



National Audit Office

Report

by the Comptroller
and Auditor General

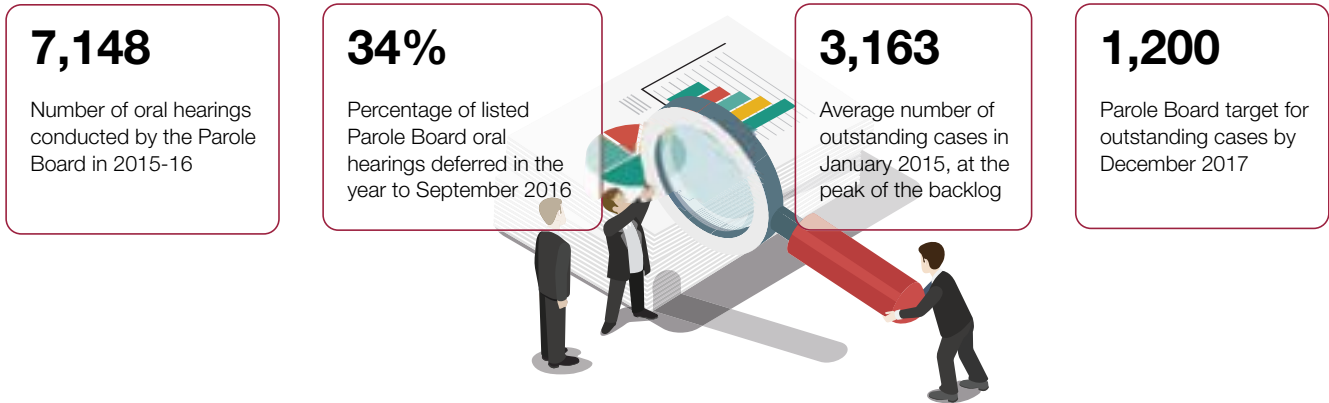
Ministry of Justice

Investigation into the Parole Board

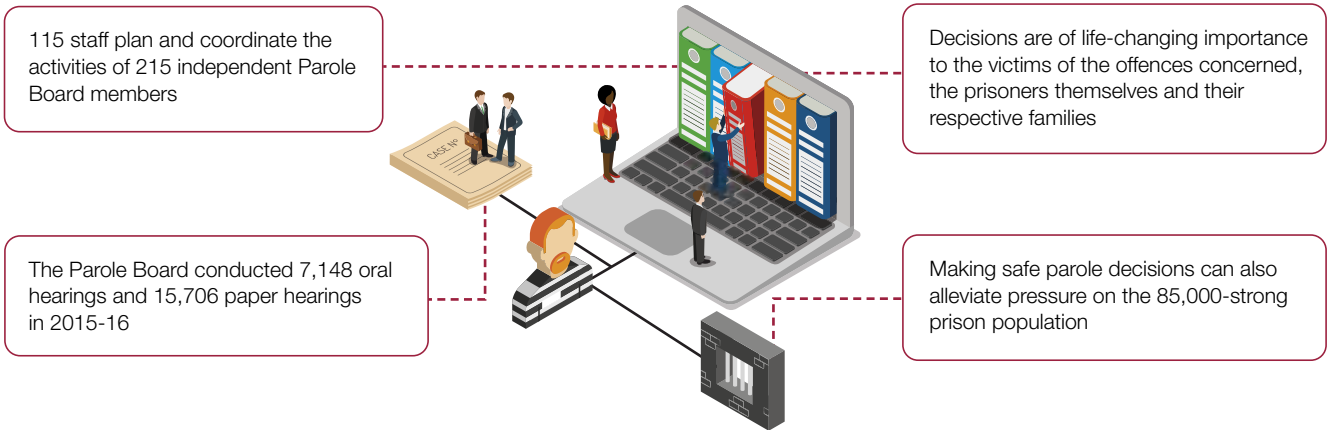
Key information

What this report is about

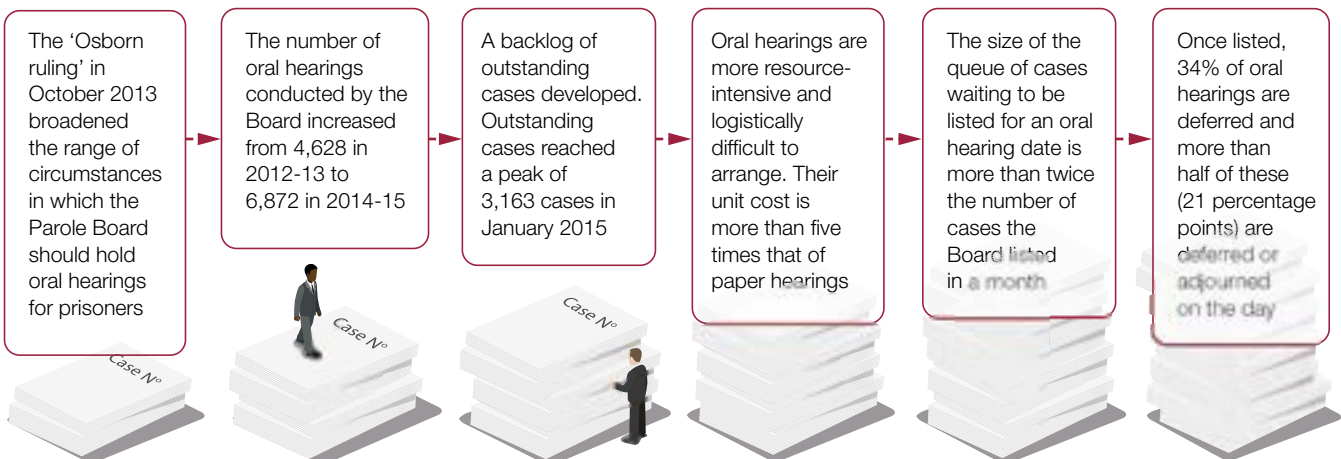
This report investigates a backlog of outstanding parole cases which led to increased delays and costs, and how the Parole Board is addressing these problems



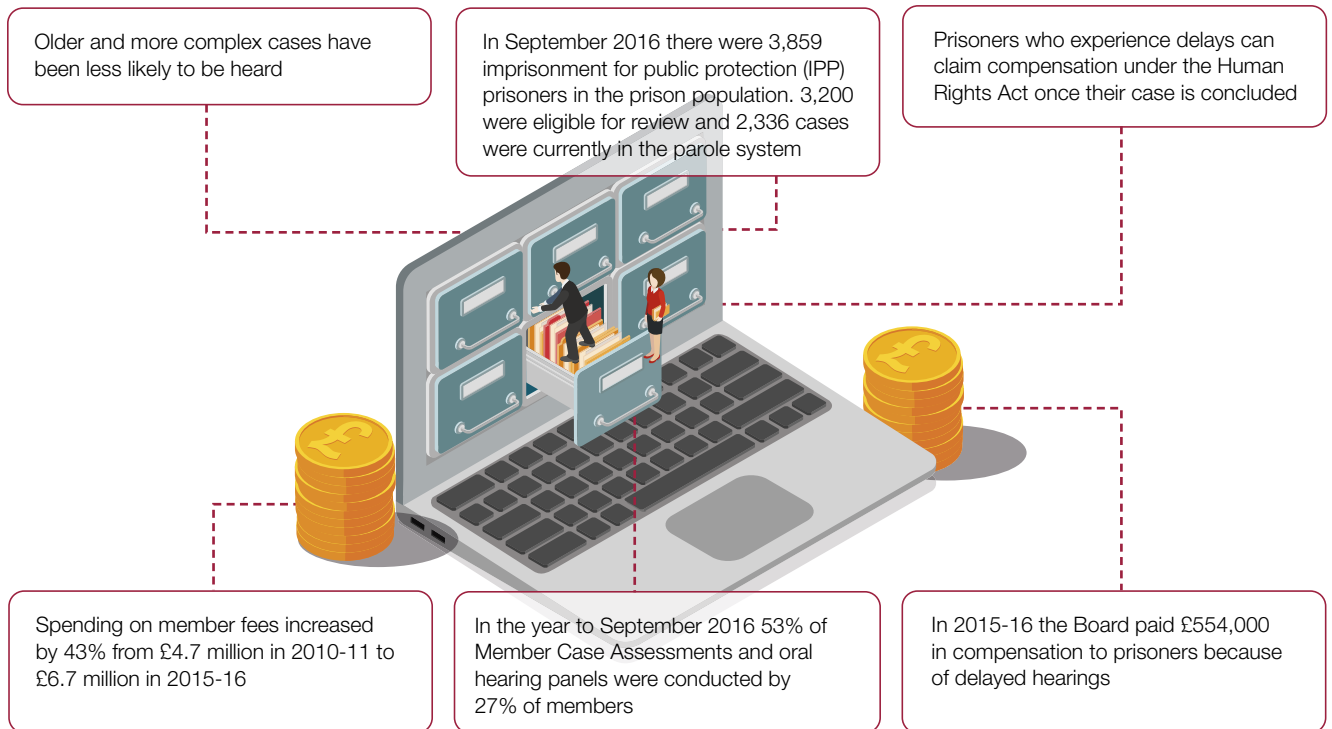
The Parole Board is an independent body which risk-assesses prisoners to decide whether they can safely be released into the community



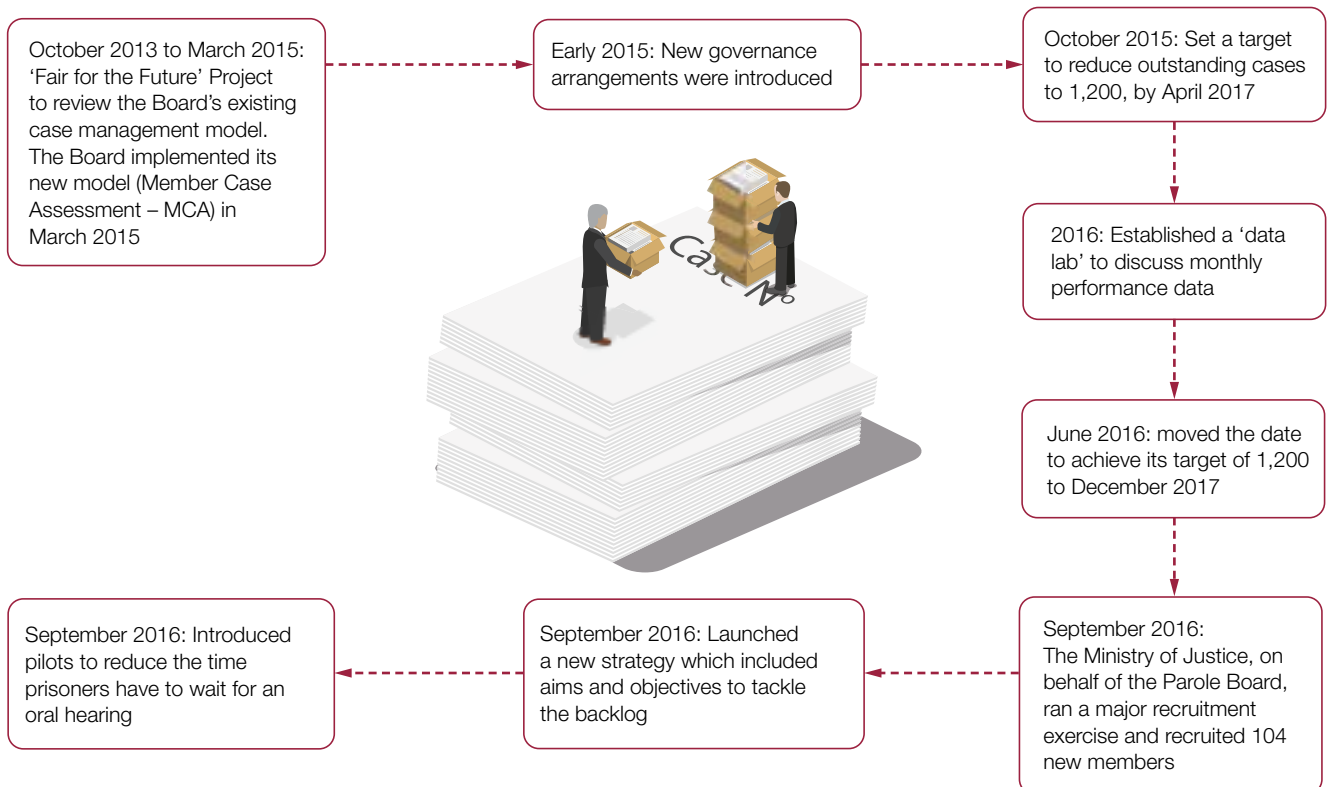
How the backlog increased



The impact of the backlog



The Parole Board's performance in tackling the backlog



What this investigation is about

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

2 The Board is responsible for:

a deciding whether to:

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

b advising the Secretary of State for Justice:

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

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

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

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

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

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

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

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

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

Summary

Key findings

How the backlog increased

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

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

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

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

The impact of the backlog

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

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

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

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

Performance in tackling the backlog

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

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

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

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

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