

## Response ID ANON-FDHB-K2EM-3

Submitted to **Transforming Parole in Scotland**

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### Questions on strengthening the voice of victims in the parole process

#### 1 Do you think victims and their families should have a greater voice in the parole process?

Yes

##### **If Yes, what more could be done to help victims and their families be heard? If No, why not?:**

It is difficult to disagree with the premise that victims should be heard within the parole process, however the form that this takes and to what extent is harder to answer. The consultation document could be clearer in setting out what the current issues are at the moment in relation to this issue and why the current system doesn't provide adequate opportunity for victims to be heard as part of the process. Proposals on what this 'greater voice' would look like would have been helpful to include - we would agree with some form of a greater voice and not with other forms depending on the extent.

In seeking to grant a greater voice to victims, the role of parole must be considered: is it a risk management mechanism or a rehabilitative process? If it is the latter, the process must, in our opinion, avoid further punishment. By increasing the voice of victims and their families in the process (depending on what form it takes and to what extent) the parole process could be at risk of becoming punitive instead of rehabilitative - parole is not a further sentencing decision.

#### 2 Do you think victims and their families should be entitled to attend parole hearings in person?

No

##### **If Yes, what wider considerations would be necessary to manage this process, what support should be available and who should be responsible for providing that support? If No, why not?:**

We are unclear of the rationale for this proposal and what it hopes to achieve a) for the victim and b) for the parole process.

This is a well intended idea to further involve victims in the process but the risk of this system becoming punitive due to this lack of clarity is substantial; and we are not clear that in person attendance is an appropriate way to increase the victim's voice in the process. There is also a very real risk of breaching the rights of the parole 'applicant' if the role of parole is a rehabilitative one.

We would suggest a working group comprised of people with experience and expertise in parole matters, including those with lived experience (victims) should be convened and would be best placed to advise on this matter.

#### 3 Do you think there should be clear criteria on the kinds of information the Parole Board should consider in relation to the safety and welfare of victims and their families?

Yes

##### **If Yes, in your view what should that criteria be? If No, why not?:**

It is difficult to disagree that the Parole Board should have to consider the safety and welfare of victims and their families as part of the process.

However the consultation doesn't make it clear what criteria the Board currently has to consider and it is difficult to make a decision on this question in the absence of this information, and even more difficult to propose what that criteria should be.

We would suggest a working group comprised of people with experience and expertise in parole matters, including those with lived experience (victims) should be convened and would be best placed to advise on this matter.

#### 4 Do you think more could be done to strengthen the Parole Board's current use of licence conditions (including conditions to exclude individuals from certain areas, or from certain individuals)?

No

##### **If Yes, what would the implications be of extending this and how could this be managed in the community? If No, why not?:**

The rationale for this isn't clear. It isn't apparent in the consultation paper how the current use of licence conditions by the Parole Board isn't sufficient - there appears to be options for the Parole Board and supervising officer to request an additional licence condition:

"...can recommend any condition they feel is appropriate. In exercising their judgement, the Parole Board will also consider whether other licence conditions may be appropriate such as exclusion from a certain area, mandatory drug or alcohol treatment or restrictions on internet use." "...supervising officer may also request an additional licence condition..."

The Board being able to apply these conditions and manage their enforcement in the community is important but it isn't clear from the consultation that there are issues with this system at present. That said, if there are steps that need to be taken because compliance with the conditions and slow recall to prison timescales then we would agree with these proposals if there is a risk to the public and victims/their families under the current system.

#### 5 Do you think that victims and their families should receive information on the reasons for the Parole Board's decisions in their case?

Yes

**If Yes, what kind of information would be most helpful and how should that be provided? If No, why not?:**

We are unsure what the right answer is for this question, but if the answer is yes then it should only be to victims not necessarily their wider family.

It seems that whilst routinely not provided by the Parole Board, there is an option under the 2001 rule for victims make an application to hear the rationale: "Whilst such directions are rarely asked for and equally rarely given, they have been used previously to provide victims with a summary of the reasons for a decision." If they are so rarely applied for, is there sufficient demand from victims to warrant changing the system?

Any decision to share the reasons with victims also needs to take into account the rights of the parole applicant and other data protection aspects so that there is balance in the system and the purpose of the parole process remains clear.

It would be prudent to understand the impact of the change of law in England in May 2018 before taking any decision in Scotland.,

We are not in a position to determine what information would be most helpful and how it should be provided - a working group with representation from interested parties would be best placed to make this decision if approved.

## **Questions on ensuring transparency**

### **6 Should others be routinely entitled to attend parole hearings?**

No

**If Yes, who should be able to attend, in what circumstances and for what part of the proceedings? If No, why not?:**

Parole is not a further sentencing decision, and is part of the rehabilitation and reintegration process. We certainly do not agree that members of the public or media should be allowed to attend parole hearings and would be concerned that the process would become a punitive one and prevent their rehabilitation and reintegration.

The parole process should be a transparent one and people should be confident in it, however the consultation paper doesn't suggest that there is a particular issue with transparency or that people in Scotland do not trust the process / the Parole Board. In our opinion, even if there was an issue with transparency, permitting routine attendance from groups such as the media or general public is not an appropriate way to ensure transparency.

### **7 Should information be routinely shared with others?**

Yes

**If Yes, what level of information should be shared or what more could be done? If No, why not?:**

We think that sharing general information on how the parole process works and how the Parole Board make their decisions is a good way of ensuring transparency and understanding in the wider public. We do not think decisions should be shared routinely with the general public.

Under the 2001 rules applications can be made by victims to the Parole Board which has, in the past, led to the Board sharing their reasoning for the decision. This hasn't often been asked for, so the demand would need to be there before this became routine.

We think the impact of the May 2018 law change in England should be assessed before any decision is taken on this.

### **8 Do you feel that some information regarding parole decisions should be published proactively?**

No

**If Yes, what level of information do you feel should be published? If No, why not?:**

On balance we do not feel that there is enough compelling evidence for proactive publishing of parole decisions.

We think that the impact of the May 2018 law change in England should be assessed before any decision is taken on this.

### **9 Do you think the work of the Parole Board is sufficiently visible?**

No

**If Yes, why do you think that? If No, what more could be done?:**

There is no evidence that people are unaware of the Parole Board and its work, or that there is a huge demand to know what it is they do (which arguably implies trust in the process to some extent). However one of the aims of the Board is to raise awareness of its work so on balance we would support activity which raised the profile of the Parole Board's work.

We don't feel in a position to suggest how this might be done, but some newspaper coverage in England in conversation with Board members and how they feel about their role, how they make decisions etc was very enlightening

<https://www.theguardian.com/society/2018/mar/29/were-not-swayed-by-emotion-parole-board-members-how-they-reach-decisions>.

## **Questions on Improving Support for Decision Making**

### **10 Do you think that consideration should be given to widening the information available to the Parole Board by establishing a function to investigate and collate information from other bodies?**

No

**If Yes, who should provide that function and in what circumstances? If No, what other options are there to improve information gathering?:**

We think members of the Parole Board are best placed to determine whether the parole dossier, in the main, provides sufficient information for them to make an informed decision. If they feel more information should be routinely available then we would support this. The rationale for including information from other bodies such as NHS, Crown or Police would need to be clear and be in line with supporting rehabilitation and risk assessment. Learning from countries that do have this system could be a good first step in addition to speaking with Scotland's Parole Board.

We think steps should be taken to reduce any delays in accessing additional information where it is required but on balance aren't sure that establishing a function to investigate and collate information from other bodies is the only way to achieve this.

## **Questions on information for prisoners on the parole process**

**11 Do you think that prisoners currently receive the information they need to enable them to participate in the parole process?**

No

**If Yes, why do you think that? If No, what information or help do you consider should be provided to help prisoners understand the parole process and their licence conditions?:**

We cannot answer this question (but have selected No as we cannot complete the consultation otherwise).

We think that prisoners (and possibly the liaison officer roles) are the best people to provide an opinion on this, and if appropriate suggest what more information could be shared, how it should be communicated and how they can be better supported through the process.

**12 Do you think that more could be done to make sure that prisoners understand their licence conditions and the consequences of breaching them?**

Yes

**If Yes, what do consider is the best approach to ensure prisoners understand the terms of their licence and who is best placed to provide information? If No, why not?:**

We cannot answer this question (but have selected Yes as we cannot complete the consultation otherwise).

We think that prisoners (and possibly the liaison officer and supervising officer roles) are the best people to provide an opinion on this, and if appropriate suggest what more information could be shared, how it should be communicated and how they can be better supported through the process.

## **Questions on supervision, review and recall**

**13 Is there a requirement for an additional review process (at least initially)?**

Yes

**If Yes, who should carry out that review and what would you see as the advantages or disadvantages of an additional review? If No, why not?:**

We are not able to answer this question (but have answered yes in order to complete the consultation).

From the consultation document the case for having an additional review process seems sound, however we feel others or a working group of practitioners are in the best position to provide a recommendation on this working through the advantages / disadvantages of the additional review.

**14 In relation to revocation of licence and recall to custody. Do you consider social workers should be able to refer directly to the Parole Board?**

Yes

**If Yes, what are the implications of this change and how could this be managed? If No, why not?:**

We are not able to answer this question (but have answered yes in order to complete the consultation).

From the consultation document the case for social workers being able to refer directly to the parole board seems sound, however we feel others or a working group of practitioners are in the best position to provide a recommendation on this working through the implications of this change. Learning from countries that do have this system would inform this decision and it would have been helpful for this to be included in the consultation so we could have provided a more informed opinion.

"There is potential for delay in the current system between the supervising officer concluding that the risks posed by the individual on licence have become unacceptable, a decision being made to recall the individual and the recall order being prepared and provided to police." It is unclear whether this has ever been an issue and this would be helpful to know in order to make a more informed decision. That said, any delay and increase in risk needs to be mitigated.

## **Questions on independence and governance**

**15 Do you agree that a transfer to the Scottish Tribunals would enhance the independence of the Parole Board?**

No

**If Yes, what do you consider the advantages and disadvantages would be with such a transfer? If No, Why not?:**

From the consultation document everyone seems confident in the independence of the Parole Board and its independence is not and has not been under scrutiny. Therefore transferring to Scottish Tribunals seems unnecessary as part of an aim to enhance independence.

There does seem to be some advantage in transferring the Parole Board function to the Scottish Tribunals in terms of an appeals process, access to continuous improvement and training, access to wider expertise from a greater pool. That said, we wonder whether there are ways of gaining these benefits without transferring to the Scottish Tribunals.

It would have been beneficial to hear from the 'opposing' voices about the negative implications or what the Parole Board might lose if transferred to the Scottish Tribunals and we hope that these voices will be considered as part of the process.

A working group with representation from across the system would be the best way of making a decision on this matter, and learning from other countries that have this system would help make an informed and evidence-based decision on the matter.

**16 A review and appeal are available in the Scottish Tribunals. Do you consider these processes should be available for the Parole Board?**

Yes

**If Yes, what are the benefits of having these processes available? If No, why should these processes not be made available in the case of the Parole Board?:**

The consultation makes these benefits clear: "review process could consider errors of fact but it would not be a mechanism to appeal the decision as such, but rather an opportunity to correct mistakes and quickly remedy them."

We would support an additional review and appeal process based on the information provided in the consultation, but would review this opinion if evidence was put forward from experts on why this process would not be suitable / is unnecessary for the parole process.

**About you**

**What is your name?**

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**Are you responding as an individual or an organisation?**

Organisation

**What is your organisation?**

**Organisation:**

The Scottish Community Safety Network (SCSN)

**The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:**

Publish response only (without name)

**We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?**

Yes

**Evaluation**

**Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)**

**Matrix 1 - How satisfied were you with this consultation?:**

Slightly dissatisfied

**Please enter comments here.:**

There wasn't enough information provided in the consultation to answer many of the questions in a truly informed way. The open ended questions asking for suggestions were challenging to answer and making a selection from a number of considered options would have made the consultation more satisfactory.

The rationale behind a number of the proposals wasn't made clear, and implied that there were issues with the current system where, on speaking with a range of colleagues, there don't seem to be any pressing concerns.

We would have welcomed a working group of people from across the parole 'system' including victims to develop some proposals, and are hopeful that this will happen following the consultation to develop the proposals and make decisions based on the consultation responses.

Using citizen space as the main means of getting responses could exclude some people from the process, and some support in understanding the consultation (particularly to the general public and victims) would have been helpful by having workshop sessions or similar.

**Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:**

Very satisfied

**Please enter comments here.:**

It's a great platform for responding to consultations for us as an organisation, but may not be the best platform for everyone to respond.