

The Right Honourable Michael Gove MP
Lord Chancellor and Secretary of State for Justice
Ministry of Justice
102 Petty France
London SW1H 9AJ

Dear Michael,

07 July 2016

IPPS and Parole

When we met in March, we discussed the issues arising in relation to the timely progression and release of prisoners serving Indeterminate Sentences for Public Protection.

Since my appointment I have spoken to Parole Board members and staff, other practitioners and stakeholders about the system and spent time observing parole hearings, visiting prisons and talking to prisoners. I have discussed in detail the issues arising from IPPs with Michael Spurr and we have agreed that working together there is more that can be done to ensure their timely progression. This letter sets out the steps I think are necessary.

In your address to prison governors in May you stated that you had asked me to help develop an improved approach to handling IPP prisoners which keeps inside those who pose real risks to the public but gives hope and a reason to engage in rehabilitative activity to the majority. I agree very much with that objective and have been working on that basis. Given the current level of political uncertainty it would help me if you were to formally confirm that request.

Given the problematic history of IPPs I think we should consider all the options for achieving that objective and I have asked Martin Jones the recently appointed CEO of the Board (and formerly head of sentencing policy in the Ministry) to prepare advice for me on that basis. His helpful advice is attached.

I am aware that the Ministry has been developing a plan which pulls together various operational and legislative options for improving the system. Whilst this work, for example looking to amend the law to reduce cases needing to be heard by the Board, is welcome, I do not believe it goes far enough to achieve a sustained reduction in the number of IPPs. I believe that Michael and I can deliver faster results through joint leadership of the parole reform process.

Improving efficiency of parole process

Our first priority must be to make the existing parole system work better. Before I joined the Board, Martin Jones, had already established plans to reduce the backlog. The total number of outstanding cases has now fallen from a high of nearly 3,200 to c 2,350 today. Martin and I want to continue that good progress throughout 2016-17. Continued progress is at risk because of the level of resources available to the Board and unless we can receive some flexibility we will be forced to reduce the number of hearings we hold from October onwards to ensure we live within our means. The current delays in the system are undoubtedly holding up the release of 150-200 IPPs. We should seek to resolve that position as early as possible.

Making parole hearings count

Whilst the Parole Board has improved its performance, and is committed to further improvements, we are facing unprecedented demand. The number of oral hearings held by the Board has increased fivefold over the last decade as a result of legislative change and case-law. One of the biggest pressures on our capacity is determinate sentence recalls. Thousands of recalled prisoners are referred to the parole board, with only a few months, sometimes weeks, before their sentence end date. That is not the best use of our precious resources. We are working closely with NOMS to significantly reduce the number of these cases that come before the Board.

I support the legislative proposals that are being considered to reduce pressures on the Board. I believe that many of the re-release decisions for the recall population could be better taken executively by other professionals in the system, to provide greater ownership and accountability. Michael's team in NOMS are already making much greater use of executive re-release. We have agreed to build on that work to seek to significantly reduce referrals to the Board so we can focus on the cases that make a material difference to prisoners and the public or where there is a dispute. Freeing the Board up to focus on the cases that really matter would in our estimation result in the release of an extra 50-100 IPPs a year.

Providing hope of parole

Five years ago, very few IPPs were being released. The Board released just over one in ten of the IPP prisoners they reviewed, equating to c10 releases a month. Unsurprisingly there were accusations that the Parole Board was too risk averse. Things have changed. There is now a steady flow of around 50 IPP prisoners being released each month and we release more than a third of the IPPs we see. There are however a significant number who are beginning to lose hope of progress, which, in turn, leads to a deterioration in behaviour borne of frustration. Whilst my discussions have suggested there are a hard core of IPPs who present a very real risk to the public, the majority should have a chance of release. We need the system to be calibrated to ensure that prisoners who can be released are brought to their release point at the earliest opportunity and ensure we do not confuse recalcitrant behaviour and a loss of hope, with risk. The Parole Board will be seeking to improve matters through enhanced training and exploring the potential for developing a small number of members to focus on IPPs.

We also need to look at whether changes to the parole system can be incorporated into the current reforms of the prison system. Greater autonomy for prison governors

and more local accountability for outcomes should ideally mean a relaxation on the restrictions on ROTL and so make it easier for prisoners to demonstrate they have reduced their risk. In the longer term the new prison building programme if implemented imaginatively, could create the potential for facilities that ease the transition from closed to open to community conditions rather than the dramatic step-down prisoners currently experience.

My firm belief is that through a combination of robust case management by the Board; intensive central case reviews of problematic IPP cases by NOMS; and the targeted use of electronic monitoring, we are capable of increasing the number of IPPs we release to a steady stream of 60-70 a month. The Parole Board have agreed to participate in the Ministry's EM pilot which is due to start in the coming months. We are certain that location monitoring and alcohol tagging has potential to assist in managing the transition of offenders back into the community.

Confidence in parole

Since becoming chair of the Board I have been extremely impressed by the sensitive, careful, and professional way, that members of the Board make its decisions. I am pleased that later this year we should be able to bring in a significant number of new members to refresh and replenish our pool of members – who will increasingly be working digitally.

Whilst we always take our decisions with great care, there will always be a small number of sad, but often unpredictable, cases where prisoners are released to go on to commit further offences. My members are unsurprisingly very sensitive to this risk and to political, or media criticism. Through bolder leadership I am planning to bolster member confidence to ensure that they feel able to make the right decisions without fear of undue or unfair criticism. Given the number of cases we hear currently, small changes in our release rates has a significant impact. A 5% increase in our release rate would lead to the release of approximately 80-100 extra IPPs annually.

Legislative options

I think that through joint leadership and a change in culture, the Parole Board and NOMS could accelerate the release of IPPs and bring the IPP population significantly below 2,000 and perhaps even below 1,500 by 2020. To achieve a greater or faster reduction would, in my assessment, require legislative action. I know ministers are considering all options and I welcome this. I personally have real concerns about the IPPs who received tariffs of less than two years, and but for their IPP would have been released many years ago. I think we should consider conversion of the sentences or a reversal of the risk test for this group specifically, so that they would only remain in prison if there was evidence that they were a risk to the public, rather than evidence that they were not.

Ministers might also want to look urgently and carefully at the issues and risks around IPP recalls. Under the current law, thousands of IPPs who are released by the Board will face recall for decades to come. I am concerned about the proportionality of this and whether in future the problem with IPP first releases will be replaced by a problem with IPP recalls.

I look forward to discussing these matters with you when we meet on 12th July. I am copying this letter to, Dominic Raab, Andrew Selous; and Michael Spurr in NOMS who has agreed that we should maintain a joint oversight of progress in the months ahead.

A handwritten signature in black ink, appearing to read 'Nick Hardwick', enclosed within a light gray rectangular border.

Nick Hardwick