[redacted]

the Parole Board
working with others to protect the public

8 February 2022

[redacted]
Ministry of Justice
102 Petty France
London SW1H 9AJ

Dear [redacted]

I am writing to thank you for meeting with [redacted] and me on 1 February 2022 to discuss the work of the Parole Board. It was extremely helpful to hear directly of your priorities and approach to the Root and Branch Review of the Parole System and I look forward to us playing our part in taking forward its conclusions in due course.

As we discussed, the Parole Board is already planning for its next member recruitment campaign, ideally in autumn 2022. We see this as a real opportunity to enrich the blend of member experience that we have available to us, particularly on some of the more complex cases that we are required to decide. The Board would welcome the appointment of increased numbers of judges, those with a law enforcement background and people with the skills to chair hearings (a critical part of our workload). Having a diverse range of skills on the Board is critical to ensuring cases are appropriately panelled.

As we discussed, when making independent judicial decisions as to whether the statutory test for release is met, panels are obliged to make decisions based on the evidence and the law. In the overwhelming majority of cases these decisions are uncontroversial. The difficulties arise in a small number of cases each year, when parole panels are asked to make decisions on offenders who have committed offences which have caused huge public concern, but the evidence of all the professional witnesses favours release. Whilst we ask our panels (who in high profile cases will usually include a senior judge) to make independent decisions in every case, there is a strong likelihood that panels will follow the evidence of the professionals who know the prisoner, and our members quite correctly should not be swayed by sentiment and must only focus on future risk. Indeed, failing to follow the evidence, without cogent reasons, would leave the Board wide open to a rationality challenge.

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Notwithstanding this, as we discussed, I believe that it would assist our panels enormously if you were formally legally represented in these difficult cases, to tease out from the evidence, arguments as to why the test for release may not have been met, where you believe this to be the case. If you had concerns about a decision, taking that approach could also provide a stronger basis for seeking reconsideration when the panel does direct release. As we discussed, the Root and Branch Review could also provide for a further safeguard so that if a reconsideration were unsuccessful, a further appeal could be made by you to the Court of Appeal (Criminal Division).

You mentioned your concern that over time the statutory release test has been impacted by judgments of the Higher Courts which have potentially changed its balance to favour release. As we discussed, each year only one in four prisoners meets the release test; but there are many cases where caselaw has set limitations on what a parole panel can, or cannot do. I have therefore asked [redacted] to work with [redacted], the Parole Board's [redacted], and our legal team to highlight cases which we think are problematic, to assist your considerations.

Yours sincerely

[redacted]

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The Parole Board for England and Wales

cc [redacted], The Parole Board for England and Wales
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