffs than was anticipated.²³ Lord Carter in his review of prisons²⁴ of December 2007, reported that in conjunction with the Ministry of Justice he had developed proposals that will allow those passing sentences on offenders much greater discretion about when to give an Indeterminate sentence for Public Protection (IPP). As well as reducing some of the pressure on prisons this may also limit the likely increase in the Board's workload on these cases.

3.5 The Criminal Justice Act 2003 also made early release at the half-way point of sentence, automatic for determinate sentenced prisoners serving standard sentences of more than 12 months, sentenced on or after 4 April 2005, who had not been convicted of certain scheduled offences, although there are still many offenders in custody who were sentenced earlier. The Board has not to date seen a reduction in the number of determinate cases it handles, although the number is forecast to fall slightly in 2007-08. The Carter Review is proposing that sentences given to non-sexual, non-violent offenders serving four years or more under the terms of the Criminal Justice Act 1991 should be converted into comparable sentences under the Criminal Justice Act 2003. This would have the effect of reducing the Board's workload on determinate cases over time.

3.6 Changes introduced by the Criminal Justice Act 2003 have also triggered a significant increase in the number of recall cases handled by the Board: for example, a 58 per cent rise in the number of recall cases between 2005-06 and 2006-07 from 9,296 to 14,669 (**Figure 10**) although again there are proposals that may reduce the number of recall cases that reach the Board (paragraph 3.40).

Members are under pressure to deal with the additional caseload

3.7 The shift from paper panels to oral hearings has significant resource implications for the Board. A paper panel usually handles 24 paper cases in one day, but a similar panel can typically only deal with two or three oral hearings in a day, and oral hearings require significant extra preparation. The unit cost for a case considered by a three member panel oral hearing is £1,460 compared with £259 for a case considered by a paper panel for determinate sentences. Recall cases pose an additional pressure as they are received at short notice and the Board must review each recall case to decide whether the person should remain in custody or be re-released into the community. This decision is usually taken by either one or two Board members based on a paper dossier. Following the introduction of a more streamlined process the majority of these cases are now dealt with by a single member on the papers.

Managing determinate sentenced prisoner cases

The Board has achieved its target for the timely holding of paper panels to consider applications for determinate sentenced prisoners

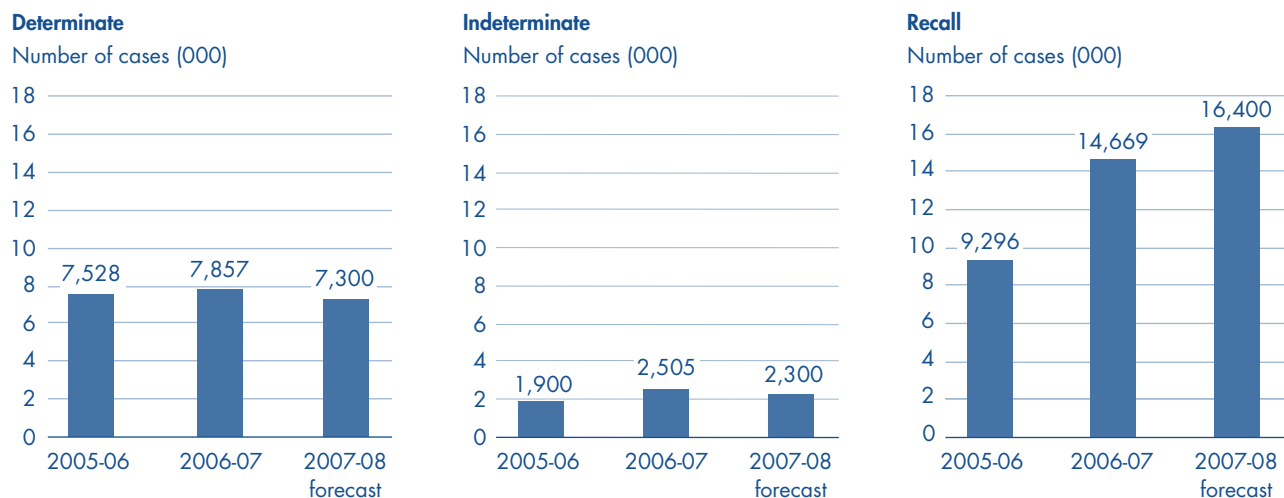
3.8 Until December 2006, the Board was meeting its targets to consider 95 per cent of applications for parole for determinate sentenced prisoners within 25 working days of receipt of the parole dossier and to notify stakeholders of its decision within two working days of the panel in 95 per cent of cases. The Board relies on the Ministry of Justice's Research, Development and Statistics section to compile data related to these targets for determinate sentences but this team has not produced these statistics since December 2006 and therefore we do not know how well the Board is currently performing.

22 The Smith & West case established that where a determinate sentenced prisoner on licence is recalled to prison because of a breach of licence and where there is a significant dispute over the facts involved that prisoner can be entitled to an oral hearing by the Board to consider the case. *R (on the application of Smith and West) v Parole Board* [2005] 1 WLR 350; 1 All ER 755.

23 The then Parliamentary Under Secretary of State for the Home Office told the Standing Committee on the Criminal Justice Bill 2003 in February 2003 that the Department forecast that the impact of the IPP sentence would be to add 900 offenders to the prison population over time. As at 20 April 2007, 2,547 offenders were serving an Indeterminate sentence for Public Protection (House of Commons Written Answers 10 May 2007 Column 440W.)

24 *Securing the future: proposals for the efficient and sustainable use of custody in England and Wales*, Lord Carter of Coles, December 2007.

10 Number of cases heard by the Board since 2005-06, by type of case



Source: National Audit Office summary of Parole Board data

Members receive information to make informed decisions on time in most determinate cases, but missing or late documents lead to decisions being deferred

3.9 The process for setting up a hearing for determinate sentenced prisoners is clear. The Board only sets a date for a hearing once a dossier is received. The dossier is compiled by the Parole Clerk at the prison where the offender is situated. The Parole Clerk is prompted to send out requests for parole reports and begin compiling the dossier by HM Prison Service's Inmate Information System computer database for determinate sentenced prisoners, 26 weeks before the prisoner's Parole Eligibility Date. The Parole Clerk updates the Inmate Information System at each key milestone; for example, when reports are received and when the dossier is sent to the Board. Board members consider that the system for providing them with information to make informed decisions on determinate cases is generally working well. Most members are content that they usually receive dossiers at least three weeks before the hearing, giving them enough time to review the case properly. Appendix 2 sets out the contents of a typical parole dossier.

3.10 Some members expressed concerns to us about the late receipt of certain key reports and submissions, for example, psychology reports or representations from the offender.²⁵ These lengthy and important documents are sometimes received on the day of the panel, giving members little opportunity to read them, and can often result in a decision being deferred; in 2006-07 695 (10 per cent) determinate sentenced prisoner applications for parole were deferred by the panel, almost always due to important information being missing or received late.²⁶

Managing indeterminate sentenced prisoner cases

The Board is facing great difficulties in holding oral hearings for indeterminate sentenced prisoners

3.11 Figure 11 overleaf shows that the Board is failing to meet many of its Business Plan targets related to oral hearings for indeterminate sentenced prisoners. In addition we found that the Board does not have a target for holding an oral hearing for indeterminate sentenced prisoners on time.

²⁵ Other concerns expressed by members in responses to our survey and at the Focus Groups were that parole dossiers often contain irrelevant information and duplicate copies of reports, making them extremely voluminous and increasing the possibility that important information is missed.

²⁶ During 2006-07, 92 per cent of reasons for deferred decisions on parole applications were due to reports or other submissions being missing or received late (Board statistics).

11 Parole Board Performance against its Business Plan targets for oral hearings for 2006-07 and to 31 October 2007

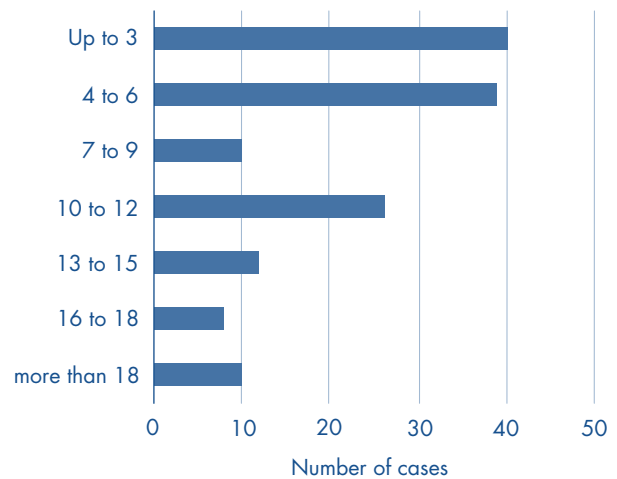
Objective	Target	2006-07		To 31 October 2007		
		Actual	Target met?	Target	Actual	Target Met?
Dossiers to be sent to panel members 15 working days before the hearing	Average for the year 60 per cent	65 per cent	Yes	Average for the year 75 per cent	60 per cent	No
Notify all parties of panel decisions within 5 working days of the hearing	Average for the year 90 per cent	80 per cent	No	Average for the year 90 per cent	64 per cent	No
Reduce the number of cases deferred or adjourned at the hearing	No target	n/a	n/a	Reduce number of deferred cases to 10 per cent	20 per cent of cases deferred	No

Source: The Parole Board

3.12 For each offender, the Ministry of Justice calculates the month when an indeterminate sentenced prisoner is first entitled to a hearing. This should occur so as to allow the prisoner to be released on their tariff expiry date,²⁷ if the decision is to release. Following each subsequent hearing, the Ministry of Justice considers a number of factors, including what rehabilitation work is needed, and calculates which month the next hearing should take place while ensuring that no more than two years elapse between Board hearings. Holding the hearing in the target month should be a key measure of success for the Board’s review of indeterminate sentenced prisoners. The Board has no evidence of how many cases are heard in the target month, but our analysis of 276²⁸ oral hearing cases from the nine month period from 1 September 2006 to 31 May 2007 shows that, of the 214 cases where we were able to identify the target month, only 32 per cent of cases were held in that month. Of the 146 cases held after the target month, 40 (27 per cent) were held up to three months late, 75 (51 per cent) were held between four and twelve months late, and 29 (20 per cent) were held 12 or more months late²⁹ (Figure 12). The longest delay was 25 months.

12 Analysis of delayed hearings

Number of months after Ministry of Justice target date that the hearing took place



Source: National Audit Office

27 The tariff is the minimum time which the offender must serve in custody, as set by the trial Judge.
 28 We selected a sample of 300 oral hearing case files, but the Board was unable to locate 24 so we could only examine 276 (see Appendix 1).
 29 We were unable to identify an exact hearing date for two cases held later than their Ministry of Justice target hearing date.

3.13 Of the 276 cases we examined, 189 (68 per cent) were deferred in advance of the hearing at least once, and of these, 17 cases had five or more deferrals and two cases had eight and nine deferrals, respectively. Deferrals or adjournments on the day are also a problem with 126 of the 276 cases (45 per cent) having at least one such deferral. Only 65 per cent of the deferrals we found in our analysis were recorded in the Board's database of oral hearings. The Board created its database (SOAPHS) as a temporary solution while the Home Office sought to develop its C-NOMIS computer system designed to hold comprehensive records on all offenders.

3.14 In total we found 174 deferrals or adjournments on the day of the hearing, which resulted in an additional administrative cost to the Board of £176,000.³⁰ If extrapolated across all cases in the nine month period, the administrative cost to the Board of deferrals or adjournments on the day of the hearing would be £859,000.³¹ We also found it takes the Board over three months on average to rearrange a deferred hearing.³²

3.15 Deferrals can also lead to prisoners spending longer in custody than necessary. This places additional pressure on the already stretched prison system, is unfair to the prisoner and may leave the Board open to Judicial Review or compensation claims.³³ There is also a cost to the taxpayer of the additional time spent in custody. For those cases which had one or more deferral, the average total delay, from the first listed date of the hearing to when the actual hearing took place, was 226 days. Although the decision at the rearranged hearing was usually to keep the offender in custody, we found 29 cases where the offender went on to be released at the rearranged hearing. Those 29 offenders spent an additional 5,409 days in custody at a cost of £395,000.³⁴

3.16 There is also an additional cost of keeping an offender in closed rather than open conditions.³⁵ We found 16 offenders who had their original hearings deferred and the decision at the rearranged hearing was to recommend their transfer to open conditions; however two of these recommendations were subsequently rejected by the Secretary of State, and two are still under consideration. The 12 offenders for whom the Board's recommendations were accepted spent an additional 2,471 days in closed, rather than open conditions at a cost of £21,000.

3.17 If these costs are extrapolated across all cases handled in the nine month period we examined, the cost to the taxpayer of keeping offenders in custody longer than necessary would have been £1,931,000 and the cost of keeping offenders in open rather than closed conditions would have been £102,000.³⁶ The total cost of oral hearings being deferred in the nine month period 1 September 2006 to 31 May 2007 was therefore £2,033,000.

Numerous factors contribute to delays and deferrals of oral hearings for indeterminate sentences, many of which are outside the Board's control

3.18 Our analysis shows that there are a variety of reasons why oral hearings are delayed or deferred (**Figure 13 overleaf**). The most significant reason is that the offender's dossier is either not available or is incomplete but other significant reasons are because the Board has been unable to convene a panel or a specific witness is not available to attend the hearing.

30 The unit cost of a three member panel for an oral hearing from the Board's 2006-07 Annual Report is £1,460. As members do not receive fees if the panel does not go ahead we have removed the fees of an independent member (£229) and a psychiatrist (£322) from the unit cost, but added in £50 members receive for preparation. The Board is not responsible for paying fees to the sitting judge who chairs the hearing. The revised administrative cost of deferring or adjourning a hearing is therefore £1,009. Multiplying this by the 174 hearings from our sample deferred or adjourned on the day gives £175,566. This figure does not include resources wasted by other Agencies, for example the cost to the probation service of a probation officer turning up and the hearing not going ahead, or the cost to the prison of arranging the hearing.

31 We examined 276 out of 1,350 hearings which went ahead between 1 September 2006 and 31 May 2007, so if we extrapolate the wasted administrative cost across the 9 month period the waste would be £175,566 x 1350/276 = £858,747.

32 From our sample we calculated the average time between the deferred hearing and the rearranged hearing to be 97 days.

33 Judicial Review and compensation claims will be considered in Part 4 of this report.

34 The average cost of keeping an offender in custody from the 2006-07 Prison Service's Annual Report is £73 per day. Multiplying this by the 5,409 additional days offenders in our sample spent in custody gives a total cost to the taxpayer of £394,857.

35 From HM Prison Service's 2006-07 Annual Report the average annual cost of keeping an offender in closed conditions is £26,949, in comparison to the annual cost of keeping an offender in open conditions of £23,877. This gives an additional annual cost of keeping an offender in closed rather than open conditions of £3,072, or £8.42 per day.

36 We examined 276 of 1,350 cases in the nine month period 1 September 2006 to 31 May 2007. Extrapolating the cost of keeping prisoners in custody for longer than necessary gives a cost to the taxpayer of £394,857 x 1350/276 = £1,931,366. Similarly, extrapolating the cost of keeping offenders in closed, rather than open, conditions gives a cost to the taxpayer of £20,806 x 1350/276 = £101,768.

13 National Audit Office analysis of the reasons for the deferral and adjournment of oral hearings for a sample of 276 hearings in the nine month period 1 September 2006 to 31 May 2007

Reason for deferral/ adjournment	Deferral in advance of the hearing		Adjournment or Deferral at the hearing		Total deferrals or adjournments	
	Occurrences	per cent	Occurrences	per cent	Occurrences	per cent
Incomplete dossier	44	16	99	57	143	32
The Board could not arrange a panel	73	26	0	0	73	16
Witness not available	18	6	25	14	43	10
Key document(s) arrived too late	16	6	9	5	25	6
Prisoner transferred to a different establishment	22	8	0	0	22	5
Prisoner to complete a behavioural/educational course	14	5	4	2	18	4
Panel member did not turn up	0	0	13	7	13	3
Missing solicitor	4	1	7	4	11	2
Ran out of time on the day	0	0	10	6	10	2
Other Reasons	36	13	8	5	44	10
Reason for deferral/ adjournment could not be identified	50	18	0	0	50	11
Total	277		175		452	

Source: National Audit Office

NOTE

The percentages have been rounded up or down to the nearest whole number.

3.19 A particular difficulty facing the Board is that a number of the reasons listed are outside their direct control. For example, the Board is heavily reliant upon the Ministry of Justice, HM Prison Service and the Probation Service, to provide timely and complete information for oral hearings and each of these is contributing to the delays in the process. In 2006-07, the Board introduced a Business Plan target to increase the number of dossiers received 90 days before the oral hearing to 80 per cent, but during the year only 38 per cent of dossiers were received before this deadline. We discuss the difficulties the Ministry of Justice, HM Prison Service and the Probation Service are facing in providing information below.

The Ministry of Justice is not meeting its Business Plan targets on the production of information for the Board, causing delays from the outset

3.20 Caseworkers in the Ministry of Justice's Pre-Release Section are responsible for compiling an initial skeleton dossier. This consists of papers related to the index offence,³⁷ the Judge's sentencing remarks, a list of previous convictions, and summaries of the offence and progress in prison so far written by the Caseworker. The Pre-Release Section has a target to provide prisons with these dossiers 21 weeks before the date of the oral hearing in 85 per cent of cases. In the six months to 30 September 2007, this was only achieved in 78 per cent of cases.³⁸ Sending the

³⁷ This is the offence for which the offender was sent to prison.

³⁸ Ministry of Justice statistics.

skeleton dossier late reduces the time that prisons and probation have to prepare their reports, and puts pressure on the parole system from the outset.

3.21 After the skeleton dossier has been sent to the prison, the Caseworker must then prepare the Secretary of State's view on what the Board's decision should be at the hearing, although the Board does not have to agree with this decision. The Caseworkers (all Executive Officer grades) undertake a similar risk assessment to that done by Board members, and provide the Board with a recommendation as to whether the offender should be released, transferred to open conditions, or remain in custody, along with reasons. The Pre-Release section has a target to disclose the Secretary of State's view 10 weeks before the oral hearing in 85 per cent of cases; however in the six months to 30 September 2007, this was only achieved in 74 per cent of cases. We found that late production of the Secretary of State's view can lead to oral hearings being deferred.

3.22 The Ministry of Justice told us the main reason for the missed targets is a lack of resources. The number of prisoners on all types of indeterminate sentences was approximately 5,500 in November 2003, but this had almost doubled to over 10,000 by November 2007, with the number of cases currently increasing by between 140 and 200 a month.³⁹ Over that period the Pre-Release Section's workforce has fallen from 75 to 59. The Section suffers from high staff turnover and is heavily reliant on Agency staff, which causes problems as it can take up to six months to become proficient as a Caseworker. There is a need for a structured and in-depth training programme for new Caseworkers, but to date training has been on the job and ad hoc in nature. The Head of the Pre-Release Section is hoping to increase the Section's workforce to 68 by April 2008.

HM Prison Service is under considerable pressure, and compiling dossiers for the Board can be a low priority

3.23 The Lifer Clerk at each prison is responsible for compiling the oral hearing dossier for the Board. There is no equivalent to the Inmate Information System (for determinate sentenced prisoners, discussed in paragraph 3.9) to prompt the Clerk to begin the process for indeterminate sentenced prisoners. Lifer Clerks therefore either have to devise their own system to prompt them to begin to compile the dossier, or are reliant on notification

from the Ministry of Justice via email or the receipt of the skeleton dossier. The Lifer Clerk sends out requests to those who must report on the offender, including:

- the Home Probation Officer responsible for the offender on release in the community;
- the Probation Officer, seconded to the prison and responsible for the offender in custody;
- the Lifer Manager at the prison; and
- the offender's Wing Manager, Personal Officer and other prison staff.

Once received, these reports are added to the dossier and this should be sent to the Board no less than 90 working days before the date of the hearing. As stated in paragraph 3.19 this deadline is being missed in two thirds of hearings. Appendix 2 gives further information on the contents of a parole dossier. The new Offender Management Model to be brought in under the reorganisation of the Ministry of Justice planned for April 2008 should improve this situation.

3.24 HM Prison Service is under a great deal of pressure due to the rising prison population. As at November 2007 there were almost 81,500 offenders being held in prisons,⁴⁰ which is two per cent up on the previous year and close to capacity. Understandably prison resources are focused towards managing this high prison population. For 2007-08, HM Prison Service dropped its Key Performance Target on the timely provision of dossiers to the Board for oral hearings for indeterminate sentenced prisoners because it considered it did not control enough of the process to justify continuing with the measure.

3.25 HM Prison Service accepts that there are delays in its provision of information for the Board but has its own concerns about obtaining information from the Probation Service and is concerned that the Board has over time increased the number of requests it makes for specialist reports from psychologists or psychiatrists which HM Prison Service has to provide and therefore to fund. In response to the delays, in April 2006, HM Prison Service committed to working with the Parole Board to investigate the reasons for delays in the system and the Service is currently working with the Board to understand properly the problems and the steps required to remedy this situation. As part of this work, since April 2007 on a periodic basis and since August 2007 on a monthly basis, the Board has been providing HM Prison Service with monthly statistics on late or incomplete dossiers for each prison and HM Prison Service Headquarters is planning to discuss poor performance with the Service's Area Managers.

³⁹ Ministry of Justice statistics.

⁴⁰ Source: Prison Service statistics.

3.26 From our visits to prisons we found that the main causes of delay are:

- the late receipt of the skeleton dossier or notification of the hearing from the Ministry of Justice (paragraph 3.20);
- difficulties in obtaining reports, particularly from the Home Probation Officer;
- the transfer of prisoners between establishments;
- the inexperience of the Lifer Clerk in preparing dossiers for the Board, for example non-familiarity with the timetable; and
- difficulties in dealing with the Board, for example, not knowing who to contact or to whom to address the dossier.

The workload of the Probation Service has increased in recent years and Probation Officers are often unable to supply reports for the Board on time

3.27 The Probation Service has no target for producing reports for the Board and no data is collected on whether or not reports are provided on time. However, prisons told us that reports from Probation Officers, particularly the Home Probation Officer responsible for the offender if released into the community, are the main cause of dossiers being sent late to the Board. Our analysis of 276 oral hearing case files found that of the hearings that were deferred because of missing documents, the missing document was a Probation Officer report on 17 per cent of occasions, making the Probation Report the second most likely report to be missing and to cause a hearing to be deferred.⁴¹ In just over half of the hearings which were deferred because a witness was not available, or did not turn up on the day, the missing witness was a Probation Officer.⁴² The Probation Service does not monitor Probation Officers' attendance at Board oral hearings.

CASE EXAMPLE 1

Prisoner A's original hearing date was scheduled for 27 November 2006, but it was deferred because there was no Judge available to chair the hearing. The rearranged hearing on 26 January 2007 had to be deferred because the prisoner was transferred to another establishment for operational reasons. The hearing was rearranged a third time for 12 March 2007, but this was adjourned at the hearing because the Home Probation Officer did not attend and both Probation Officer reports were out of date. The rearranged hearing on 4 July 2007 went ahead and the decision was to recommend the transfer to open conditions.

Source: National Audit Office analysis of Parole Board case files

CASE EXAMPLE 2

Prisoner B's original hearing date was scheduled for 17 February 2006. This hearing was adjourned so that updated psychology and probation reports could be obtained as well as an updated Risk Management Plan. The hearing was rescheduled for 11 May 2006, but was again adjourned because the Risk Management Plan had not been submitted. The hearing was re-listed for 22 March 2007, but this had to be deferred until 11 May 2007 because the probation officer was on maternity leave. However, this hearing could not go ahead because the Board could not arrange a full three member panel. At the re-scheduled hearing on 25 July 2007 the prisoner was released on licence.

Source: National Audit Office analysis of Parole Board case files

3.28 The probation caseload increased by 34 per cent in the five years to 31 December 2006, from 181,600 offenders under supervision to 244,085. Over the same five year period there was an increase in probation staff of 35 per cent. However the impact of increased workloads on the capacity of probation to deliver what is expected by the courts and the public has not been clearly assessed.⁴³ The Probation Service is in a state of change as it moves towards an Offender Management Model. While this creates some uncertainty amongst probation officers about their role and future in the short term the Probation Service expects that rolling out Offender Management to indeterminate offenders will improve offender managers' ownership of parole dossiers.

⁴¹ The most likely report to be missing from a dossier and cause a hearing to be deferred is the psychological report which was responsible for 26 per cent of hearings that were deferred because of missing documents.

⁴² We found 14 occasions where the Probation Officer was not available, causing the hearing to be deferred in advance and 10 occasions where the Probation Officer did not turn up at the hearing, causing a deferral. The next most likely witness to be unavailable and cause the hearing to be deferred was a psychiatrist/psychologist with 10 occasions in total, five in advance and five on the day.

⁴³ Figures on caseload and staffing at the Probation Service are taken from the Comptroller and Auditor General's Report *National Probation Service: The supervision of community orders in England and Wales, 2007-08*.

Failings in the Board's administrative processes for arranging oral hearings for indeterminate sentenced prisoners also lead to delays and deferrals

3.29 Although the receipt of late or incomplete dossiers is the most likely reason for a hearing to be delayed or deferred the Board also struggles to arrange hearings in cases where a complete dossier has been received. Our analysis showed that the most likely reason for a hearing to be deferred in advance of the hearing date was because the Board could not put together a three member panel. This accounted for over a quarter of all deferrals before the hearing.

3.30 Problems in the teams processing oral hearing cases at the Board can lead to delays and deferrals:

- four members of the Board's Secretariat are responsible for setting the dates for all oral hearings and arranging the panels of members; if any of these staff are away there are not enough resources to ensure that all hearings are arranged. During the Focus Groups members told us that they were often not informed of changes to the dates of hearings because of the lack of staff in the Secretariat; and
- other Secretariat staff are responsible for managing a case from the receipt of the dossier until the hearing itself, including ensuring complete dossiers are sent to panel members on time. Board members told us that they often receive the dossiers late; sometimes not until the day before the hearing. Quality control is also a concern with dossiers being received incomplete and sometimes with clerical errors such as pages being photocopied incorrectly.

3.31 Hearings are sometimes deferred on the day because panel members do not turn up. We found 13 occasions where a hearing was abandoned because a member was not available, primarily because of illness or a bereavement. Extrapolated across the nine month period of our sample, hearings would have been abandoned because a Board member was not available on 64 occasions.⁴⁴ The Board has not to date monitored members who do not turn up at hearings.

CASE EXAMPLE 3

Prisoner C's original hearing on 13 July 2005 was adjourned pending receipt of an updated psychological evaluation and resettlement and supervision plan. The hearing was rescheduled for 21 November 2005 but deferred because the Board was unable to secure a three member panel. The Board rescheduled the hearing for 8 December 2005 but again could not arrange a panel and the hearing was deferred. The next date was set for 6 March 2006, but this hearing was adjourned as the release plan from the probation officer had not been received. The hearing went ahead on 11 September 2006. The decision was to release the prisoner.

Source: National Audit Office analysis of Parole Board case files

CASE EXAMPLE 4

Prisoner D's original hearing date was scheduled for 5 July 2006, but had to be deferred because the then Home Office had not sent the skeleton dossier to the prison. The rearranged hearing on 4 September 2006 was adjourned because several reports were missing from the dossier, and the subsequent rearranged hearing on 10 November 2006 was also deferred, because a psychiatrist was not available. The hearing was next scheduled to happen on 21 February 2007, but this did not go ahead because a panel member was ill. When the hearing went ahead on 26 March 2007 the decision was to release the prisoner.

Source: National Audit Office analysis of Parole Board case files

Delays following hearings can also result in offenders spending too long in prison

3.32 Following the hearing the Chair of the panel formalises the reasons for the decision and e-mails this to a member of the Secretariat to be incorporated into a notification letter which is sent to the offender, the Ministry of Justice and the prison. The Board has a target to send out this notification within five days of the hearing. As set out in Figure 11, the Board met this deadline in only 64 per cent of hearings to 31 October 2007, against a target of 90 per cent. The Board told us that this target is missed in part because the Secretariat cannot cope with its volume of work and also because some Chairs do not send the reasons to the Secretariat on time. Delays can lead to offenders spending longer than necessary in custody where the decision was to release.

⁴⁴ We examined 276 of 1,350 cases in the nine month period 1 September 2006 to 31 May 2007. Extrapolating the number of occasions a hearing was deferred on the day due to a panel member not turning up gives $13 \times 1350/276 = 64$ occasions across the nine month period.

The Board has recently introduced a process of Intensive Case Management to reduce the number of oral hearings deferred on the day, but there are risks

3.33 In September 2007, the Board introduced a new system for processing oral hearings for all indeterminate sentenced prisoners, known as Intensive Case Management (Figure 14). This involves a trained and subsequently accredited⁴⁵ Board member reviewing the dossier received in advance of setting a date for the hearing to check that all the information necessary for the panel to make an informed decision is contained on the dossier. If a complete dossier has not been received by 10 weeks before the hearing date the case will be deferred.

3.34 The first hearings under the Intensive Case Management system were due to be held in January 2008. Despite reminder letters being sent out at 16 and 13 weeks before the hearings in accordance with the timetable, complete dossiers for these cases had only been received for 30 of the 160 planned hearings by the 10 week deadline; the remaining 130 hearings should, in accordance with the guidelines, be deferred. The key risk of the Intensive Case Management system is therefore that although hearings are less likely to be deferred on the day because a specific hearing date will only be given once a complete dossier has been received, the number of hearings deferred before the hearing date is likely to increase, at least in the short term. This is because the Board is still reliant upon prisons and probation staff to provide it with complete dossiers on time and, as this section of the report has set out, there are numerous barriers to overcome to improve performance in the provision of dossiers.

3.35 For the Intensive Case Management System to improve the quality and timeliness of dossier production, it is essential that prison and probation staff are aware that the system has been introduced and how the new system will impact on the timetables to which they work. Although the Board has taken considerable steps to publicise Intensive Case Management to staff at HM Prison Service, the Probation Service and the Ministry of Justice, our evidence suggests that many people responsible for preparing information for dossiers at these organisations are still unaware of its existence and therefore the consequences of missing the deadline for submitting complete dossiers.

The Board has recently found a number of cases which must now be heard, further stretching member resources

3.36 In October 2007, as part of the introduction of Intensive Case Management the Board undertook an exercise to identify all cases processed under the old system which had not yet been heard. In addition to the 160 cases which had a target hearing date of January 2008, and excluding those cases which already had a hearing arranged in November and December 2007, the Board identified approximately 300 cases which should have already been heard, some dating back to 2006. These cases did not have a scheduled hearing date and were not being progressed by the Board. The Board could not explain why no action had been taken to arrange hearings for these cases prior to this exercise.

14 The Intensive Case Management Process

Process Stage	Time due
Notification of the month of the hearing is issued by the Ministry of Justice.	26 weeks before the hearing
Dossier should be received by the Board.	18 weeks before the hearing
If no dossier received, the Board will issue a reminder letter to the prison.	16 weeks before the hearing
Deadline for the dossier to be assessed by the Intensive Case Manager member. If no dossier has been received a further reminder will be issued to the prison.	13 weeks before the hearing
Deadline for Intensive Case Manager member to re-assess late or incomplete dossiers. Any not considered ready, or not yet received, will be deferred.	10 weeks before the hearing
Listing meeting where cases are allocated to panels and panel members assigned.	10 weeks before the hearing
Complete dossier sent to panel for confirmation that no further information is required.	4 weeks before hearing
	Hearing

Source: National Audit Office analysis of Parole Board documents

45 The trained Intensive Case Management member's first three live cases will be monitored by experienced members before final accreditation is given by the Board.

3.37 The Board needed therefore to hear 460 cases in January 2008 but only had the capacity to hear 100 to 120 cases, leaving a surplus of some 340 cases. The Board expected that around 100 of these would be high security lifer prisoners who may accept a negative parole decision without the need for an oral hearing, although it is possible that each of them could request an oral hearing. The best case scenario therefore would still leave the Board with a backlog of around 240 late cases to hear as soon as possible, impacting on its future caseload and further increasing the pressure on members.

Managing determinate sentenced recall cases

During 2006-07 the Board struggled to review decisions to recall offenders to custody in a timely manner, but performance has since improved

3.38 The Criminal Justice Act 2003 requires the Board to review any decision taken by the Secretary of State to recall an offender to prison, and the Board has a target to do so within six days of receipt of the recall dossier in 90 per cent of cases. In 2006-07, the Board only considered recalls within six days of dossier receipt in 22 per cent of cases. As set out in paragraph 3.5, there was a 58 per cent increase in the number of recall cases handled by the Board from 9,296 in the previous year to just under 14,669 in 2006-07. The scale of this increase was underestimated by the Ministry of Justice⁴⁶, and this led to a mid-year budget shortfall which further constrained the Board's ability to consider cases on time. The Board applied for, and received, additional in-year funding of £310,000 in December 2006 and the Secretary of State re-appointed four members who retired from the Board in 2006 for a six month period to work solely on recall cases. The Board's performance has since improved sharply; from considering only seven per cent of determinate sentence recall cases within its target of six days of dossier receipt in April 2007, in each month since July 2007 it has met its target to consider 95 per cent of cases within the six day target.

Although the Board is now meeting its target for hearing recall cases within six days, many of these cases are deferred to a further review

3.39 In the six months to 30 September 2007, 1,998 (38 per cent) of the 5,247 recall cases considered by the Board were deferred to a further review⁴⁷, mainly due to incomplete information. The key pieces of information required by the Board to make an informed decision are: documents relating to the index offence; documents relating to the decision to recall; and an up to date Risk Management Plan written by the Home Probation Officer which sets out how the offender's risk of re-offending would be managed in the community if the decision was to release. A missing or out of date Risk Management Plan accounted for 19 per cent of deferrals in the six months to 30 September 2007, and other missing or unavailable information accounted for 48 per cent.⁴⁸ In 2007, the Board decided that a single member would first sift recall cases and only those where there was a possibility of release over a period exceeding three months supported by a complete and up-to-date dossier would be put to a two member panel for consideration. The Board considers that those cases which do not meet these criteria are very unlikely to be released and can be reviewed and rejected by a single member panel of the Board.

The Ministry of Justice is proposing measures to reduce the number of recall cases handled by the Board

3.40 The Criminal Justice and Immigration Bill⁴⁹ which is currently before Parliament contains clauses which would reduce the number of recall cases considered by the Board. If the Bill is passed then the Secretary of State can recall prisoners for a fixed term of 28 days, providing the Secretary of State is satisfied at the time of recall that the prisoner will not present a serious risk of harm upon re-release. The Board would therefore no longer have to consider these cases. The Board is hopeful that the resulting reduction in work will be significant but it is yet to see the full impact analysis. Prisoners who are serving a sentence for a serious sexual or violent offence as specified in Schedule 15 of the Criminal Justice Act 2003 would not be eligible for this fixed term recall. The Criminal Justice and Immigration Bill would also give the Secretary of State power to re-release prisoners who have been recalled to custody for a non-fixed term.

⁴⁶ The number of recall cases handled by the Board during 2006-07 was forecast to be 11,000 in its 2006-07 Business Plan, 33 per cent fewer than it actually handled. The total number of recall cases heard of 14,669 included approximately 3,400 cases which had previously been heard by the Board and deferred to a further review.

⁴⁷ Figures provided by the Post-Release Section of the Ministry of Justice.

⁴⁸ The remaining reasons for a recall decision being deferred to a further review in the six month period were: high risk of the offender (10 per cent); and if there was a further charge pending (8 per cent). No reason for further review had been noted in 15 per cent of cases.

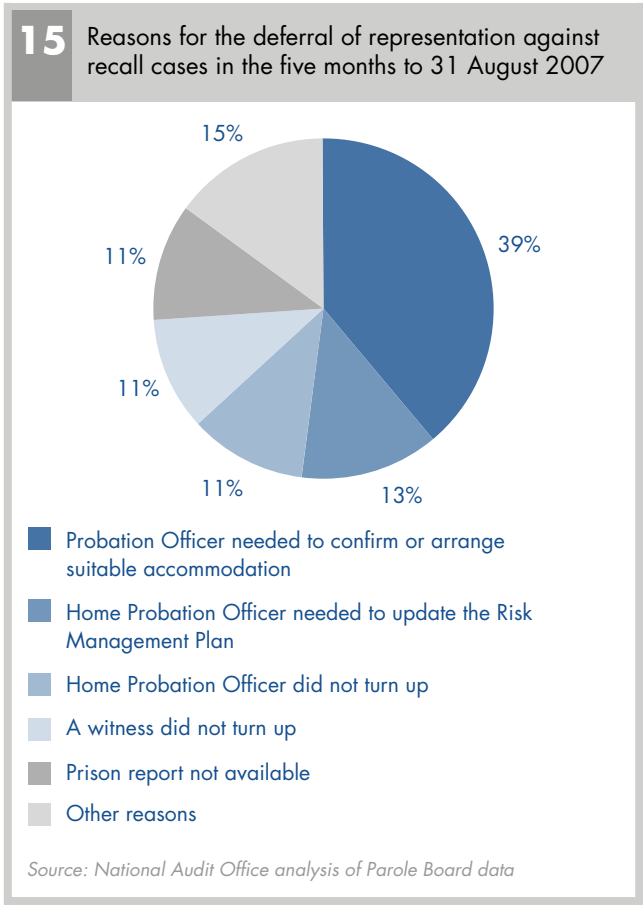
⁴⁹ The Criminal Justice and Immigration Bill <http://www.publications.parliament.uk/pa/cm200708/cmbills/001/2008001.pdf>.

The Board struggles to hear representations against recall hearings on time

3.41 Following the House of Lords judgement in the cases of Smith and West in January 2005, determinate sentenced prisoners recalled from licence are entitled to request an oral hearing by the Board if they dispute the reasons for their recall (Figure 1). The number of these representations against recall cases doubled between 2005-06 and 2006-07 from 388 to 674. These cases are heard by a single, legally qualified, Board member, to a timetable which is dependent on the amount of time before the prisoner’s sentence expiry date when they would automatically qualify to be re-released.⁵⁰ In 2006-07, the Board had a Business Plan target to hold 80 per cent of hearings within these timetables, against which it achieved 55 per cent. For 2007-08, it has reduced the target to 70 per cent, but in the seven months to 31 October 2007 it only achieved 41 per cent. The Board told us that the main reasons for the target being missed are the lack of availability of members to cope with the increased workload coupled with the often short timescales for holding these hearings.

3.42 In 2006-07, 10 per cent of representations against recall cases were deferred or adjourned at the oral hearing and in the five months to 31 August 2007, the deferral rate was 16 per cent.⁵¹ **Figure 15** sets out the reasons for these deferrals.

3.43 To further assist its management of its workload the Board has used video conferencing equipment in 110 representations against recall oral hearings since November 2005, representing approximately 10 per cent of cases.



50 These timetables range between the cases being heard within seven days if the prisoner qualifies for re-release in less than one month, to 55 days if the prisoner has more than 12 months before qualifying for re-release.

51 The deferral of a representation against recall oral hearing does not always result in a further oral hearing: in the nine months to 31 December 2007, 47 per cent of representations against recall cases which were deferred at the hearing were later determined on additional papers without the need for a further oral hearing.

PART FOUR

The Board has a number of mechanisms for reviewing its performance but some improvements are needed

The Board has three mechanisms for reviewing its decisions and is considering more

4.1 The Board has three main mechanisms for reviewing the decisions it has made: the Review Committee; the Joint Review Panel; and the Post Panel team.

The Review Committee reviews decisions made by the Board where those on licence have committed serious further offences

4.2 The Review Committee was established in October 2003, to review cases where prisoners released on parole and life licence have committed or are suspected of committing a serious sexual or violent further offence to assess whether the Board's initial decision to release was justified. The Committee provides feedback to members responsible for the

original decision to release and where appropriate draws out wider lessons for all members. It meets quarterly and reviews all determinate cases referred to it by the Board and all life licence cases referred to it by the Ministry of Justice. At meetings, the reviewing members present their assessment of the original decision. The Committee then endorses or changes this and confirms any learning points arising. To date the Board has not had a mechanism in place for reviewing the decisions made on cases other than those where a prisoner on parole or life licence has committed or is suspected of committing a serious sexual or violent offence.

4.3 Since January 2007, the Committee has placed its opinion of the original decisions in one of five categories (see Figure 16). After each meeting the Chairman of the Committee writes to all the original panel members detailing the Committee's findings and highlighting learning points.

16 Summary of Review Committee Decisions in 2007

Category of decision	Month				Total
	January 2007	April 2007	July 2007	October 2007	
Entirely Reasonable	0	3	1	3	7
Reasonable	3	1	10	4	18
Reasonable with concerns	3	3	3	3	12
Questionable	4	4	3	2	13
Completely unreasonable	0	0	0	0	0
Total	10	11	17	12	50

Source: The Parole Board

4.4 The Committee identified 39 wider learning points arising from the cases it had reviewed in 2007, which it commissioned research on: 16 of the learning points arose from the poor quality of the written reasons produced by the original panel, nine from weaknesses in the assessment of risk by panel members and seven from the poor quality of information available. The remaining seven related to lessons for the Board's partner organisations such as the Probation Service. These wider learning points triggered the Committee to recommend the Board establish a further body which would draft in representatives from all the main criminal justice organisations to take forward these wider issues for dissemination. This new Joint Review Panel met for the first time in June 2007 and met again in October 2007.

The number of offenders challenging Board decisions has increased sharply in recent years, broadly in line with the increase in workload

4.5 Challenges to Board decisions are handled by the Board's Post Panel team. The vast majority are from offenders or their legal representatives, and the main reasons for these challenges are set out in **Figure 17**, along with the Post Panel team's usual response. The Post Panel team also deals with correspondence from members of the public or external agencies.

4.6 The number of challenges received by the Board increased by almost 80 per cent between 2004-05 and 2006-07. The Post Panel team do not record detailed reasons for the challenges they receive, however, the information that is recorded shows that over half of the cases in 2006-07 concerned challenges to non-standard licence conditions. The number of challenges to the Board's decision for reasons of factual or procedural error, or because the offender did not agree with the decision, increased by more than 50 per cent in the year to 31 March 2007 (**Figure 18**). Despite the increase in its workload, the Post Panel team was able to meet its target of replying to challenges from prisoners and to correspondence from members of the public or external agencies within 20 days in 95 per cent of cases during 2006-07.

4.7 The increase in the number of challenges to Board decisions has been in line with the increase in its caseload. During the 2004-05 financial year, the number of challenges to Board decisions as a proportion of all cases handled by the Board was nine per cent. This proportion rose slightly to 11 per cent during 2005-06, but in 2006-07 remained stable. This suggests that the likelihood of an offender challenging a Board decision has not increased greatly over the last three years.

4.8 The Post Panel team have two options when responding to a challenge to a Board's decision; they can either reject it or order the case to be reheard by a different panel. The number of cases re-panelled increased by 16 per cent between 2005-06 and 2006-07, from 259 to 301. Having to reconsider cases adds to the Board's total workload, and there is pressure to act quickly because it has a target to hear these cases within 25 working days of the Post Panel team's decision to re-panel.⁵² Although the total number of cases ordered to be reconsidered increased between 2005-06 and 2006-07, the proportion of challenges to decisions, excluding challenges to licence conditions,⁵³ which resulted in the case being re-panelled went down from just under a third to under a quarter.⁵⁴ If the Post Panel team decides to reject the challenge the offender can either accept this decision or apply for a Judicial Review.⁵⁵

Applications for Judicial Review have gone up, mainly due to delays in hearing cases

4.9 During 2006-07 there were 84 applications for Judicial Review of Board decisions, up from 61 in the previous financial year. As at October 2007, there were 58 cases on the Board's register of Judicial Reviews and we have broken these down by reason at **Figure 19 overleaf**. Over 40 per cent (24 cases) of applications for Judicial Review were due to delays in hearing cases which may contravene the offender's right to a speedy hearing under Article 5(4) of the European Convention on Human Rights.⁵⁶

⁵² The target was not met in 2006-07; the Board heard 73 per cent of re-panelled cases within 25 days against a target of 95 per cent.

⁵³ Challenges to licence conditions have been excluded as they do not result in cases being reheard.

⁵⁴ In 2005-06, 259 of 807 challenges to panel decisions were re-panelled (32 per cent). In 2006-07, 301 of 1,274 challenges were re-panelled (24 per cent).

⁵⁵ Judicial Review is a court proceeding in which a judge reviews the lawfulness of a decision or action by a public body.

⁵⁶ Article 5(4) of the European Convention on Human Rights states: "Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful".

17 The main reasons for offenders challenging Parole Board decisions, and the Post Panel team's normal response

Reason for challenge	Examples	Post Panel team response
To bring new information to the Board's attention not available at the time of the hearing.	The offender may have an offer of employment upon release, or have completed a prison behavioural course.	New information is sent to panel members who made the original decision, to ask whether or not it would have had an impact. If so the case is re-panelled.
Procedural error by the Board.	A mandatory document, such as the OASys Report, not being included in the dossier or being out of date, or the prisoner not being given the opportunity to make representations.	The case is automatically re-panelled if there is a significant procedural error like the examples given here.
Factual error in the Board's reasons for its decision.	Incorrect number of previous convictions or type of offence quoted in the panel's reasons.	The Post Panel team make a judgement on whether or not the error is significant. If so the case is re-panelled.
The offender does not agree with the Board's reasoning for its decision.	The offender considers that the decision should have been to release, based on the evidence in the parole dossier.	Any challenge to the fairness of the judgement of the Panel which does not claim an error or offer new evidence is dismissed by the team.
Challenge to any non-standard ¹ conditions attached to the offender's release on licence.	A curfew or exclusion zone may be added to licence conditions, which the offender considers unfair.	The Post Panel team refers these cases to a single Board member for consideration.

Source: National Audit Office analysis

NOTE

1 Six standard conditions to be attached to every offender's release on licence have been agreed with the Probation Service. The Probation Service can request additional conditions to enable them to manage the offender's risk in the community.

18 Cases handled by the Post Panel team 2004-05 to 2006-07

Reasons for challenges	Number of cases handled by the Post Panel team					
	2004-05	As percentage of challenges in that year	2005-06	As percentage of challenges in that year	2006-07	As percentage of challenges in that year
New information which might affect the decision to grant parole	213	13	199	10	148	5
Offender challenges/complaints concerning the panel's decision ¹	411	25	556	27	998	34
Challenges concerning non-standard licence conditions	928	57	1,256	61	1,630	56
Other challenges, including from the public or an external agency	69	4	52	3	128	4
Total number of challenges	1,621		2,063		2,904	

Source: National Audit Office analysis of Parole Board data

NOTES

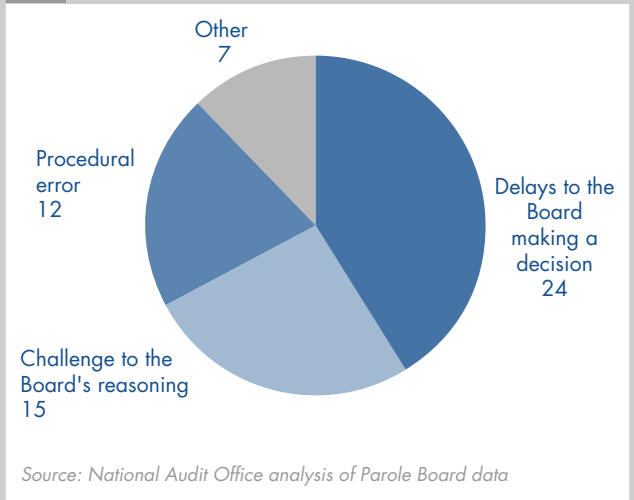
- 1 This includes procedural error, factual error and the offender challenging the panel's reasoning for its decision.
- 2 The percentages have been rounded up or down to the nearest whole number.

4.10 Although the Board has not to date lost many Judicial Review cases⁵⁷, they are expensive to defend, and can have a major impact on the Board’s working practices. The Board only began keeping a record of the legal costs of Judicial Reviews in April 2005, and since then costs have been £303,000⁵⁸. An example of the potential impact of Judicial Reviews is shown by the judgement in the Smith and West case (see Figure 1), after which offenders recalled to prison were able to request that the decision to recall them be considered at an oral hearing by the Board.

Although compensation paid to prisoners has been small, it is likely to increase

4.11 In a Judicial Review heard in May 2007, the High Court ruled that the deferral and delay of a prisoner’s hearing had breached his human rights, and that damages may be payable.⁵⁹ This ruling could pave the way for claims from other prisoners who have had their hearings deferred and delayed. The Board has not kept records of the amount it has historically paid in compensation, however, it told us that in 2006-07 just £6,000 of its legal costs were compensation payments to prisoners but it does acknowledge that compensation claims are likely to increase.

19 Breakdown of the Board’s 58 live Judicial Review cases as at October 2007, by reason for challenge



NOTE

Other includes three challenges to the Parole Board’s independence from the Secretary of State, and two cases challenging the Parole Board’s decision to deny an oral hearing for a recall decision.

57 Board records show that it lost four Judicial Review cases between 1 April 2004 and 31 March 2007.
 58 These legal costs are paid by HM Prison Service as a notional cost.
 59 R (Cooper) v Board, 18 May 2007, EWHC 1292.

APPENDIX ONE

Methodology

1 This study set out to examine whether the Parole Board is operating effectively and efficiently. Within this scope we considered:

- whether the Parole Board manages its workload in an efficient and timely way;
- whether Parole Board members are well equipped to make decisions on the cases they examine in terms of the guidance, training and feedback they receive; and
- whether the Parole Board has adequate processes for reviewing its performance and learning lessons.

Case file examination

Oral hearings for indeterminate sentenced prisoners

2 The Parole Board only retains parole dossiers for nine months after the date of the hearing, before they are destroyed. The population of cases we selected from was the nine month period 1 September 2006 to 31 May 2007. We calculated that a sample size of 300 cases would give us results which were statistically representative of the entire population of 1,350 oral hearings for indeterminate sentenced prisoners during this nine month period, and allow us to make conclusions on the total population. To select the sample we sorted the hearings by date and selected every 5th case, then the remainder at random. The Parole Board was not able to locate 24 files and so we were only able to examine 276.

3 We examined the case files and collected the following data on each case, where possible:

- the target month for the hearing as calculated by the Ministry of Justice;
- the first listed date of the hearing and the date of the actual hearing;
- the number of times the case had been deferred, whether this was in advance or at the hearing and the reason for each deferral;

- when the dossier was received;
- whether all mandatory documents were contained in the dossier;
- the date the dossier was sent to the panel;
- the decision at the hearing; and
- the date the notification of the decision was sent to stakeholders.

4 We compared the data on the case file with that contained on the Parole Board's oral hearings database (SOAPHS), and found many discrepancies; in particular many deferrals were not recorded on the Board's database.

Paper hearings to review parole applications

5 We reviewed 100 parole dossiers selected at random from the three months from July to September 2007 to examine the reasons given by panels for their decisions. We noted how the risk assessment tools and other reports such as from probation officers were used by the panel in the assessment of risk.

Data analysis

6 We analysed the data collected during our examination of case files for oral hearings for indeterminate sentenced prisoners to calculate:

- the number of times each case was deferred, the total number of deferrals, and the number of these deferrals which were at the hearing;
- the average total delay for each deferred hearing, from the first intended date of the hearing to the actual hearing date;
- the proportion of hearings which took place later than the target month calculated by the Ministry of Justice, and the extent of delay;
- the average time taken to rearrange a deferred case;

- for cases which have been deferred and the offender was subsequently released at the re-arranged hearing, the total ‘additional’ time spent in custody;
- for cases which have been deferred and the decision at the re-arranged hearing was to transfer from closed to open conditions, the total additional time spent in closed conditions;
- a breakdown of the reasons for deferrals into categories, to analyse which were the most common reasons for deferrals;
- which documents were most likely to be missing and cause a hearing to be deferred; and
- which witness was most likely to not attend and cause a hearing to be deferred.

Financial analysis

7 We used the results of the data analysis above to calculate the following costs to the taxpayer:

- the cost of keeping offenders in prison longer than necessary due to the delay and deferral of Parole Board oral hearings;
- the cost of keeping offenders in closed, rather than open, conditions longer than necessary due to the delay and deferral of Parole Board oral hearings; and
- the wasted administrative cost of deferring oral hearings on the day.

Questionnaire

8 We sent a questionnaire to every Parole Board member to obtain their opinions on:

- the amount, quality and timeliness of the training and mentoring they receive;
- the appropriateness of the appraisal process;
- the adequacy of the guidance they are given on how to make decisions on cases;
- the timeliness, content and layout of parole dossiers;
- what factors deter them from increasing the number of parole cases they hear; and
- their general satisfaction with their role and current Parole Board working practices.

9 The questionnaire contained a mix of closed questions designed to elicit specific information from respondents and open questions where members were able to provide additional information and express their opinions on the subjects under review. Ninety four of the 172 (55 per cent) members in post as at 1 July 2007 responded to our survey.

10 A breakdown of the survey respondents by category is as follows:

Category of membership	Percentage of respondents
Independent	57
Judge	15
Psychiatrist	12
Psychologist	6
Probation Officer	6
Criminologist	4
Total	100

Focus Groups

11 We held two Focus Groups of members, selected at random from those members who responded to our survey. Sixteen members attended the Focus Groups; one Judge, two psychiatrists and 13 independent members. Three of these members had been appointed to the Board in September 2001, one had been appointed in July 2002, five had been appointed in July 2005, one had been appointed in March 2006, and six had been appointed in July 2006. We covered similar issues to those in the questionnaire, set out in paragraph 8 above.

Observation

12 We observed one three member paper panel reviewing parole applications and one three member oral hearing reviewing indeterminate sentenced prisoners’ applications for release.

13 We also attended the Board’s Review Committee which reviews cases where prisoners on licence have committed a serious further offence.

Structured interviews

14 We carried out structured interviews with:

- key personnel at the Parole Board: the Chief Executive; the Director of Performance and Development (also the one current Full Time Member); the Head of Operations; the Head of Casework; the Head of Corporate Services; the Intensive Case Management Project Leader; the Oral Hearings Team Manager and a member of the Oral Hearings team; the Listings and Rota Manager; the Representations Against Recall Team Manager; the IT Manager; and the Post Panel Team Manager and a member of the Post Panel team;

- key personnel at the Ministry of Justice: the Head of the Pre-Release Section; a Pre-Release Casework Team Leader and a Pre-Release Caseworker; the Head of the Post Release Section; the Head of Post Release Casework; the Team Manager for Lifer Recalls; the Head of Casework Managers for (non-lifer) Recall Teams; a Recall Caseworker; and three members of the Research, Development and Statistics section with responsibility for producing Parole Board statistics; and
- key personnel within the National Offender Management Service: the Director of Probation; the Deputy Director of the Public Protection Unit; and the Deputy Director of HM Prison Service.

Visits to prisons and probation areas

15 We visited two prisons; one which was performing badly in relation to providing information to the Parole Board, and one which was performing well, according to the latest data which the National Offender Management Service was able to provide which was one year out of date. We spoke to two members of senior management with responsibility for parole and also the Lifer Clerk and Parole Clerk at each establishment. We also spoke to two probation officers seconded to the prisons.

16 We also visited two probation areas; one inner-city, Greater Manchester, and one rural, Dyfed Powys. We carried out semi-structured interviews with the Assistant Chief Probation Officer, four Divisional Managers and two probation officers at Greater Manchester. We carried out semi-structured interviews with the Assistant Chief Probation Officer, a Divisional Manager and two probation officers at Dyfed Powys.

Document review

17 We reviewed the following documentation:

- monthly and annual performance reports produced by the Parole Board and Ministry of Justice;
- guidance provided to: Parole Board members and administrative staff; Ministry of Justice Caseworkers; and Parole Clerks and Lifer Clerks at prisons;
- minutes of Parole Board Review Committee meetings, Management Committee Meetings, Audit Committee Meetings and other strategic meetings and workshops;

- documentation related to the Board's Intensive Case Management process; and
- findings of internal and external review mechanisms such as the Post Panel team's feedback to members and relevant reports by the Chief Inspector of Probation.

Visit to Parole Board for Scotland

18 We visited the Parole Board for Scotland to discuss issues such as risk assessment, processes for arranging hearings and the challenge and review of Board decisions. We carried out semi-structured interviews with the Chairman and the Head of the Secretariat on the following issues:

- the nature of the relationship between the Parole Board for Scotland and the Scottish Executive;
- the composition of the membership of the Parole Board;
- the different types of panel that the Parole Board operates and the composition of those panels;
- how the Parole Board for Scotland forecasts its future workload;
- the procedures that the Parole Board employs for setting up different types of panels;
- the relationship between the Parole Board and the Probation Service and the Prison Service in Scotland, and with other key stakeholders;
- how members assess risk on different types of cases;
- the formal and informal guidance that members receive to help them assess risk on different types of cases;
- the way that members record their decisions on the different types of cases heard;
- the level and types of challenge to Parole Board decisions that are received and the ways that those challenges are resolved; and
- the mechanisms that the Board uses to review its past decisions and to learn lessons.

APPENDIX TWO

Contents of a parole dossier

Document	Description
Summary of the offence	From one of the following sources: police report, pre-sentence (probation) report, pre-sentence psychiatric report, or court transcription of sentencing remarks.
List of previous convictions	Including details about any penalties imposed.
Any pre-sentence probation, medical or psychiatric reports	These reports would have been considered by the Judge before the custodial sentence was set.
Offender Assessment System (OASys) report	This report is produced by probation and prison staff and gives an assessment of the offender's risk. It must have been reviewed and updated within three months of the Parole Board hearing.
Information on the prisoner's progress in custody	Including details on any disciplinary incidents such as adjudications, any behavioural or educational courses completed, and reports written by the prisoner's wing manager, personal officer and other prison staff.
Any medical or psychological reports (where applicable)	Assessments of the prisoner's physical and/or mental health written by a doctor or psychiatrist/psychologist.
Home Probation Officer Parole Assessment Report	Report completed by the probation officer who would be responsible for the offender if released into the community. Includes: information on the offence and the issues at the time of the offence; details of any previous convictions; an assessment of risk and who that risk is to; details of any work done to address risk; an explanation of how the offender's risk would be managed in the community; recommendations on the conditions which should be attached to the offender's licence; and a conclusion on whether the offender should be released or not.
Seconded Probation Officer's report	Written by the probation officer who works in the prison and is responsible for the offender in custody. Gives information on the offender's risk, progress in custody and a conclusion on whether the offender should be released or not.
Prisoner's representations	A written submission from the prisoner to be considered by the Parole Board at the hearing.
Representations from the victim and/or family (where applicable)	The victim and/or their family are given an opportunity to make a submission which will be considered by the Parole Board at the hearing.
A recommendation from the Secretary of State (indeterminate sentenced prisoners only)	The Secretary of State's view on what the Board's decision should be, plus reasons for the recommendation.
Additional documents if the offender has been recalled to custody	Including information on the reason for the recall and an updated risk management plan from probation assessing the offender's risk and how that risk would be managed if re-released.

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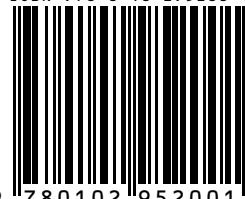
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