TRANSFORMING PAROLE IN SCOTLAND

CONSULTATION REPORT

NOVEMBER 2019

MINISTERIAL FOREWORD

The Programme for Government 2018-19 set out proposals to consult on reforms to the parole process in Scotland. I am now pleased to deliver the Scottish Government's response to the consultation *Transforming Parole in Scotland*.

I know from listening to victims and their families that they often feel left out of parole cases which have impacted on their lives. I have heard many powerful and moving stories which have drawn a picture of a system that sometimes leaves victims feeling let down.

The views expressed by respondents to this consultation were wide ranging and have helped to develop a number of actions which aim to improve the parole system in Scotland. I believe these measures will help people to better understand parole processes and allow them to feel included and listened to.

This response promises actions so as victims can feel better protected, more reassured and get to know more about parole hearings. These actions also aim to help prisoners to better understand the steps undertaken when they are eligible for parole and also the consequences of breaching a parole licence. There are also measures to assist prisoners families.

Brought together I consider these actions will help victims, support prisoners and assist the Parole Board to become more open, visible and transparent.

HUMZA YOUSAF
Cabinet Secretary for Justice

TRANSFORMING PAROLE IN SCOTLAND

CONSULTATION REPORT

CONTENTS

TRANSFORMING PAROLE IN SCOTLAND: CONSULTATION REPORT

INTRODUCTION

1. The Scottish Government has undertaken a full analysis of the 'Transforming Parole in Scotland' public consultation. The consultation sought views on improvements to the parole process in Scotland.

2. The Parole Board for Scotland (Parole Board) is a tribunal non-departmental public body that makes recommendations on the release of prisoners back into the community on licence. The Parole Board makes these decisions based on a rigorous risk assessment process. In making these decisions the Parole Board have to be satisfied that the prisoner no longer poses a risk to the public. Public protection is the Parole Board's primary concern. It is not the responsibility of the Parole Board to consider the questions of punishment and general deterrence. The issues of punishment and deterrence are matters for the court.

The Consultation

3. The consultation focused on five main areas:

- How to strengthen the voice of victims in the parole process so that they can more directly inform the Parole Board's considerations and whether victims should have a right to have the reasons for parole decisions explained to them, so they can understand why the decision was reached.

- How to make improvements to better support the Parole Board's decision-making and the transparency of those decisions including, improving how the Parole Board's decisions are communicated to victims and the wider public.

- How to assist prisoners so they are prepared for parole hearings and understand the conditions of their parole (if granted) and what that will mean on release.

- How improvements could be made to the supervision and recall of individuals, specifically looking at licence conditions that could improve the safety and security of victims, reviewing compliance with licence conditions and by speeding up processes for recall where a person has breached their licence.

- How to strengthen the independence, governance and accountability arrangements of the Parole Board. The consultation sought views on whether this could be supported by transferring the Parole Board to the Scottish Tribunals (as created by the Tribunals (Scotland) Act 2014) to further augment and underline the independence of the Parole Board.

4. This report provides a summary and analysis of the consultation with the views of respondents and the intentions of the Scottish Government outlined after each section.

Methodology

5. Responses to the consultation were submitted using the Scottish Government consultation platform Citizen Space or by email or hard copy.

6. It should be borne in mind that the number responding at each question is not always the same as the number presented in the respondent group table. This is because not all respondents addressed all questions; some commented only on those questions or sections of relevance to their individual interests. The report indicates the number of respondents who commented at each question.

7. All comments made by respondents were analysed. The range of issues mentioned in responses, including reasons for opinions, specific examples or explanations, alternative suggestions or other comments were noted. Grouping these issues together into similar themes allowed us to identify whether any particular theme emerged over others.

8. While the consultation gave all who wished to comment an opportunity to do so, given the self-selecting nature of this type of exercise, any figures quoted here cannot be extrapolated to a wider population out with the respondent sample. For example, where a single respondent is mentioned this does not necessarily equate to it being an organisation. In addition, some respondents selected 'Yes' or 'No' and did not expand with comments whilst others selected 'No Answer' but provided comments.

9. A small number of verbatim comments, from those who gave permission for their responses to be made public, have been used in the report to illustrate themes or to provide additional detail.

Overview of the Responses

10. There were **92** responses to the consultation, 60 of which were from individuals and 32 from organisations. Of the 92 responses, 50 wished their response published anonymously, 30 wished their response published with their name and 12 did not wish their response published.

11. Where permission was received, responses were published online on the Citizen Space website at: https://consult.gov.scot/justice/transforming-parole-in-scotland/consultation/published_select_respondent

12. The following table shows the distribution of responses by category of respondent:

Category	No of Respondents	% of all Respondents
Academic/Research	1	1
Local Government	11	12
Public Body, including Executive Agencies, NDPBs, etc.	3	3
Representative Body for Professionals	1	1
Third Sector/Voluntary Sector	6	7
Legal/Judicial	3	3
Other	7	8
Total Organisations	**32**	**35**
Individuals	60	65
Grand Total	**92**	**100**

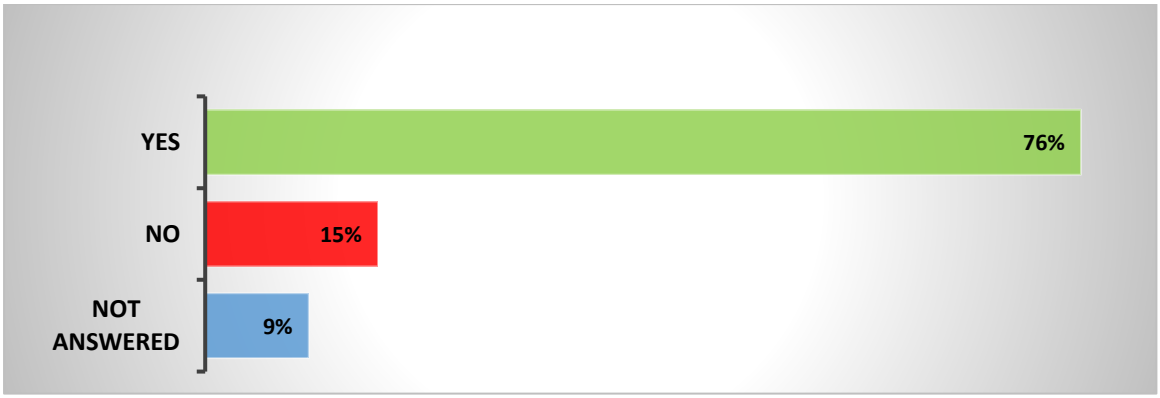
13. A list of all those organisations that submitted a response to the consultation and agreed to have their name published is included in **Annex A**.

STRENGTHENING THE VOICE OF VICTIMS IN THE PAROLE PROCESS

14. The consultation sought views on ways to improve the current arrangements to make it easier for victims and their families to make representations to the Parole Board. It also asked for opinions on what security, data protection and logistical arrangements would need to be put in place to support wider attendance at parole hearings and whether the Parole Board should routinely impose specific conditions which excluded people from certain areas and the implications of such a move (i.e. use of exclusion zones).

Summary of Responses by Question

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



There were **84** responses to this question, **79** of which expanded on the answer with comments.

"Victims or their families should be able to stand in front of the parole board and tell them of the impact that the crime has had on their life and what they think should happen to the accused"

"A robust evidence based parole system does not have a place for subjective opinions of victims and families. I think that there is a place for hearing and understanding the parole system but I fundamentally oppose the proposal for victims to give "evidence"".

15. Most respondents to this question thought that victims and/or their families should have a greater role in the parole process. The majority of respondents felt that this could be achieved by allowing the victim or family member to speak to the Parole Board members in person at the hearing or by providing a statement to the Parole Board members involved with their case.

16. Some felt participation would require sensitivity in the way it was handled to avoid re-traumatising the victim or family member. It was also felt that any attendance at hearings should be voluntary, handled in a safe and supportive manner and that the victim and/or family role at the hearing should be clearly explained in order to help manage expectations.

17. There were some respondents who felt the ability to speak to the parole members directly involved with their case, or to be able to read out their personal statement to them, would suffice.

18. There was a clear indication that victims and/or their families needed to be kept informed of progress. There was a suggestion that they should be given a copy

of the dossier of paperwork to provide equity. It was also suggested that providing an annual review of the prisoner's progress to the victim and/or family member might be helpful. There were some comments about the need for victims and /or their families to be able to understand sentencing and the parole system in general.

19. There were some who felt that victims should be provided with support to enable them to fully participate in the parole process. There was also some suggestion that this may come from a specific person or that Community Justice partners should have a greater role in supporting victims.

20. A few respondents referred to the need for clear, easy to read, guidance and more publically available knowledge about the parole process.

21. Some respondents felt that victims needed to be consulted prior to the prisoners release and the impact on their lives should be taken into account. There was also the suggestion that victims should be told where a prisoner was being released to and the impact of that decision on the victim or family member's life should be taken into consideration.

22. A number of respondents raised questions around objectivity and bias. Some felt that having the victim present at the hearing would introduce emotional upset and have an undue influence on decision-making.

23. There was also the suggestion the presence of the victim or family members may hinder participation from the prisoner. A small number of respondents felt that victim participation should be used to support the rehabilitation of the prisoner.

24. There were some people who mentioned the need for a fair, just and proportionate parole system based on the risk the person posed to the community, if released. Some respondents felt that a victim and/or a family member is unable to assess risk and that their views should not be taken into account as they could be biased against any proposal to release the prisoner.

25. There was reference made to the purpose of the parole process in that it was not another opportunity to try the prisoner and that it was not a court. The view was also expressed that it should not be about whether the prisoner had been punished enough.

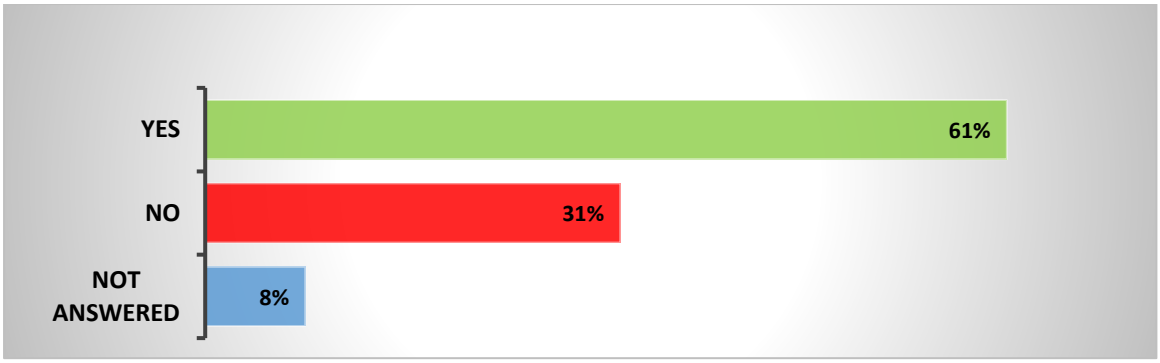
26. Although prisoner's families were not directly covered in the consultation, there were some suggestions that they could also be the victims in a case and that there should be a role for them in the parole process. It was also felt that consideration of their wishes and circumstances should be taken into account.

Question 1 - Next Steps

The Scottish Government will take the following action:

- Produce an information booklet in an easy read format to help victims and/or families understand the parole process.
- Explore a means by which victims and/or families (if they wish to do so) can make representations to the Parole Board member(s) who will hear their case. This may require amendment to primary legislation.
- Allow prisoners families (if they wish to do so) to make representations to the Parole Board regarding the impact of the decision on the prisoner's family.
- Provide a specific point of contact within Parole Scotland [a victim liaison officer], so that victims can access appropriate information (within the boundaries of Data Protection legislation) should they require to do so. This may include what can be expected from the parole process; key dates for submitting representations; or clarity on how they wish to be informed about the parole decision.

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



There were **85** responses to this question, **74** of which expanded on the answer with comments.

"Other jurisdictions have different models including the option for victims to meet the panel and set out their concerns and views about parole of the prisoner."

"The presence of victims at parole hearings risks making the process more adversarial, increased trauma or re-victimisation of those in attendance"

27. The majority of respondents to this question thought that victims should be allowed to participate in some way at a parole hearing. There were various

suggestions as to what form participation should take. Some respondents felt that this was best done by being able to give a statement or having a lawyer or representative speak on their behalf. The suggestion was made that a victim and/or their family could speak to the Parole Board on the day before the hearing. Some suggested that the decision on participation should be made on a case-by-case basis and that all parties should agree. It was also felt attendance should not be compulsory as it was not appropriate for everyone.

28. A number of people thought that the role and purpose of the victim's presence at the proceedings should be clear in order to manage expectations and that they should not be allowed to have the paperwork due to confidentiality issues and data protection.

29. There was a strongly held view from respondents to this question that victims and/or their families should be provided with support if they were able to attend a parole hearing in person. There were various suggestions as to who should provide that support including: police (family liaison), lawyers, psychologists, specially trained prison staff, Victim Support Scotland, social services, government, the Victims Taskforce and a Victims Commissioner.

30. There were suggestions made regarding how participation could be managed with the use of video links, barriers and screens mentioned. Victim participation in courts was mentioned as an example which could be duplicated.

31. The need for clear, concise, easily understood and consistent information or guidance was highlighted again in responses to this question.

32. The suggestion was made that decision-making by the Parole Board members should be done in private as it was in the courts.

33. There were a number of respondents who were concerned about re-traumatising or re-victimising people. Some felt participation could increase stress by opening up difficult memories or emotions. It was also felt this could lead to flash points at hearings particularly if the outcome of the decision was to release the prisoner.

34. It was also suggested that victims should have no input to the parole process unless there was a reasonable fear of re-victimisation e.g. in domestic abuse cases.

35. Comments were also made about the need to consider the rights of the prisoner in terms of information sharing and confidentiality as well as the potential to create an unequal footing. There were suggestions that it would be daunting for the prisoner and could lead to community unrest if details were not kept confidential. It was also suggested that clarity about the role of the prisoner and their legal representative was required in challenging the involvement of the victim.

36. Some respondents suggested that participation of the victim and/or families would make the process more adversarial and court like and that it was important that the inquisitorial nature of the exercise be recognised.

37. A number of respondents thought that attendance of the victim and/or family would impact on the Board members ability to undertake their assessment impartially. It was felt this could be detrimental to the process and potentially impacted on objectivity of decision-making.

38. The suggestion was made that Parole Board decisions should always be about risk and not about re-imposing punishment or exploring the harm done to the victim, which have already been done at trial and sentencing.

Question 2 - Next Steps

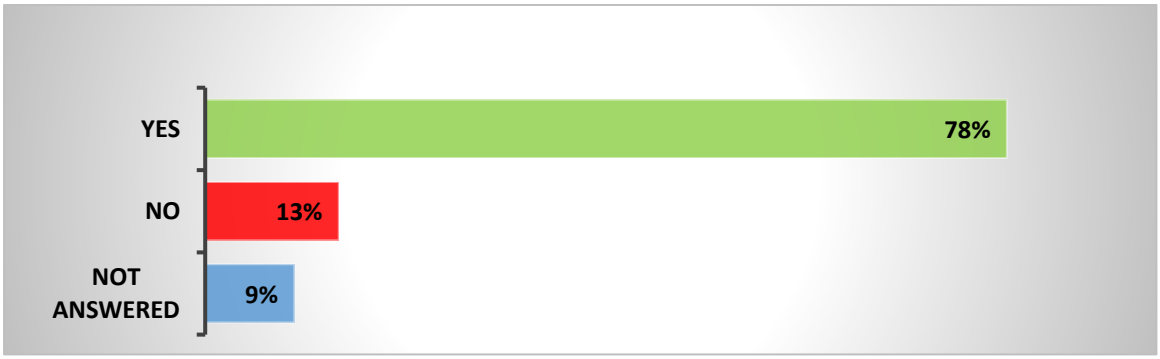
The Scottish Government will take the following action:

Explore a means by which arrangements can be made to allow a victim and/or family member to attend a parole hearing in person (if they wish to do so). This could allow them to ask any questions about procedural matters. In most cases we envisage this would happen at the beginning of the hearing without the prisoner being present. This would avoid any conflict or participation issues and be less traumatising for the victim.

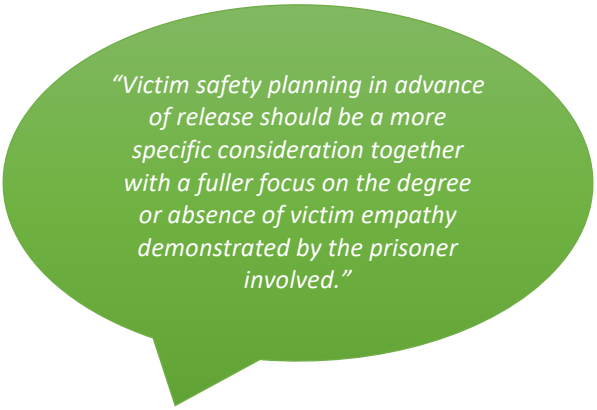
This could also be achieved by allowing victims to observe the hearing via video conferencing (if available) which could allow the sound to be muted when confidential matters were being discussed and provide some distance between the prisoner and the victim or family member.

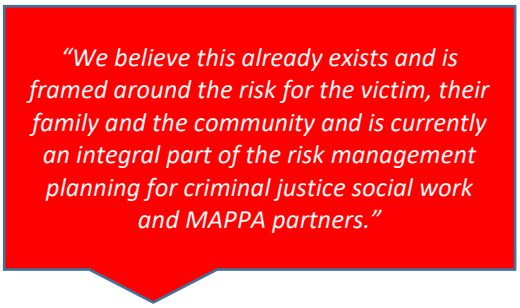
In addition, to avoid re-traumatising victims by asking them to submit their representations at subsequent hearings (where the prisoner has not been released), we could arrange that original victim statements may be taken into account at every review hearing, rather than seeking new statements for each hearing – if that is something the victim wishes to do.

Question 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?



There were **84** responses to this question, **66** of which expanded on the answer with comments.





39. The majority of respondents to this question thought that the victim's safety should be paramount in the Parole Board's considerations. It was felt that victim's safety planning should be a more specific consideration along with recognition by the prisoner of the impact the crime has had on the victim.

40. There was also some suggestion that, the safety of the prisoner and the safety of the prisoner's family's and any associated impact to the family resulting from the prisoner's release, should also be considered.

41. The need for clear criteria was mentioned and that there should be clear guidelines or minimum standards which could be built upon. It was suggested that criteria should be in line with current research on recidivism.

42. Some suggestions were made for specific criteria (over and above the safety of victims and their families), these included:

- Locality of prisoner's proposed residence in relation to where the victim or victim's family reside (or exclusion zones);
- The impact on the victim's life;
- Remorse shown; and
- All information and concerns from the victim or victim's family.

43. There were some views that criteria already existed and did not need to be explicit. Some felt that the Parole Board should be given discretion as to the type of information it considered and this should be done on a case-by-case basis.

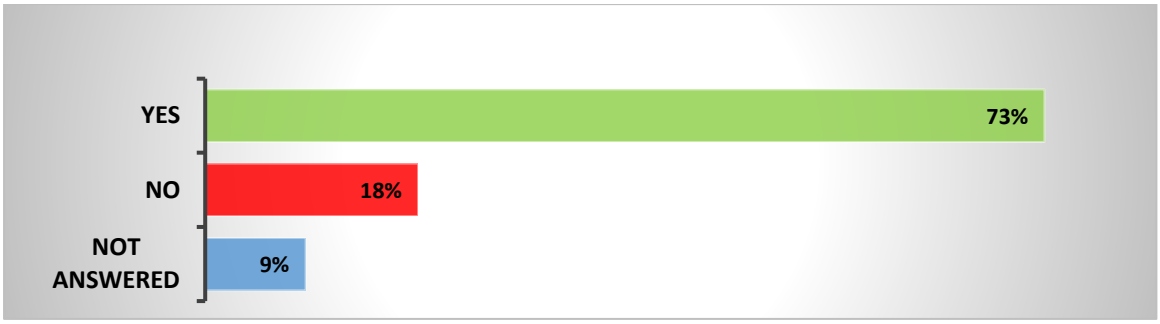
Question 3 - Next Steps

The Scottish Government will take the following action:

Work with the Parole Board to produce guidelines on the type of criteria they should take into account when considering the safety and welfare of the victims and their families. This criterion should also take into account the prisoner's safety and the safety of the prisoner's family.

Incorporate specific criteria into the Parole Board rules of procedure relating to certain matters that may be taken into account by them around the safety and welfare of victims and their families.

Question 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)?



There were **84** responses to this question, **73** of which expanded on the answer with comments.

"Licence conditions could be clearer in terms of how they are written. Criminal Justice Social Workers are often left clarifying and reinforcing the conditions through re-wording them so the offender fully understands the language that is used."

"The parole board already has the power to set these licence conditions to exclude from an area or from contacting a victims or their families. This seems proportionate and sensible."

44. Although a high percentage of people answered yes to this question, most people in their comments thought that the Parole Board already had enough power to set appropriate licence conditions including the power to exclude people from certain areas or certain individuals.

45. A number of people were in favour of greater use of electronic monitoring with some highlighting the benefits of using new technology, such as Global Positioning System (GPS), particularly in relation to exclusion zones.

46. There was a suggestion that the victim should be consulted personally and be able to contribute towards setting licence conditions.

47. There was also mention of the difficulties faced by prisoners families should an exclusion zone be imposed, potentially moving families away from support networks, including friends, family, schooling and employment. It was suggested electronic tagging might be a better option than uprooting and relocating families.

48. A further suggestion was made to create an 'inclusion area' which would be an area where the person released would have to remain. This was thought preferable to an exclusion zone which potentially identifies where the victim lives.

49. A few respondents thought that communication was an issue and that standard communications across all areas of parole should be reviewed. It was also felt that more complex licence conditions needed to be expressed in a simpler way using plain English to enable understanding.

50. One respondent commented on the need to balance the rights of the victim and the victim's family against the rights of the prisoner and the prisoner's family quoting article 8 of the Human Rights Act 1998 i.e. the right to a private and family life. This was mentioned with the view "*that licence conditions should not be purely punitive and should be reasonable and manageable"*. This respondent also felt the current rules already allowed for this and were sufficient.

51. Another respondent highlighted the supportive factor an prisoner's family can have in resettling someone following release and felt that the impact the family can have should be considered alongside other factors. It was also felt that the prisoner's family should be provided with the reasons for the parole decision suggesting they are provided with a brief summary to allow understanding of the considerations the Parole Board has taken into account in making their decision.

52. It was suggested that the Parole Board should "actively engage with women and children, and their specialist support workers, to allow them to set out their concerns around conditions generally, discuss specific issues around exclusion zones and support the Parole Board's assessment of overall risk". It was also suggested that, "a constructive exercise would be for the Parole Board to consult with victims of crime as to whether the nine commonly used licence conditions, set out on page eight of the consultation, are actually useful in protecting them".

53. There was also the belief that supervising officers should be given more discretion in monitoring licence conditions and deciding when it is necessary to refer a case back to the Parole Board for a breach. It was mentioned that some conditions 'set a person up to fail' at the onset by what is contained within the licence conditions.

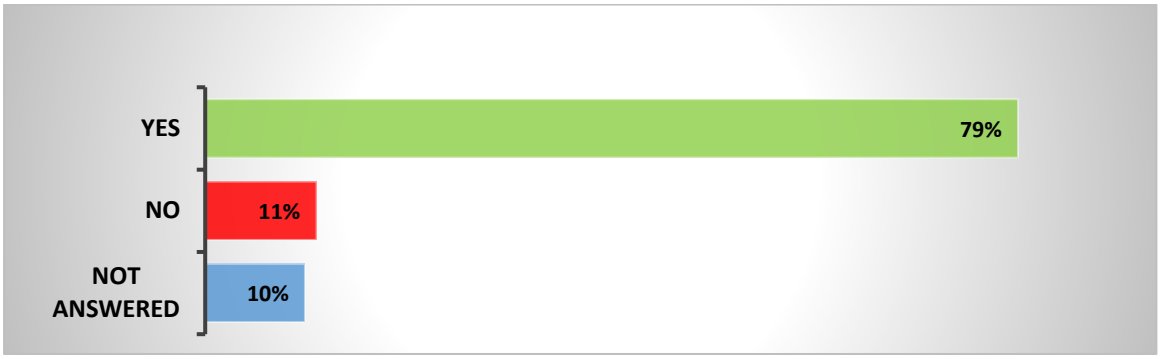
Question 4 - Next Steps

The Scottish Government will take the following action:

We will work with the Parole Board to explore the potential for making greater use of the existing (radio frequency) electronic monitoring capabilities for monitoring exclusion zones (or inclusion zones) within licence conditions.

We will work with the Parole Board to explore the potential for a pilot study using GPS technology for prisoners released on parole licence, where a relevant licence condition has stipulated.

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



There were **83** responses to this question, **69** of which expanded on the answer with comments.

"I think this would be helpful to allow victims and families to understand why the parole board have come to certain decisions. It will also allow for more transparency in the process."

"The prisoner has already been tried and they have served their time it should be down to the Parole Board and the Parole Board only (Data Protection & Human Rights). This is the prisoners time to show they served no risk to the public if the Parole Board deems different, then the prisoner should not be released."

54. The majority of respondents thought that information should be shared particularly the reasons behind the Parole Board's decisions. It was felt this information should be in an easy to read format in order to help victims and their families have a fuller picture. It was suggested that reasons should be given only where the victim or family wanted to receive the information and when the prisoner wanted it to be shared. It was also felt that only the most basic of information should be shared.

55. Another suggestion was for the Parole Board to provide all the factors relating to the decision to release including information about how being released on licence works.

56. One respondent thought that steps offered to the prisoner in terms of rehabilitation should be noted including whether these steps had been prevented or delayed by factors outwith the control of the prisoner, for example, budgetary constraints. It was also felt by the respondent that decisions and the Board's reasoning should be made available online.

57. Some thought that licence conditions should be shared including exclusion criteria and information about who to contact if the released prisoner was causing concern in relation to the safety and welfare of the victim.

58. A few respondents felt that the publication of decisions and reasons behind them would help with accountability. It was also suggested people should be able to question the reasons for Parole Board decisions.

59. The intentions of the Parole Board to produce a 'publication minute' was described in a response with the caveat on the need to balance and protect the interests of victims, witnesses and prisoners.

60. The importance of ensuring any published information was not detrimental to the prisoner's rehabilitation or ability of services to manage risk was highlighted. It was also felt personal information that was not relevant in respect of victim safety should not be shared such as health or addiction issues.

61. The need to ensure compliance with the Data Protection Act 2018 and European Convention on Human Rights 1998 (ECHR), in particular article 8 – the right to privacy - was mentioned. Also mentioned was the need to consult with the Information Commissioner's Office on any proposals to disclose information about the prisoner to the victim, their family, other specified persons or the public at large by means of proactive publication.

62. Not everyone agreed that victims should be given reasons. Some felt that the prisoner had already been tried and served their sentence so should be allowed to move on. It was also felt that if reasons were made public by the victim, then the prisoner and their family could be in danger if the location of the prisoner's release was disclosed by the victim, in the press, for example.

Question 5 - Next Steps

The Scottish Government will take the following action:

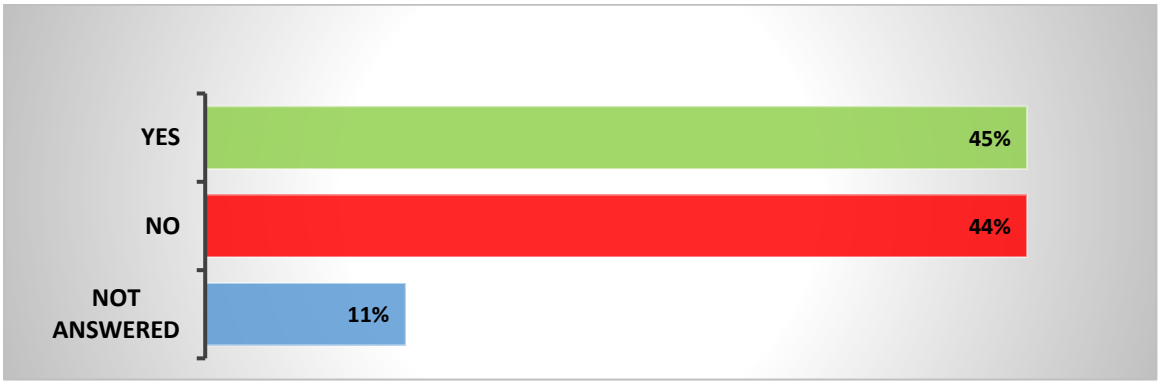
Working with the Information Commissioner and the Parole Board set out a procedure for publishing information including the type of information that may be published, the format/style of publication and the means by which it will be published, taking into account rights and obligations under the Data Protection Act 2018 and the prisoner's rights under ECHR.

ENSURING TRANSPARENCY AND IMPROVING SUPPORT FOR DECISION-MAKING

63. Views were sought on ways to increase openness and transparency in the parole process. We asked whether victims and families should be provided with more information on the parole process and on the decisions that affect them. We also took into account the need to protect the safety of the prisoner and their ability to reintegrate back into the community, once the Parole Board have deemed them suitable for release. We therefore also asked about the circumstances where information should not be provided.

64. The consultation also sought views on the visibility of the Parole Board and what more could be done to increase that visibility amongst the general public perhaps by allowing 'others' to attend parole hearings beyond victims and their families.

Question 6: Should 'others' be routinely entitled to attend parole hearings?



There were **82** responses to this question, **70** of which expanded on the answer with comments.

"I think either victim's families or an elected representative should be allowed to attend parole hearings to convey the impact of the crime involved and put across their worries should the criminal be released on parole."

"We believe that parole hearings should retain some degree of confidentiality but that, where appropriate they should be opened up for others to observe. This could be for professional development, awareness, or support of either the victim or prisoner."

65. There was a mixed response to this question. Half the respondents thought that 'others' should be routinely entitled to attend parole hearings and the other half disagreed.

66. Many respondents queried the meaning of 'others' and thought without a definition it made the question difficult to answer.

67. Of those who responded positively, some thought in addition to victims and victim's families, the prisoner's family should also be able to attend hearings. It was suggested that the media should be able to attend parole hearings in the same way they can attend court in order to ensure transparency and make the public more aware of the decisions being made. Other suggestions were professionals, the police, specialist support workers, the victim's legal representative, MPs or MSPs or Councillors and the public.

68. It was pointed out that the Parole Board already welcomes observers such as social workers and prison staff for professional development purposes but that the Parole Board rules do not allow observers to attend oral hearings and an amendment to the rules would be required to allow that to happen. It was felt that if hearings were opened up to others there should be an application process which allowed the chair of the tribunal or hearing to refuse requests where there was good reason.

69. Of those who responded negatively the costs of including 'others' was highlighted. It was also felt that by opening the hearing up to 'others' there was a risk of bias and prejudicial reporting or leaking of information. Some felt only those directly involved should be there.

70. It was also mentioned that there was a general lack of understanding of parole processes and the time required to explain matters would likely outweigh any benefits gained by others being there.

71. There was a feeling that having 'others' present could lead to prisoners and their families becoming 'targets' when the person is released.

72. The fact that the Parole Board already have the ability to allow observers to attend hearings was raised by some and it was felt that it should be down to the Board's discretion who attends hearings.

73. The question of confidentiality was mentioned with the view that it may inhibit and compromise sharing of pertinent information. The prisoner's right to a private life under Human Rights legislation was highlighted. There were also some concerns about social work staff being identified in the media along with the possibility of their professional opinions being misrepresented or distorted.

74. It was also felt that where confidentiality is removed, safety is compromised for both victim and prisoner who may also find it difficult move on and reintegrate. It was suggested that the Board may be unduly influenced in their decision-making around the potential interpretation of that decision and associated publicity. It was also noted in the same response that while the parole process required to be transparent in its operation and decision-making and therefore subject to scrutiny around the reasons for its decisions, it should not be unduly influenced by political or media forces.

75. There was a suggestion that a 'lay representative' should attend hearings to provide an independent view, such as the independent prison monitors provide to assist HM Inspectorate of Prisons.

76. One respondent thought that the nature of the offence should be considered and if the victim was present care taken to ensure there was no additional stress caused to them. It was also felt that if media were involved restrictions should be considered in order to avoid adverse impact on victims.

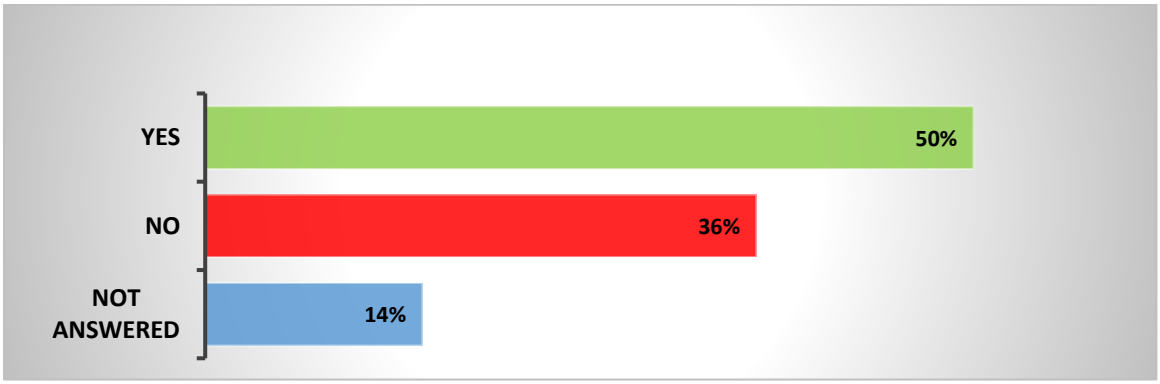
77. There were concerns that parole would become a punitive process rather than one of rehabilitation and reintegration.

78. The lack of suitable accommodation to host hearings where 'others', including victims, were involved was mentioned along with the possibility of raised emotions from being present in the same room as the prisoner.

Question 6 - Next Steps

Having considered all of the responses in some detail the Scottish Government do not think there is a requirement to allow 'others' to routinely attend parole tribunals. There is however scope to specifically allow professional observers to attend oral hearings in order to assist with their personal development.

Question 7: Should information be routinely shared with others?



There were **79** responses to this question, **68** of which expanded on the answer with comments

"I think a transcript of the proceedings should be put in the public domain after the case has been completed. At present, I believe the Parole Board proceedings are not transparent and are perceived by the public as secretive, elitist.

"In order to maintain the principles of confidentiality and accountability information sharing needs to be tightly controlled and targeted only at those victims and agencies which have a specific material interest or statutory duty in the case."

79. Half the respondents to this question thought that information should be routinely shared with others. This included social services, education services, police, community councils, the victim, social workers, partners, employers, neighbours, lawyers and prisoners. One suggested that information should be posted on the internet for everyone to see.

80. The question of who ‘others’ were was raised again by several respondents who also queried the ‘sort of information’ that should/could be shared and under what circumstances would sharing be permitted.

81. Other respondents thought that information should only be shared on a ‘need to know’ basis. In terms of confidentiality, the Data Protection Act 2018 was again mentioned as a requirement for sharing information and that there should be a data sharing agreement between the party releasing the information and the recipient of the information.

82. One person thought a transcript of the proceedings should be in the public domain once the case has been completed, believing this would increase transparency and improve Parole Board credibility.

83. Some thought that the decision to release a high profile prisoner such as a murderer or sex offender should be routinely shared as it had the potential to impact on safety and wellbeing.

84. The difficulties prisoners have when agencies do not share information was mentioned as this can result in prisoners having to answer the same routine questions over and over which was considered a waste of time and resource.

85. One person thought that the sharing of information would ensure transparency and openness. However, they felt that the level of disclosure of information should be balanced against the need for a fair hearing and protection of all individuals involved in the case. They suggested, a register of decisions could be published which would be publicly available without causing confidentiality issues. They also considered publishing full parole dossiers would create a number of challenges and that the sharing of information between agencies for the purposes of the parole hearing should be reviewed separately to sharing information more widely.

86. Some felt that full information should be shared with everyone including date and plans for release, locality of residence and conditions of licence. Others felt that information should be shared but not ‘routinely’ and that the impact of sharing information should be considered.

87. There were some who thought licence conditions should be shared particularly in relation to exclusion zones so as the public would know if someone was breaking their licence conditions and be able to report the breach.

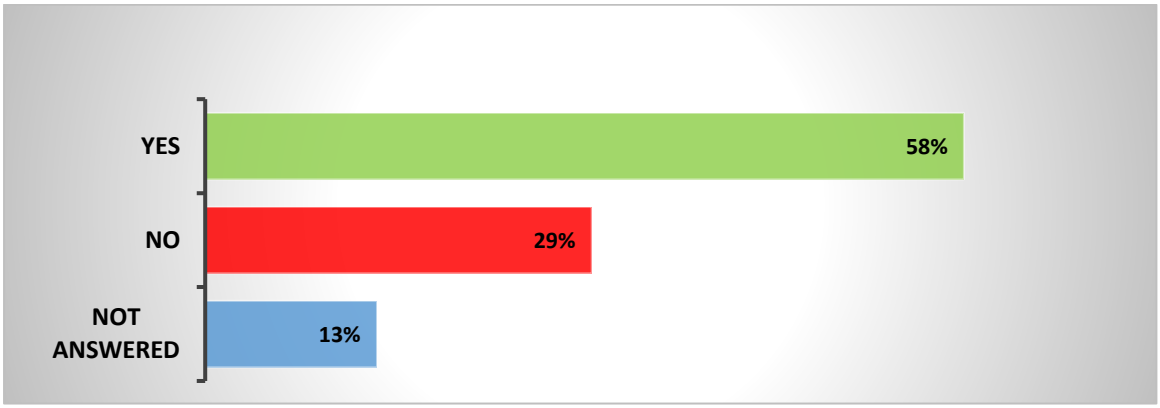
88. There were some who suggested that if victims were receiving information about a prisoner’s release (including temporary release) that it should be shared with them timeously and well in advance of release occurring.

Question 7 - Next Steps

The Scottish Government believe that information should only be shared where there is a statutory role for an individual or organisation and/or where there is a legal basis for data to be shared. This should be determined on a case-by-case basis. Therefore, there are no plans to share information more widely than is indicated elsewhere in this report.

However, we will recommend to the Parole Board that an overview of decisions is produced annually and published on the Parole Board website.

Question 8: Do you feel that some information regarding parole decisions should be published proactively?



There were **80** responses to this question, **69** of which expanded on the answer with comments.

"Much like employment tribunal, decisions with reasoning, I would like to see parole decisions reported online"

"There is much more that can be done around opening up the workings of the Parole Board to promote transparency and increase public support, but this should not be a proactive and routine publication of individual cases."

89. Over half of the respondents to this question felt that some information regarding parole decisions should be published proactively. A number of people did not answer the specific question with a 'Yes or No' reply but did provide some comments. Mostly there was a feeling that a balance needed to be struck between

providing more information and publishing material that would not breach confidentiality.

90. There was also some misunderstanding about what was already available under the Victim Notification Scheme.

91. From the responses to this question it was clear that some people thought that victims received no information at all about the prisoner and their release arrangements and/or licence conditions. These respondents thought that victims should be given all information available with nothing held back. This included the identity of the prisoner, what their licence conditions stated including any exclusion zones and who was going to monitor the person on release.

92. Others thought a summary of decisions was adequate with anonymised information to protect both victim and the person being released.

93. Some felt that information should be provided that offered reassurance and clarity about the process and to provide some degree of accountability for the decision taken.

94. One respondent provided as a good example the sentencing information that is provided on the Judicial Office for Scotland's[1] website, which contained sentencing statements and summaries of significant decisions.

95. There were also some people who thought that the parole was (and should be) a confidential process. The risk of prejudicial reporting and leaking of information was highlighted. The risk to the person being released was also mentioned particularly about keeping the person released in the public eye not being in keeping with the Rehabilitation of Offenders Act 1974[2]

96. The detrimental effect of publishing too much information was raised by a few respondents. They felt the impact of publishing decisions about high profile individuals could be of detriment to their risk management and make it difficult to reintegrate them back into the community, particularly in terms of finding them accommodation.

97. One respondent thought that the impact of publishing summary decisions in England and Wales should be assessed before any decision is taken here to do so.

98. There were also some concerns about the negative impact media attention could have and the risk of identifying individuals (such as victims) who may not wish attention drawn to them.

[1] Judicial Office for Scotland - http://www.scotland-judiciary.org.uk/23/0/Judicial-Office-for-Scotland

[2] Rehabilitation of Offenders Act 1974: https://www.legislation.gov.uk/ukpga/1974/53

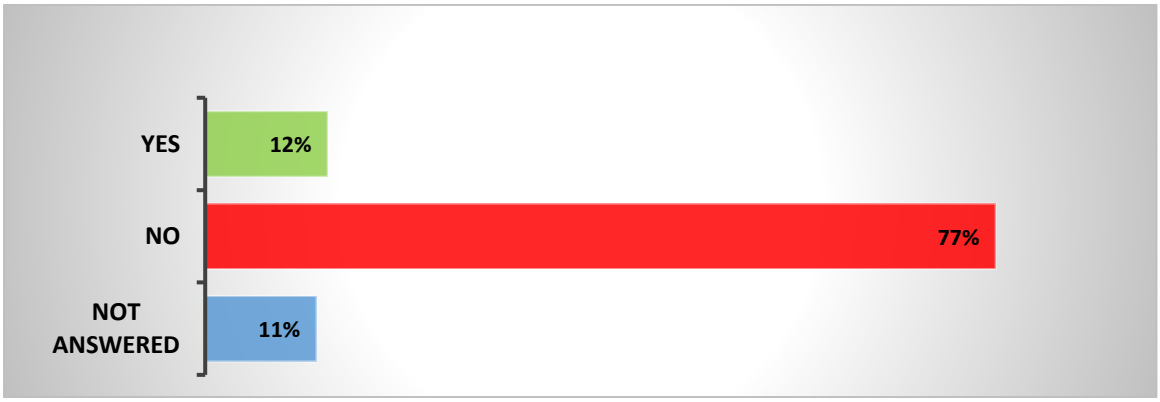
Question 8 - Next Steps

The Scottish Government will take the following action:

Recommend to the Parole Board that they include in their annual report anonymised case studies, including redacted summaries of significant decisions and reasons for them.

In addition, the report should include reasons why people are being recalled to prison. This may help identify recurring themes where action may be needed to avoid licence breaches or to identify where there are gaps in service provision.

Question 9: Do you think the work of the Parole Board is sufficiently visible?



There were **82** responses to this question, **66** of which expanded on the answer with comments.

"It has worked up till now, because of one case not working, does not mean everyone is at risk! Some prisoners are also innocent of the crime."

"as member of public very little knowledge of work just general overview yet important to communities decisions are correct"

99. The majority of respondents did not think that the Parole Board is sufficiently visible.

100. Some comments refer to the Parole Board already being visible and that it doesn't need to change. Others suggest that information is already shared via the Parole Board website and provides good clarity of the process. A few respondents thought that the Parole Board should be making decisions public, that procedures need to be clearer and there should be more visibility of the full process.

101. One respondent thought that the Board should do all it could to publicise its role and statutory function, involving interaction with other organisations and the utilisation of modern means of communication to explain its work. They also thought this should encompass the education of prisoners as to its role.

102. Another respondent thought it would be useful for the Parole Board to be more present in national debates about the assessment and management of high risk prisoners.

103. It was noted that there had been good progress in the last 4 years with the Parole Board's visibility and accessibility for professionals. The respondent said that recently they had been amenable to present to local authority areas on their roles. There has also been support provided by the Board to Social Workers to attend case work meetings and provisions made to allow them to observe at Tribunals. The Parole Board has also hosted consultation days with the introduction of the new breach proceedings and invited attendees the opportunity to feedback on this and any other issues, which was welcomed.

104. The use of social media was mentioned as a means of increasing the Parole Board's visibility.

105. It was commented that although the Parole Board already publishes an annual report with statistical information, they could do more to publicise and raise awareness of their activity and its impact with pertinent agencies, e.g. victim support organisations.

106. It was also suggested that the Parole Board should develop a communication strategy to raise awareness with the public and professionals across all health and social care services.

107. The importance of setting out how all the different agencies work together and who is responsible for what was highlighted. It was felt this was particularly important if considering the entitlements of victims.

108. It was felt there may be opportunities for the Parole Board to work with both national and local Community Justice Partners to promote the work that they do and to increase understanding amongst both community justice organisations, the Third Sector and communities. It was also felt there may be scope for advertisements, publications or presentations to raise general awareness of the Board.

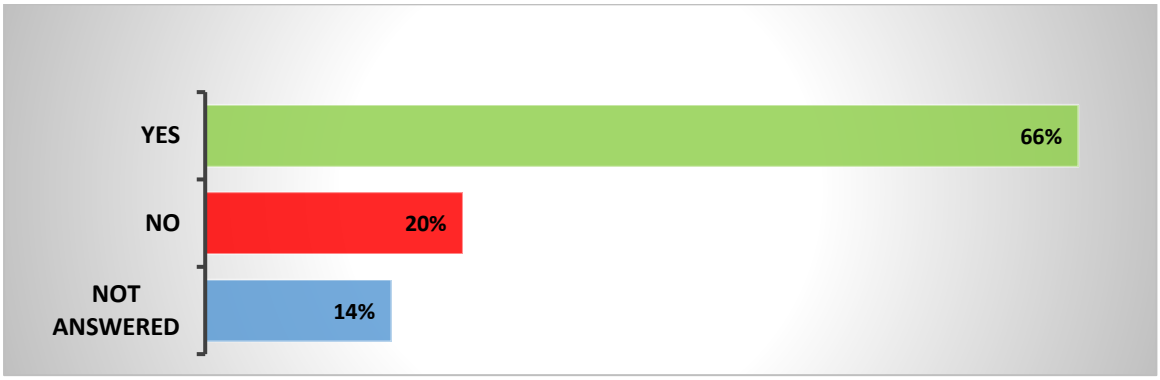
Question 9 - Next Steps

The Scottish Government will take the following action:

Work with the Parole Board to raise its profile amongst professionals, victims/victim's families, prisoners/prisoner's families to ensure that the role of the Board and its processes are fully understood.

We will recommend to the Parole Board that they produce and publish a communication strategy.

Question 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?



There were **79** responses to this question, **64** of which expanded on the answer with comments.

"The current system of collating evidence is chaotic and relies on junior members of Prison and Parole Staff to ensure everything is covered."

The Parole Board we believe under current arrangements has access to a wide range of information in the dossier, and has the ability to request further written details or personal appearances at Tribunals/Oral hearings from individuals that can contribute to their decision making process."

109. The majority of respondents to this question thought there should be some form of investigative function. There was however some uncertainty as to what form this function should take including who should carry out any 'investigation'.

110. From the responses received it was clear some people were not aware of the type of information that was already available to the Parole Board. It was also commented by some respondents that they believed the Parole Board were already able to source any information they required.

111. There were various suggestions as to who should carry out the investigative function such as the Parole Board themselves, Scottish Prison Service (SPS), Social Services, the police, the Procurator Fiscal, a Victim's Commissioner and staff with investigative expertise. It was also suggested that the SPS should have a dedicated team and that victims and families should provide information to the Parole Board.

112. There was a suggestion that the Parole Board should not be involved in any investigative role, citing the need for the Board to maintain its independence to ensure the decision was impartial. The respondent noted that it could be difficult for the Parole Board to maintain its impartiality whilst carrying out an investigation and that this would be difficult to evidence if the same body investigating makes the decision about parole.

113. Some perceived that it was the quality of information that was an issue rather than the lack of it. It was suggested there should be a 'quality assurance' role (at a senior level) to supplement existing information gathering rather than a specific investigative role.

114. The purpose of gathering further information was questioned and how the role would differ from current procedure. It was also suggested that should there be an investigative function, it would require clear rules and regulations to govern the procedure.

115. The need for any investigative role to be carried out by those experienced in that field was highlighted.

116. It was also suggested that there should be an information sharing protocol with a duty to co-operate should the Parole Board seek further information.

Question 10 - Next Steps

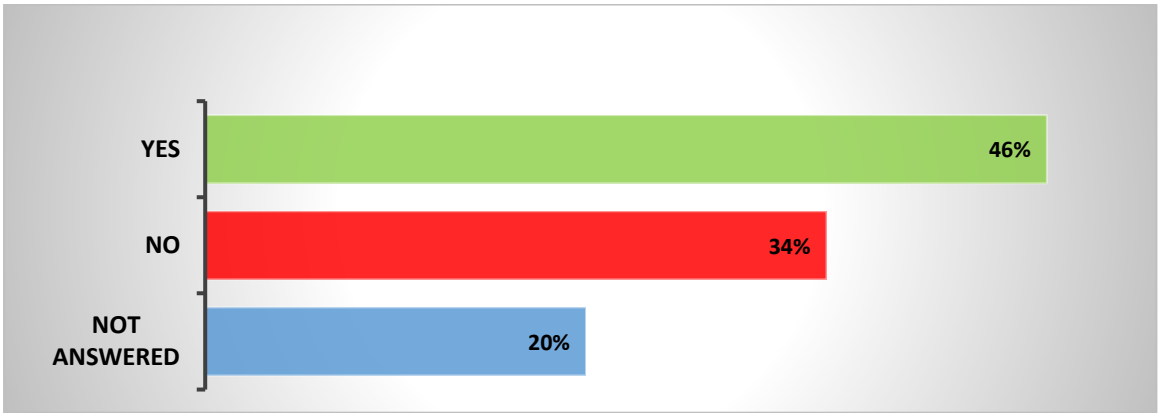
The Scottish Government considers that the Parole Board's role should not be widened to include investigations. It is also considered that the information that is currently available through the dossier is sufficient to ensure that the risk a person poses can be determined. The Parole Board also already has the ability to call on any additional information that they require to reach a decision.

We will recommend to the Parole Board that they publish the types of information they take into account when making a decision to release and the reasons they require such information.

INFORMATION FOR PRISONERS ON THE PAROLE PROCESS

117. The consultation asked whether more could be done to help prisoners understand the parole process to help with rehabilitation and avoid reoffending. The consultation also sought views on whether any more could be done to help prisoners understand their licence conditions and the consequences of breaching those.

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



There were **73** responses to this question, **69** of which expanded on the answer with comments.

"The SPS supports prisoners quite well in this respect. Prisoners have access to solicitors as well and can make their own written and verbal representations."

"I think it could be provided in an easier read and understood format. I work with, what I would think are a majority of prisoners, who have limited understanding because of learning difficulties; learning disabilities; mental health problem; substance misuse issues."

118. There was a mixed response to this question. Around half the respondents believed that prisoners already received the information they require to take part in the parole process. A number of respondents were unclear what information was given to prisoners and some misunderstood the question.

119. There were a few respondents who suggested the prisoner was at a disadvantage due to literacy issues, and information not being expressed adequately or well enough.

120. The timeliness of the sharing of information was questioned with the suggestion that information should be shared earlier in the process, be standardised and explained by someone with expertise.

121. It was suggested that information should be provided in an easy to read format to aid prisoners with limited understanding because of learning difficulties or disabilities, mental health problems and substance misuse issues. The suggestion was also made that prisoners serving long sentences are institutionalised and lack knowledge of digital advances. It was also mentioned that there should be resources provided to those prisoners who have learning disabilities or other

challenges such as reading, writing or language barriers, to help them navigate the system.

122. Views were also expressed that prisoners should be kept fully informed throughout the process, highlighting annual Integrated Case Management (ICM) meetings - particularly the pre-release ICM, where it was mentioned that information is available and can be explained, if necessary.

123. Concerns were raised about vulnerable prisoners being able to fully understand the parole process. Also highlighted was the impact a prisoner's incarceration and release could have on partners and children, particularly mentioning bullying and harassment. Timing of release was also raised, mentioning that there should be enough time to allow families to prepare for the prisoner's return, especially where there may be licence conditions preventing the prisoner from relocating to their previous home with the family having to identify alternative accommodation at very short notice.

Question 11 - Next Steps

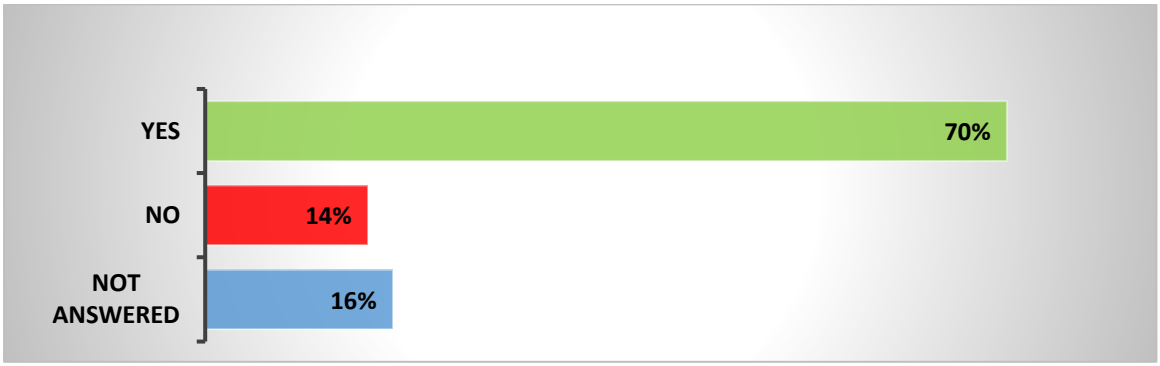
The Scottish Government will take the following action:

Produce an information booklet, in an easy to read format, to be included in the dossier of information given to the prisoner in timely preparation for their parole hearing.

Ensure that licence conditions are fully explained to prisoners before they are released into the community and that they also understand the consequences of breaching the conditions.

We will consider making appointments under section 21, of the Prisoners and Criminal Proceedings (Scotland) Act 1993, which allows for Parole Advisers to give advice to prisoners or former prisoners, who wish to make representations to the Scottish Ministers or to the Parole Board relating to their release on licence or their recall to prison. In terms of vulnerable prisoners such as those with mental health problems, Parole Advisers with particular experience in that area, could provide valuable input to assist their understanding.

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



There were **77** responses to this question, **66** of which expanded on the answer with comments.

"Speak with ex-prisoners who have been through the process to help them fully understand the process"

"As someone who has dealt with people being released on parole, I don't think the majority of them care about conditions of licence. They often agree to these conditions purely to secure release"

124. The majority of the respondents to this question thought that more could be done to help prisoners understand their licence conditions and the consequences of breaching them.

125. A common theme in responses to this question was about communication and the timing of when conditions should be best explained. Another common theme was around literacy and learning difficulties which may prevent some prisoners from understanding their licence conditions. It was suggested there could be a better explanation of the consequences of breaching licence conditions. Some felt that an easy to read guide should be available.

126. Another suggestion was that the Parole Board should confirm the prisoner has understood their licence conditions and should be made aware what those conditions might be at an early opportunity mentioning that some prisoners are not made aware of the conditions until close to release date.

127. One opinion was expressed that the prisoner is too focussed on getting out than absorbing their licence conditions and the understanding of them. It was suggested that these might be better explained at the last ICM meeting.

128. It was also suggested that conditions should be explained on release and then more fully explained at the meeting with the supervising officer on the first day of release.

129. Several respondents however, thought that prisoners already fully understood their licence conditions.

Question 12 - Next Steps

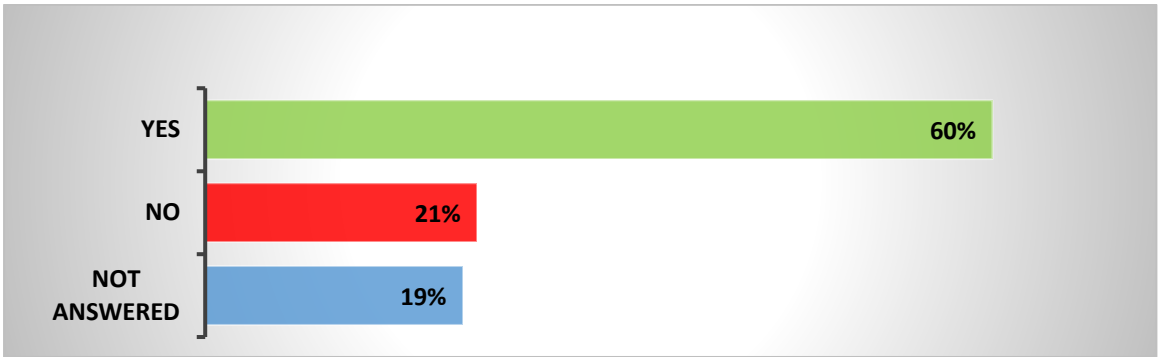
The Scottish Government will take the following action:

Explore with the SPS and the Parole Board a means of ensuring that prisoners fully understand their licence conditions and agree who should be responsible for providing advice and assistance to them. This could be a possible role for Parole Advisers discussed above.

SUPERVISION, REVIEW AND RECALL

130. The consultation sought views on the wider parole procedures looking at whether measures should be introduced to regularly and formally, review individuals on parole licence to ensure compliance with conditions – in addition to the supervision that currently existed. The suggestion of an additional review hearing by the Parole Board was mooted in the consultation to assist with compliance and to be carried out in the initial months following release.

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



There were **74** responses to this question, **61** of which expanded on the answer with comments.

"We would support establishing an additional review process, as long as it is easy to implement and does not delay proceedings unnecessarily, and is optional rather than mandatory."

"Supervising authorities have their own review processes which monitor and manage compliance, risk and need so it is not clear what additional benefit Parole Reviews would have. This is particularly in the case of those who have not engaged with the Parole process before (those released on Non-Parole Licence). Any breach or non-compliance of conditions is notified to the Parole Board accordingly."

131. There was a lot of support for introducing an additional review process to check on adherence to licence conditions and avoid unnecessary recalls.

132. There were varying suggestions as to what form a review should take, who should conduct it and when it should take place.

133. Generally, it was felt an additional review should be to support Criminal Justice Social Work in their supervision of a client. Some felt a review should be targeted at high risk individuals only such as life sentence prisoners and those on an Order for Lifelong Restriction. A system similar to that for Community Payback Orders (CPOs) was suggested for individuals whom the Parole Board felt would benefit from an additional review in the early stages of release. It was felt a review would aid compliance and had proved effective with court reviews such as Drug Treatment and Testing Orders and CPOs.

134. Some felt a review should be used to adjust or dismiss licence conditions depending on compliance with them. It was also mentioned that where a licence condition was to be deleted this should not happen without the victim being informed. A review was seen as an opportunity for the person concerned to highlight any concerns with compliance to a particular condition before the situation deteriorated into one of non-compliance.

135. There was some support for introducing a community based face-to-face review process as a possible alternative to recall to custody. Others thought that a review could be a supportive mechanism that helped individuals on their release from prison. It was also thought that any review process should be carefully monitored and evaluated.

136. Resource implications and the need for further training of Parole Board members in terms of any new process was also highlighted.

137. There was also some who thought an additional process was unnecessary and current arrangements for supervision were adequate enough without an additional step.

138. Suggestions for who should carry out a review included Criminal Justice Social Work, the Parole Board, professionals and community representatives, an independent judge and a mixed panel akin to a jury.

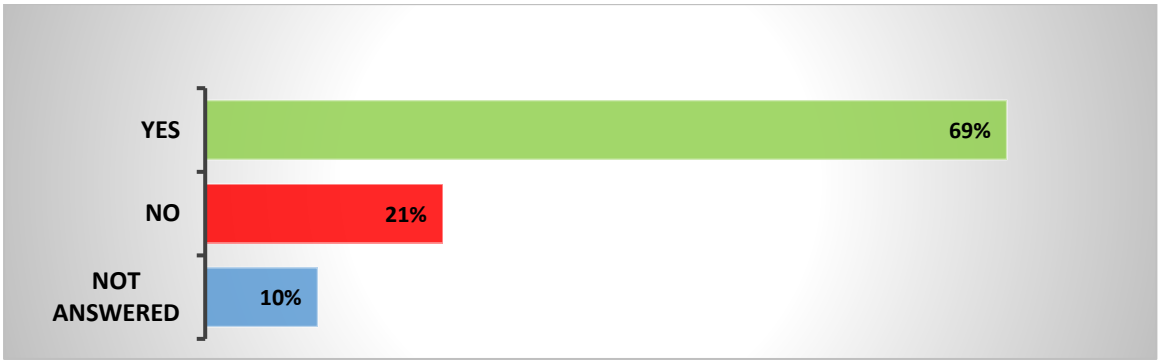
139. On timing of a review one suggestion was that it could be quarterly for two years and then every six months thereafter until the end of licence.

Question 13 - Next Steps

The Scottish Government will take the following action:

In the case of anyone on a parole or non-parole licence we consider options for an early review to be carried out 4 - 6 weeks after release on parole licence or within a time period deemed appropriate. This review will provide the opportunity to iron out any problems and ensure compliance with licence conditions is fully understood and being adhered to. Provision will be made to allow for a decision not to carry out a review if it is felt unnecessary or under/within specified circumstances. This aim of such a review is to address the number of people being recalled to custody shortly after release. Before implementing this action the process and timescales for review will be developed in conjunction with Criminal Justice Social Work.

Question 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?



There were **83** responses to this question, **61** of which expanded on the answer with comments.

"We believe that much has been done over the last year or so, particularly through the revised throughcare breach process, to improve the speed and immediacy of decision making in this area. Criminal justice social workers report that there are good relationships with the Parole Unit and liaison regarding recall."

"Speed of recall is the biggest implication. This should be after a review meeting with a panel of social workers rather than an individual - possibly of an external group rather than the local group."

140. Based on the responses it is clear there is a lot of confusion about the current arrangements for breach of licence. It appears a number of respondents think that Criminal Justice Social Work refer breach reports directly to the Parole Board already. However, under current arrangements breach reports are referred to the Scottish Government, Community Licence Team, who are completely separate from

the Parole Board and its administrative support i.e. Parole Scotland. The Community Licence team is currently responsible for compiling the dossier of information the Parole Board require to decide whether a person should be recalled to custody or not.

141. There was some mention of the revised working arrangements which rolled out across Scotland in September 2018 following a successful pilot study. This originated as an action from the previous consultation *Parole Reform in Scotland*[3] which has led to changes to the process for reporting a breach of licence and recall to custody. There was some who thought that this revised process was working well and no changes were required. Local authority respondents were particularly positive about these new arrangements. It is to be noted, as reported by the Parole Board itself, that since the introduction of the revised process the time from a breach is identified by social work or police to the recall decision has reduced dramatically from 30 days to around 5 days. The normal turnaround between submission of a breach report to recall decision being around 48 hours or less.

142. There was also some confusion about what happens when a person is recalled. Some thought this meant the person was immediately removed from the community, whereas in reality, a person is reported for a breach by the supervising officer to the Scottish Government; a referral is made to the Parole Board; the Parole Board makes its decision; the warrant is issued to the supervising officer, the police and the prison at the same time; and thereafter the person is traced and returned to custody. Some respondents thought it would be quicker to refer straight to the Parole Board.

Question 14 - Next Steps

The Scottish Government will take the following action:

Arrange information sharing workshops for partner agencies and appropriate individuals, so that the process for breach of licence and recall to custody can be better understood.

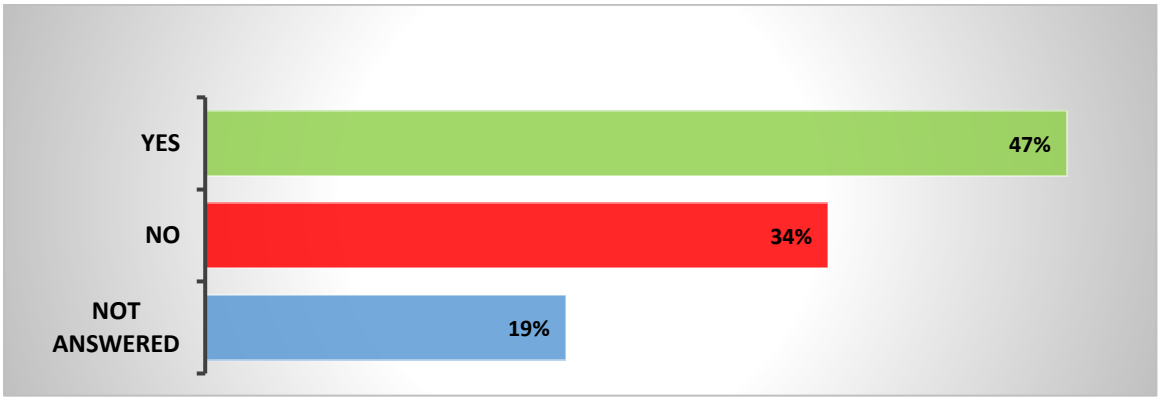
The Scottish Government believes that the trust that has built up between the person under supervision and the supervising officer may be lost if there was the ability for them to recall people directly. Clients may not be so forthcoming with information going forward if there was a fear of being recalled to prison. We therefore consider that the current arrangements for breach and recall have progressed significantly and are therefore sufficient for purpose. However, we do consider there would be merit in hosting information workshops so as people better understand the process.

[3] Parole Reform in Scotland: https://www.gov.scot/publications/parole-reform-scotland/

INDEPENDENCE AND GOVERNANCE

143. The consultation sought views on providing greater clarity around the independence, governance and accountability of the Parole Board. It was suggested that this could be achieved by transferring the Parole Board to the Scottish Tribunals as established by the Tribunals (Scotland) Act 2014. The consultation also asked whether there should be a review and appeal process such as the process that existed by being part of the Scottish Tribunals.

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



There were **74** responses to this question, **61** of which expanded on the answer with comments.

"Transferring the Parole Board to the Scottish Courts and Tribunals Service would clearly show its independence from the Scottish Government. This would allow for a more streamlined approach to Parole Board hearings."

"There is merit in the autonomy and separateness of the Parole Board from the judiciary and we cannot see how bringing them under the Scottish Tribunals process will enhance their independence"

144. This question was misunderstood by many respondents. There were a number of people who responded 'Yes', 'No' or 'did not answer either way', who also commented they did not understand or did not know, if transferring to the Scottish Tribunals would enhance the independence of the Parole Board. Some suggested that they would require more information before they could respond to the question and the suggestion was made that there should be a further consultation if a transfer was considered appropriate.

145. Although answering negatively to the question, the comment was made that the respondent had no objections '*to it being done for efficiency purposes*'.

146. It was also suggested that being part of the Tribunal Service would allow for appropriate governance of the Board.

147. One respondent thought more consideration would be given to victims if the Parole Board were part of the tribunal structure.

148. Several respondents considered a transfer to the Scottish Tribunals would enhance the independence of the Parole Boards with one commenting that 'reinforcing the autonomy of the Parole Board must be the primary reason for this change'. As well as mentioning the secondary benefits of the wider structural supports and enhanced procedural arrangements would be welcomed to ensure continuing operation of the Parole Board and general satisfaction of its stakeholders.

149. Another respondent thought that independence would be guaranteed by not being associated with Scottish Government sponsorship. This respondent was also supportive of the broader supports of the tribunal structure and the potential for an appeal process.

150. Some thought a transfer would address issues of accountability and transparency.

151. Although supportive of a tribunal transfer the issue of ensuring there were sufficient resources allocated to allow the Parole Board to operate was mooted.

152. It was also felt that a tribunal was best placed to balance and protect the interests of victims, witnesses and prisoners in a manner commensurate with European Convention requirements.

153. A few respondents thought that the Parole Board was already independent and no change was required. A suggestion was made that there was merit in keeping it as a distinct body for fear it would become less visible or approachable. It was also felt that relationships with professionals may be compromised.

154. There was some understanding of the perception of independence and the idea of the Scottish Government having undue influence over the Parole Board however, this was not felt to be a significant issue.

155. There were comments made about the importance of impartiality and the need for that to be assured going forward, that there was merit in autonomy from judiciary, and that a transfer would not affect how decisions were made.

156. One respondent thought that people have a greater understanding of the Scottish Tribunals and the more significant issue is how the Parole Board function is communicated. A number were unclear how bringing the Parole Board under the auspices of the Scottish Tribunals would enhance independence. People were also unclear about the benefits of doing so.

157. The issue was raised that a transfer risks the ability to take account of changing priorities and concerns that the same body making sentencing decisions would be making decision on release.

158. There was a suggestion of a working group with representatives from across the system being best to take the decision to transfer, learning from other countries to help make an informed, balanced decision.

159. There was also a concern about the appeal process being abused and the impact this would have on resources.

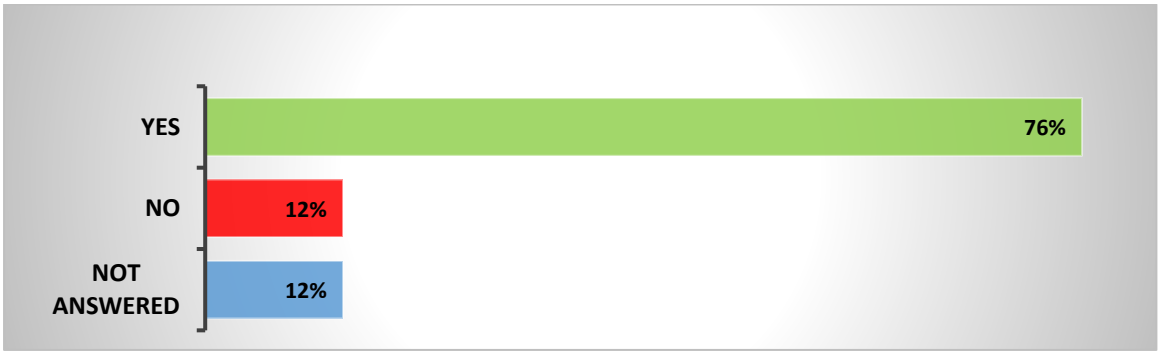
160. One person worried about the possible loss of member expertise but was not opposed to the use of tribunal facilities.

Question 15 - Next Steps

The Scottish Government will take the following action:

Undertake a specific consultation to seek views on transferring the Parole Board for Scotland to the Scottish Tribunals. The consultation will explain more clearly the purpose of any transfer and make clear the advantages or disadvantages to a transfer taking place.

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



There were **81** responses to this question, **60** of which expanded on the answer with comments.

"Parole boards are only human and mistakes can be made - there should be an appeal process against their decisions"

"What is meant by this question. This question is all about offenders being given yet more rights of appeal under the parole board system. How would this assist a more open parole board hearings? Where would families of murdered victims fit into this if at all?"

161. The majority of respondents to this question thought that there should be a review and appeal process. Those in favour thought it would be fairer for victims and their families and also fairer to prisoners.

162. There was a concern that having a review of a decision would add time to the process for parole review hearings and that this time should be taken into account so that if the decision is upheld then the next review hearing wouldn't take place until a year after the one that was reviewed. Others thought if there was the opportunity to review a decision it should not add time to the hearing process.

163. There was general agreement about there being a review process but it was felt that there had to be clear criteria and grounds for review. It was also felt that there had to be clear definitions about the differences between review and appeal.

164. The fact that the Parole Board already had an informal review process was mentioned and that it may be appropriate to put this on a statutory footing. The Parole Board in England and Wales reconsideration process (see rule 28 of the Parole Board Rules 2019)[4] was also highlighted which established criteria where parole review was unfair, irrational or procedurally flawed. This process is open to the prisoner or the Secretary of State (including on behalf of the victim) to apply for.

165. A respondent thought that the tests the Parole Board apply needed to be refined and robust to improve legal and defensible decision-making.

166. It was acknowledged that bringing the Parole Board into the Scottish Tribunals would provide both a review and appeal process. It was also mentioned that an appeal route could be considered without a transfer to the Scottish Tribunals.

167. The fact that victims were not currently 'a party in a case' was thought to cause difficulties in creating an appeal process.

168. Some thought that an appeal process would aid transparency and that everyone should have the right to appeal if unsound or questionable decisions were made.

169. It was mentioned that under the current system prisoners do not know a judicial review is open to them unless they have good legal representation.

170. There was a question raised around audit activity and whether that was currently undertaken regarding Parole Board decisions. It was felt that this could give insight into the need for an appeals process and the resources required for that.

171. A couple of respondents mentioned the lack of an appeal for an original decision compared to the right to an oral hearing, that is available to challenge a recall decision, following a breach of licence conditions.

[4] Parole Board Rules 2019 - http://www.legislation.gov.uk/uksi/2019/1038/contents/made

172. A few respondents thought that an appeal should be available to both the prisoner and the victim or victim's family.

173. One respondent commented that they were not aware of any scrutiny of Parole Board decisions and as such would support an accessible review and appeal process being available. They felt that as decisions relate to a person's liberty they should be subject to review and appeal in the interests of justice.

174. It was suggested that a review and appeal system should sit outside the current judicial framework to help speed up the process. It was also suggested that the role of quality assurances processes in assisting with the scrutiny of the Parole Board decision-making, to ensure consistency of performance and that greater transparency in this area, would be helpful.

175. One respondent commented that the review and appeal processes of the Scottish Courts and Tribunals Service were tried and tested and could be applied to Parole Board decisions.

176. There were also some reservations expressed about having a review and appeal process. Some thought that it may create a misleading impression to victims who object to parole being granted and their potential to have a greater influence on the process and to change the outcome. The legal costs for victims was also questioned and how funding could be accessed by those on low income. It was also felt that any new process would need to be appropriately resourced.

177. Concerns were raised that the review mechanism may be misused and prisoners would first seek a review and then appeal. A more straightforward process for correcting mistakes was preferred.

Question 16 - Next Steps

The Scottish Government will take the following action:

As part of the rewrite of the Parole Board rules we will set out a formal review process. This action will make it clear what the process is to seek a review, what the criteria is, the timescales for an application and what the grounds for review are.

ANNEX A

ORGANISATIONS WHO RESPONDED TO CONSULTATION

Type	Organisation
Local Authority	Aberdeen City Health and Community Safety Partnership
Voluntary Sector	Criminal Justice Voluntary Sector Forum
Local Authority	East Ayrshire Health and Community Safety Partnership
Local Authority	Edinburgh Council Criminal Justice Social Work
Legal	Faculty of Advocates
Voluntary Sector	Families Outside
Local Authority	Glasgow City Health and Community Safety Partnership
Voluntary Sector	Howard League Scotland
Commissioner	Information Commissioners Office
Local Authority	Inverclyde Council Health & Community Safety Partnership
Religious Group	Joint Faiths' Board on Community Justice
Legal	Law Society Scotland
Local Authority	Midlothian Council Community Safety Partnership
Voluntary Sector	Moira Anderson Foundation
Membership body	National Prison Visitors Centre Steering Group
Public Body	Parole Board England and Wales
Tribunal NDPB	Parole Board for Scotland
Voluntary Sector	Rape Crisis Scotland
Membership body	Scottish Community Safety Network
Non-Ministerial Department	Scottish Courts and Tribunals Service
Voluntary Sector	Scottish Women's Aid
Judicial	Senators of the College of Justice
Membership body	Social Work Scotland
Local Authority	Stirling Council
Voluntary Sector	Victim Support Scotland
Voluntary Sector	Victims Organisation Collaboration Forum
Voluntary Sector and Executive NDPB	Wellbeing Scotland and Community Justice Scotland
Local Authority	West Lothian Council

Note: Not all organisations wished their response or names to be published.

ANNEX B

SUMMARY OF ACTIONS TO BE TAKEN

STRENGTHENING THE VOICE OF VICTIMS IN THE PAROLE PROCESS

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

Action:

Produce an information booklet in an easy read format to help victims and/or families understand the parole process.

Explore a means by which victims and/or families (if they wish to do so) can make representations to the Parole Board member(s) who will hear their case. This may require amendment to primary legislation.

Allow prisoners families (if they wish to do so) to make representations to the Parole Board regarding the impact of the decision on the prisoner's family.

Provide a specific point of contact within Parole Scotland [a victim liaison officer], so that victims can access appropriate information (within the boundaries of Data Protection legislation) should they require to do so. This may include what can be expected from the parole process; key dates for submitting representations; or clarity on how they wish to be informed about the parole decision.

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

Action:

Explore a means by which arrangements can be made to allow a victim and/or family member to attend a parole hearing in person (if they wish to do so). This could allow them to ask any questions about procedural matters. In most cases we envisage this would happen at the beginning of the hearing without the prisoner being present. This would avoid any conflict or participation issues and be less traumatising for the victim.

This could also be achieved by allowing victims to observe the hearing via video conferencing (if available) which could allow the sound to be muted when confidential matters were being discussed and provide some distance between the prisoner and the victim or family member.

In addition, to avoid re-traumatising victims by asking them to submit their representations at subsequent hearings (where the prisoner has not been released), we could arrange that original victim statements may be taken into account at every review hearing, rather than seeking new statements for each hearing – if that is something the victim wishes to do.

Question 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?

Action:

Work with the Parole Board to produce guidelines on the type of criteria they should take into account when considering the safety and welfare of the victims and their families. This criterion should also take into account the prisoner's safety and the safety of the prisoner's family.

Incorporate specific criteria into the Parole Board rules of procedure relating to certain matters that may be taken into account by them around the safety and welfare of victims and their families.

Question 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)?

Action:

We will work with the Parole Board to explore the potential for making greater use of the existing (radio frequency) electronic monitoring capabilities for monitoring exclusion zones (or inclusion zones) within licence conditions.

We will work with the Parole Board to explore the potential for a pilot study using GPS technology for prisoners released on parole licence, where a relevant licence condition has stipulated.

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

Action:

Working with the Information Commissioner and the Parole Board set out a procedure for publishing information including the type of information that may be published, the format/style of publication and the means by which it will be published, taking into account rights and obligations under the Data Protection Act 2018 and the prisoner's rights under ECHR.

ENSURING TRANSPARENCY AND IMPROVING SUPPORT FOR DECISION-MAKING

Question 6: Should 'others' be routinely entitled to attend parole hearings?

Action:

Having considered all of the responses in some detail the Scottish Government do not think there is a requirement to allow 'others' to routinely attend parole tribunals.

There is however scope to specifically allow professional observers to attend oral hearings in order to assist with their personal development.

Question 7: Should information be routinely shared with others?

Action:

The Scottish Government believe that information should only be shared where there is a statutory role for an individual or organisation and/or where there is a legal basis for data to be shared. This should be determined on a case-by-case basis. Therefore, there are no plans to share information more widely than is indicated elsewhere in this report.

However, we will recommend to the Parole Board that an overview of decisions is produced annually and published on the Parole Board website.

Question 8: Do you feel that some information regarding parole decisions should be published proactively?

Action:

Recommend to the Parole Board that they include in their annual report anonymised case studies, including redacted summaries of significant decisions and reasons for them.

In addition, the report should include reasons why people are being recalled to prison. This may help identify recurring themes where action may be needed to avoid licence breaches or to identify where there are gaps in service provision.

Question 9: Do you think the work of the Parole Board is sufficiently visible?

Action:

Work with the Parole Board to raise its profile amongst professionals, victims/victim's families, prisoners/prisoner's families to ensure that the role of the Board and its processes are fully understood.

We will recommend to the Parole Board that they produce and publish a communication strategy.

Question 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?

Action:

The Scottish Government considers that the Parole Board's role should not be widened to include investigations. It is also considered that the information that is currently available through the dossier is sufficient to ensure that the risk a person

poses can be determined. The Parole Board also already has the ability to call on any additional information that they require to reach a decision.

We will recommend to the Parole Board that they publish the types of information they take into account when making a decision to release and the reasons they require such information.

INFORMATION FOR PRISONERS ON THE PAROLE PROCESS

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

Action:

Produce an information booklet, in an easy to read format, to be included in the dossier of information given to the prisoner in timely preparation for their parole hearing.

Ensure that licence conditions are fully explained to prisoners before they are released into the community and that they also understand the consequences of breaching the conditions.

We will consider making appointments under section 21, of the Prisoners and Criminal Proceedings (Scotland) Act 1993, which allows for Parole Advisers to give advice to prisoners or former prisoners, who wish to make representations to the Scottish Ministers or to the Parole Board relating to their release on licence or their recall to prison. In terms of vulnerable prisoners such as those with mental health problems, Parole Advisers with particular experience in that area, could provide valuable input to assist their understanding.

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

Action:

Explore with the SPS and the Parole Board a means of ensuring that prisoners fully understand their licence conditions and agree who should be responsible for providing advice and assistance to them. This could be a possible role for Parole Advisers discussed above.

SUPERVISION, REVIEW AND RECALL

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

Action:

In the case of anyone on a parole or non-parole licence we consider options for an early review to be carried out 4 - 6 weeks after release on parole licence or within a

time period deemed appropriate. This review will provide the opportunity to iron out any problems and ensure compliance with licence conditions is fully understood and being adhered to. Provision will be made to allow for a decision not to carry out a review if it is felt unnecessary or under/within specified circumstances. This aim of such a review is to address the number of people being recalled to custody shortly after release. Before implementing this action the process and timescales for review will be developed in conjunction with Criminal Justice Social Work.

Question 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?

Action:

Arrange information sharing workshops for partner agencies and appropriate individuals, so that the process for breach of licence and recall to custody can be better understood.

The Scottish Government believes that the trust that has built up between the person under supervision and the supervising officer may be lost if there was the ability for them to recall people directly. Clients may not be so forthcoming with information going forward if there was a fear of being recalled to prison. We therefore consider that the current arrangements for breach and recall have progressed significantly and are therefore sufficient for purpose. However, we do consider there would be merit in hosting information workshops so as people better understand the process.

INDEPENDENCE AND GOVERNANCE

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

Action:

Undertake a specific consultation to seek views on transferring the Parole Board for Scotland to the Scottish Tribunals. The consultation will explain more clearly the purpose of any transfer and make clear the advantages or disadvantages to a transfer taking place.

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

Action:

As part of the rewrite of the Parole Board rules we will set out a formal review process. This action will make it clear what the process is to seek a review, what the criteria is, the timescales for an application and what the grounds for review are.