

Criminal Justice Inspection
Northern Ireland
a better justice system for all



AN INSPECTION OF
**THE GOVERNANCE
AND OPERATION
OF THE PAROLE
COMMISSIONERS
FOR NORTHERN
IRELAND**

OCTOBER 2024

AN INSPECTION OF THE GOVERNANCE AND OPERATION OF THE PAROLE COMMISSIONERS FOR NORTHERN IRELAND

INCLUDING CASE MANAGEMENT, RISK
MANAGEMENT AND OPERATIONAL SUPPORT

October 2024

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LIST OF ABBREVIATIONS

ALB	Arm's Length Body
CJI	Criminal Justice Inspection Northern Ireland
DCS	Determinate Custodial Sentence
DoJ	Department of Justice
ECS	Extended Custodial Sentence
EU	European Union
ICS	Indeterminate Custodial Sentence
KPIs	Key Performance Indicator(s)
LSA	Legal Services Agency for Northern Ireland
MARA	Multi-Agency Review Arrangements
MoJ	Ministry of Justice (in England and Wales)
MoU	Memorandum of Understanding
NDPB	Non-Departmental Public Body
NICTS	Northern Ireland Courts and Tribunals Service
NIJAC	Northern Ireland Judicial Appointments Commission
NIPS	Northern Ireland Prison Service
Pandemic	COVID-19 pandemic
PBNI	Probation Board for Northern Ireland
PCNI	Parole Commissioners for Northern Ireland*
PDU	Prisoner Development Unit (within Northern Ireland Prison Service)
PDM	Prisoner Development Model
PfG	Programme for Government

PSNI	Police Service of Northern Ireland
PPB	Public Protection Branch, Department of Justice (responsible for executive recall of ICS, ECS and DCS sentenced prisoners)
PPSD	Policing Policy and Strategy Division (within Safer Communities Directorate, Department of Justice)
The Charter	Northern Ireland Victim Charter (2015)
The Code	Partnerships between Department and Arm's Length Bodies: Northern Ireland Code of Good Practice, March 2019
The Order	Criminal Justice (Northern Ireland) Order 2008
The Rules	The Parole Commissioners' Rules (Northern Ireland) 2009

*TERMINOLOGY

In this report the term PCNI is used as a collective term for the work of the Parole Commissioners and its Secretariat. As appropriate, separate references will be made to Parole Commissioners (Commissioners) and Secretariat when reflecting specific matters related to each.

Note: Electronic links to documents and information sources referenced within this report are correct at time of publication but may be subject to change where the information is outside CJI's control.

CHIEF INSPECTOR'S FOREWORD

The prison population in Northern Ireland includes some prisoners who have been convicted of the most serious offences and are serving sentences that require their release to be considered by Parole Commissioners.

Parole Commissioners have a vital role in the criminal justice system in Northern Ireland. They decide if prisoners are safe to be released, need to be kept in prison for longer or need to be recalled back to prison.

To do this they need quality information from those who are working with prisoners and know them best, as well as from the prisoners themselves, about how risks of reoffending will be effectively managed, each prisoners' readiness to rejoin our community and how we will be kept safe when they are released. They also need quality support and services from their Secretariat and sufficient resources and policy from the Northern Ireland Courts and Tribunals Service and the Department of Justice.

The challenges of managing a growing prison population and providing access to programmes and interventions that address offending behaviour and contribute to effective risk management are not underestimated. However, this report highlights the significant number of prisoners who have been released and are then returned to custody. Of course, there are a range of factors that contribute to why someone reoffends or doesn't comply with their licence conditions.

Effective rehabilitation, preparation for release and risk management are cornerstones in preventing reoffending and protecting the public. Not doing this well means prisoners are returned to custody, our prisons become revolving doors for offenders and confidence in the criminal justice system is damaged.

This inspection examined how the Parole Commissioners are supported to do their work - not the decisions they made. However, it is clear that while they have coped with a growing workload, there has been insufficient attention paid to their terms and conditions to ensure these appropriately reflect those of other office holders in comparator decision-making roles. A sufficient pool of Parole Commissioners with the required expertise and who are readily available to deliver an effective parole system is required.

This Inspection Report aims to provide more transparency about the work of the Parole Commissioners for Northern Ireland. It recognises the work they do and makes recommendations to support improvement.

My thanks to Paul Mageean, Chief Commissioner, his fellow Commissioners and their Secretariat staff who spoke to the Inspection Team and supported this inspection. I am grateful to the Northern Ireland Courts and Tribunals Service, Probation Board for Northern Ireland, Northern Ireland Prison Service and Department of Justice officials, officers and staff who engaged with Inspectors.



Jacqui Durkin

Chief Inspector of Criminal Justice
in Northern Ireland

October 2024



I am also grateful to the prisoners who shared their experiences of the parole system in Northern Ireland with Inspectors.

The Lead Inspector for this inspection was Maureen Erne supported by Inspector Rachel Lindsay and I am grateful for their work.

EXECUTIVE SUMMARY

Independently of Government, the Parole Commissioners for Northern Ireland make decisions about the release of certain offenders from prison, including some of the most serious. It is their role to be satisfied that certain individuals can be safely managed in the community before they direct their release from custody, thereby protecting the public from harm. Parole Commissioners are supported to fulfil their role by a Secretariat who are members of Northern Ireland Courts and Tribunals Service staff.

In this inspection Criminal Justice Inspection Northern Ireland (CJI) examined the governance and operation of the Parole Commissioners for Northern Ireland including case management, risk management and operational support. As Parole Commissioners are quasi-judicial decision makers, the decisions made in individual cases were outside the scope of this inspection.

CJI last inspected the Parole Commissioners for Northern Ireland in 2011 several years after their formation under the Criminal Justice (Northern Ireland) Order 2008 and when their remit was expanded to make decisions regarding the release and recall of newly introduced sentences. A Follow-Up Review to assess progress made against the recommendations was undertaken in 2014. Aspects of the parole process have subsequently been considered in a number of other CJI inspections notably in regular prison inspections and in thematic reviews of the management of indeterminate sentences, the impact of recalled prisoners and of resettlement.

The learning identified in this inspection aims to support the strategic development and sustainability of the Parole Commissioners for Northern Ireland and to enhance operational and systemic practice of the parole system in Northern Ireland.

Strategy and governance

As recommended in the 2011 inspection, the governance arrangements of the Parole Commissioners for Northern Ireland changed in May 2012 and was split between the Department of Justice and the Northern Ireland Courts and Tribunals Service. In the intervening period there had been no change to these arrangements nor to the status of the Parole Commissioners for Northern Ireland. In 2014 the Department of Justice told Inspectors that active consideration was being given to enhancing the operational independence of the Commissioners by listing them as non-judicial office holders under Schedule 1 of the Justice (Northern Ireland) Act 2002 (the Act) but this had not happened.

The current sponsorship¹ arrangements were not operating effectively despite positive relationships being reported between the parties involved. Commissioners remained concerned about their operational independence and the perception of it.

There was no strategic vision, ownership and accountability for the parole system including of the Parole Commissioners for Northern Ireland. The role and function of the Parole Commissioners for Northern Ireland was not fully understood within the Department of Justice's sponsoring division. Risk management arrangements were confusing and not effective.

Apart from amendments to legislation prompted by responses to individual cases and changes to case law in England and Wales, there was no regular mechanism to remedy existing gaps in the current legislative framework or to look more broadly at how the system was functioning and whether changes to the Rules to improve its efficiency and effectiveness were needed. The levels of remuneration for Commissioners and their terms and conditions had also remained unchanged since 2012 which was unsatisfactory. Ad-hoc reviews had been commissioned by the Department of Justice but had not resulted in any change to the existing arrangements.

The current oversight arrangements were not sustainable and there were risks that individuals would either not seek to be appointed as Commissioners or that existing Commissioners would opt to do other better remunerated work thereby reducing their availability to undertake parole work. There was some evidence that this was happening which was currently being managed.

The Commissioners had enjoyed autonomy to fulfil their role but there was little indication of any challenge function being exercised by the Department of Justice and it was not clear how those responsible for their oversight assured themselves that the Parole Commissioners for Northern Ireland was fulfilling its statutory functions and meeting the business objectives it was funded to deliver.

Much of this was bound up in the current status of the Parole Commissioners for Northern Ireland. It was a unique structure and unlike that of other parole boards in the United Kingdom. Given its status the usual governance arrangements for Arms Length's Bodies were not applied. This needed to be addressed and a review of the status and sponsorship arrangements is recommended.

1 *The status of the Parole Commissioners for Northern Ireland was unique and as such the usual mechanisms (sponsorship arrangements) between a Government Department and an Arm's Length Body did not apply. However, for the purposes of this inspection report and for consistency of approach with the previous inspection reports CJI will use the term 'sponsor' and 'sponsorship' to describe the oversight function exercised by the Department of Justice and Northern Ireland Courts and Tribunals Service.*

Delivery

In the 10 years since the last inspection the number of referrals to the Parole Commissioners for Northern Ireland and cases completed has increased significantly and was well beyond the numbers projected when the new sentencing framework was first introduced. Commissioners reported the complexity of cases had changed significantly in that time period. Decisions were also much lengthier. To the credit of the Parole Commissioners for Northern Ireland, and unlike in England and Wales, there was no backlog of cases and impressively business continuity had been maintained during the COVID-19 pandemic.

Commissioners and Secretariat staff we met during the inspection were incredibly committed to their role and there was a very clear understanding of their respective responsibilities. The Secretariat was operating effectively and a new case management system had been introduced which had the potential to improve efficiency and enhance access to management information. Legal representatives and delivery bodies had a high level of confidence in the Parole Commissioners for Northern Ireland with members of the legal profession reporting it was one of the better understood processes in the criminal justice system for them.

Commissioners were frustrated about the slow pace of addressing delivery issues which were impacting on their operational effectiveness. This included issues such as the timeliness and quality of information, availability of witnesses, the lack of Department of Justice representation at Panel hearings, the readiness of prisoners for release and compliance with directions issued by Commissioners.

This was manifesting itself in an increased number of directions, higher administration and costs, more adjournments and a reduction in the proportion of cases where release was directed. Prisoners increasingly looked to the Parole Commissioners to hold the Northern Ireland Prison Service and Probation Board for Northern Ireland staff to account. They also reported attending hearings to seek recommendations for actions which ordinarily one might expect to be undertaken during the assessment and sentence planning process. This was not satisfactory. The Northern Ireland Prison Service and the Probation Board for Northern Ireland had initiated programmes of work to address the service delivery issues when raised by the Chief Commissioner with the heads of each organisation in late 2022. The recall procedures were working more effectively although there were still not statutory rules for the recall of Determinate Custodial Sentenced cases.

There was a reluctance expressed by a number of delivery bodies, wider stakeholders and prisoners about raising issues or complaining about their experience or treatment during the parole review process, and limited evidence of the Parole Commissioners for Northern Ireland consulting with and seeking views of different groups to inform continuous improvement. Notwithstanding the known challenges of directly seeking views from service users; it is recommended that the Parole Commissioners for Northern Ireland introduce a suitable mechanism to regularly seek views on service delivery issues to maintain a focus on quality delivery.

Better transparency of quality assurance mechanisms was required.

Outcomes

There were opportunities for the Parole Commissioners for Northern Ireland to be more transparent and present performance data in a more accessible way. Available data mostly reported on case progression metrics rather than outcomes. An analysis of release outcomes showed that the proportion of decisions for release in Northern Ireland had reduced and was lower than in other jurisdictions in the United Kingdom. The persistent levels of recalls and proportion of work and prison places this accounted for was concerning.

The Parole Commissioners rely and are dependent on the effectiveness and efficiency of other parts of the criminal justice system to fulfil their role. While recognising their independence there is a need for the whole, end-to-end system of parole to work in a much more cohesive and unified manner to more effectively address issues which impact on delivery and maintain good, robust oversight of public protection and rehabilitative outcomes. A better mechanism was needed to hold the different elements of the system to account, to address under-performance when and where it occurred, inform the future development of the system and to monitor the overall outcomes.

RECOMMENDATIONS

STRATEGIC RECOMMENDATIONS

STRATEGIC RECOMMENDATION 1

Within nine months of the publication of this report, the Department of Justice should review the status of the Parole Commissioners for Northern Ireland and improve its strategic oversight and governance while respecting the operational independence of the Commissioners. The review should encompass a reconsideration of sponsorship arrangements to ensure that the principles of good practice are adopted and there is an effective relationship between the Parole Commissioners for Northern Ireland and its sponsor division.

Paragraph 2.43

STRATEGIC RECOMMENDATION 2

Within six months of the publication of this report, the Department of Justice should establish a project with appropriately senior representation from the Parole Commissioners for Northern Ireland, the Northern Ireland Courts and Tribunals Service, the Northern Ireland Prison Service and the Probation Board for Northern Ireland to deliver performance indicators and outcome measures, including equality monitoring for the end-to-end parole system and develop processes to effectively manage the delivery of improvement work across the system to ensure that it works efficiently and effectively.

Paragraph 4.27

OPERATIONAL RECOMMENDATIONS

OPERATIONAL RECOMMENDATION 1

Within six months of the publication of this report, the Northern Ireland Prison Service should develop and implement a framework to provide legal representation at Parole Commissioner for Northern Ireland Panel hearings.

Paragraph 3.37

OPERATIONAL RECOMMENDATION 2

Within six months of the publication of this report, the Parole Commissioners for Northern Ireland should reflect on and implement a mechanism to regularly obtain feedback on service delivery issues with stakeholder organisations and service users to maintain a focus on quality services and improve and ensure the accessibility of the process for all those who engage with it.

Paragraph 3.49

OPERATIONAL RECOMMENDATION 3

Within six months of the publication of this report, the Parole Commissioners for Northern Ireland should develop and publish a quality assurance framework and report against this framework in their Annual Report. This should provide more transparency about the duration of cases, costs, reasons for delay and adjournments and deprivation of liberty considerations.

Paragraph 3.62

OPERATIONAL RECOMMENDATION 4

Within three months of the publication of this report, the Parole Commissioners for Northern Ireland should establish a process for Commissioners to be promptly notified of cases where Serious Further Offences had occurred and a mechanism to review learning and evidence the quality of decision-making.

Paragraph 4.22

CHAPTER 1: INTRODUCTION

WHO ARE THE PAROLE COMMISSIONERS FOR NORTHERN IRELAND AND WHAT DO THEY DO?

- 1.1 The Parole Commissioners for Northern Ireland (PCNI) is an independent body with a Chief Commissioner and Commissioners who make decisions about the continued detention, release or recall of prisoners referred to them by the Department of Justice (DoJ). A Secretariat of Northern Ireland Courts and Tribunals (NICTS) staff, an agency of the DoJ, provided an administrative support service.
- 1.2 Commissioners are appointed by the DoJ under Schedule 4 of the Criminal Justice (Northern Ireland) Order 2008 (the Order) as independent Commissioners. The Chief Commissioner is appointed from the body of Commissioners.
- 1.3 The PCNI operates independently of criminal justice organisations but made decisions based on the information they receive from them, including the Northern Ireland Prison Service (NIPS), the Probation Board for Northern Ireland (PBNi), the Police Service of Northern Ireland (PSNI) and the DoJ. Critically, decisions made by the PCNI are made without interference from criminal justice agencies, other parties or Government.
- 1.4 The PCNI had a vital role in the delivery of criminal justice in Northern Ireland by protecting the public from serious criminal offending and supporting the rehabilitation of prisoners. Commissioners made significant decisions about the safe release of certain prisoners back into the community.

WHICH CASES ARE REFERRED TO THE PCNI?

- 1.5 The type of sentence imposed by the Courts determined whether and at which point the PCNI will consider a case.
- 1.6 The PCNI was originally constituted as the Life Sentence Review Commissioners and at that time they made decisions about the release of prisoners serving life sentences after the punitive element of the sentence imposed by the Court, that is, 'the tariff' had expired. Their role changed in 2008 with the introduction of two new public protection sentences – an Indeterminate Custodial Sentence (ICS) and an Extended Custodial Sentence (ECS) - under the Order. The PCNI are responsible for taking decisions related to the release and recall of those prisoners subject to life sentences, ICSs and ECSs.

- 1.7 The Order also introduced a new Determinate Custodial Sentence (DCS) under which prisoners are released after they have served the custodial part of their sentence without recourse to the PCNI. In these cases, the PCNI was involved in considering requests to recall individuals to custody, subsequent reviews of recall decisions and whether recalled prisoners are safe to be re-released on licence.²
- 1.8 The PCNI also makes decisions on other referrals which are included in Table 1 which summarises the Commissioners' role in different sentence types and the stage cases are referred to them.

Table 1: Summary of the PCNI's role in different sentence types

Sentence	Role of the PCNI
<p>Life sentence Imposed where the offence is liable to a life sentence.</p> <p>ICS Public protection sentence imposed for a serious sexual or violent offence and where the Court does not consider that an ECS is adequate to protect the public. The minimum tariff a Court may impose is two years.</p> <p>Pre-tariff reviews</p>	<p>A referral is made to the PCNI approximately six months prior to the end of the tariff period imposed by the Court.</p> <p>Commissioners decide whether the prisoner can be safely released.</p> <p>Where a decision has been taken not to release a prisoner their case will be reviewed again by Commissioners.</p> <p>The PCNI are consulted on the addition, variation or cancellation of licence conditions.</p> <p>If recalled to custody Commissioners will decide on suitability for re-release.</p> <p>The prisoner remains in custody until Commissioners determine they can be safely released.</p> <p>Commissioners also conduct pre-tariff reviews of ICS prisoners to assist with readiness for release at tariff expiry. These are usually conducted three years before tariff expiry and are undertaken by a single Commissioner. Commissioners make recommendations as to how the prisoner might prepare themselves for release.</p>
<p>Serious terrorism sentence Imposed for serious terrorism offences and comprise a custodial term and licence period applies to DCS and ECS sentences.</p>	<p>A referral is made to the PCNI approximately six months prior to the two-thirds point of the custodial term imposed by the Court.</p> <p>Commissioners decide whether a prisoner can be safely released.</p> <p>Where a decision has been taken not to release a prisoner, their case will be reviewed again by Commissioners but they must be released when they have served the custodial term.</p> <p>The PCNI are consulted on the addition, variation or cancellation of licence conditions.</p> <p>If recalled to custody Commissioners decide on their suitability for re-release. If not re-released by the PCNI, they will be released at the end of the licence period.</p>

² A licence is an integral part of a sentence and its purpose is to: protect the public, reduce reoffending and support rehabilitation. When someone is released from custody on licence they will usually be supervised by the PBNI until the end of the licence period specified by the Court or until that licence no longer applies. Under a licence individuals will be subject to conditions which they must adhere to otherwise they could be recalled to custody. Conditions comprises standard conditions and may include additional requirements specific to particular risks and needs.

Sentence	Role of the PCNI
<p>ECS Public protection sentence imposed for certain violent or sexual offences where the Court imposes a custodial term and a licence period. The minimum custodial term a Court may impose is 12 months. If a prisoner is released before the full custodial period imposed by the Court has expired, then the licence period is extended to include the time that would have been spent in custody.</p>	<p>A referral is made to the PCNI approximately six months prior to the halfway point of the custodial term imposed by the Court.</p> <p>Commissioners decide whether the prisoner can be safely released.</p> <p>Where a decision has been taken not to release a prisoner, their case will be reviewed again by Commissioners but they must be released when they have served the custodial term.</p> <p>The PCNI are consulted on the addition, variation or cancellation of licence conditions.</p> <p>If recalled to custody Commissioners decide on a prisoner's suitability for re-release. If not re-released by Commissioners, they will be released at the end of the licence period.</p>
<p>DCS Imposed for an offence committed after 1 April 2009 and comprises a fixed custodial term followed by a period on licence.</p>	<p>Commissioners have no role in deciding on a prisoner's release before the end of the custodial term.</p> <p>If recalled to custody Commissioners decide on a prisoner's suitability for re-release. If not re-released by Commissioners, they will be released at the end of the licence period.</p>
<p>Release of certain prisoners on Compassionate grounds Applies to those serving DCS and those serving an ICS.</p>	<p>The DoJ is required to consult with the PCNI before releasing a prisoner on compassionate grounds.</p>

LEGISLATIVE FRAMEWORK

1.9 The PCNI operated under three legislative frameworks:

- The Life Sentences (Northern Ireland) Order 2001 (*provided for the release and recall of persons serving a life sentence*);
- The Criminal Justice (Northern Ireland) Order 2008 (the Order) (*established new sentencing and release arrangements for Northern Ireland and the PCNI*); and
- The Parole Commissioners' Rules (Northern Ireland) 2009 (the Rules) (*provided the arrangements under which prisoners serving ICSs or ECSs would be reviewed and assessed for release by the PCNI*).

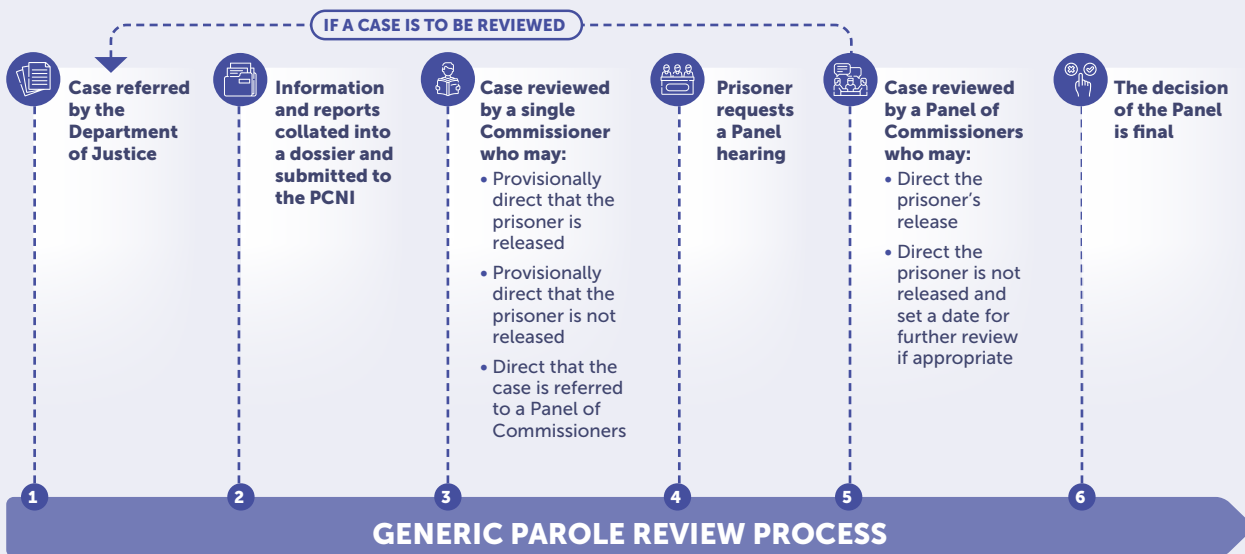
1.10 While the Rules did not make provision for the referral and review of DCS prisoners who were subject to recall to custody, cases were processed as far as possible in keeping with the existing Rules. There had been recent changes to the legislative frameworks which provided for the review of terrorist risk offenders and gave victims and others the right to request summaries of PCNI decisions.

1.11 The process of reviewing the legislative framework against which the PCNI operated is discussed in Chapter 2.

THE PAROLE REVIEW PROCESS AND ROLES OF THE DIFFERENT PARTIES

1.12 The parole review process typically takes about 26 weeks to complete and the different stages of the process, the timescales and the possible outcomes arising at each stage are set out for most cases in the Rules referenced above (Figure 1).

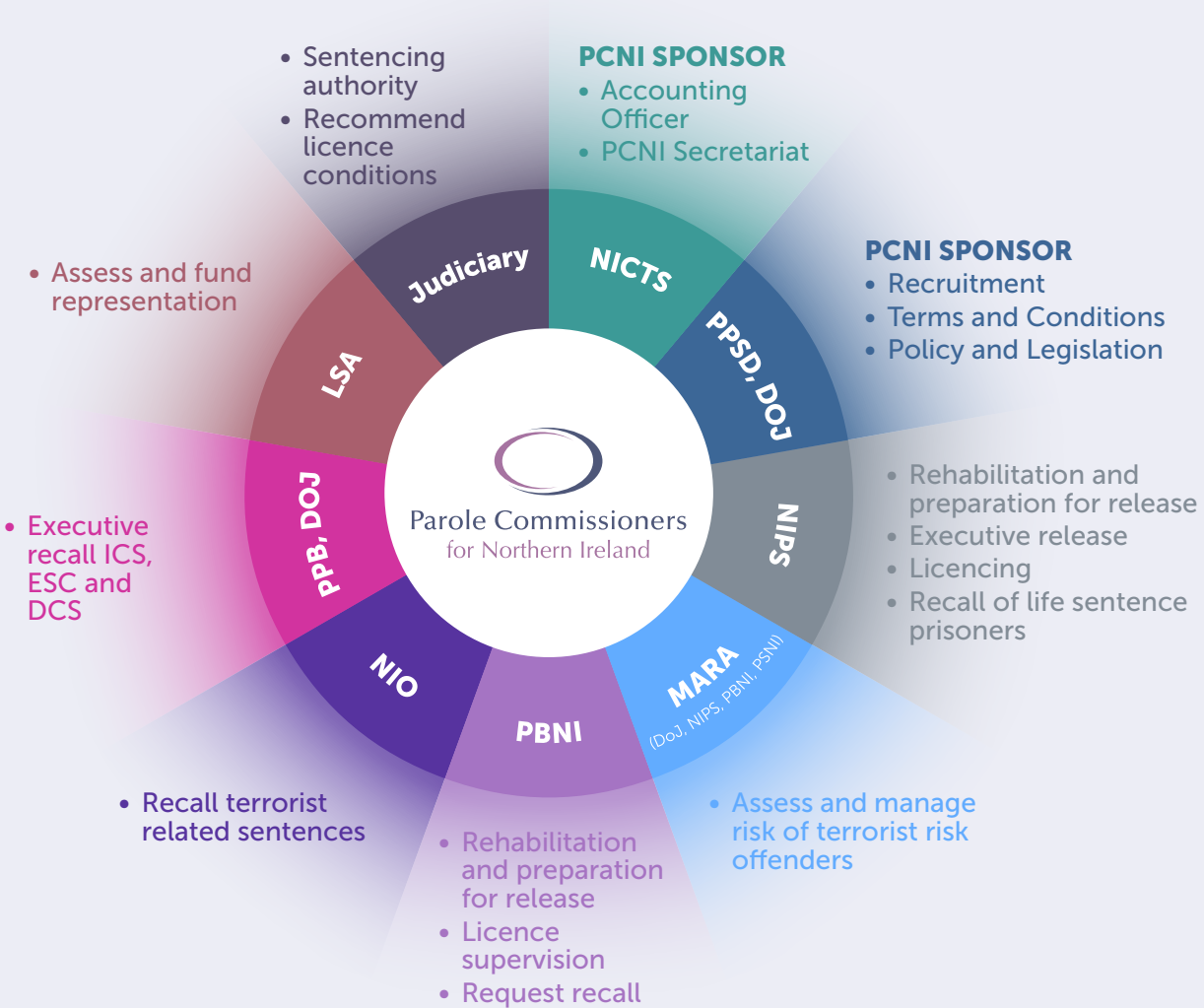
Figure 1: Overview of the generic parole review process



1.13 Typically the DoJ is required to refer relevant cases to the PCNI at the appropriate stage in the sentence and provide the PCNI with the information they require to make decisions about an individual's suitability for release, recall and or re-release. Different parts of the DoJ and its agencies are involved in this process. Prisoners are entitled to legal representation and attend Panel hearings when their case is being considered. There are two stages to a parole review; the first involves a review of the papers by a single Commissioner. Secondly, the case may then proceed to a Panel hearing usually comprising three Commissioners and may be considered on the papers or at an oral hearing. Before deciding on release, Commissioners must be satisfied that the relevant test for release has been met. The decision of the Panel is final.

1.14 A high-level summary of the different organisations and their role in the parole review process is set out in Figure 2. This serves to highlight that there are multiple parts of the DoJ and other agencies which are involved in the parole process and that while the Parole Commissioners are the decision-making body in relation to cases referred to it, it is an integral part of the criminal justice system as a whole.

Figure 2: Interdependencies relating to parole within the criminal justice system



MARA: The Multi-Agency Review Arrangements were statutory arrangements issued under Article 50 of the Order to assess and manage the risks posed by terrorist risk offenders by the DoJ, the NIPS, the PBNI and the PSNI.

LSA : Legal Services Agency.

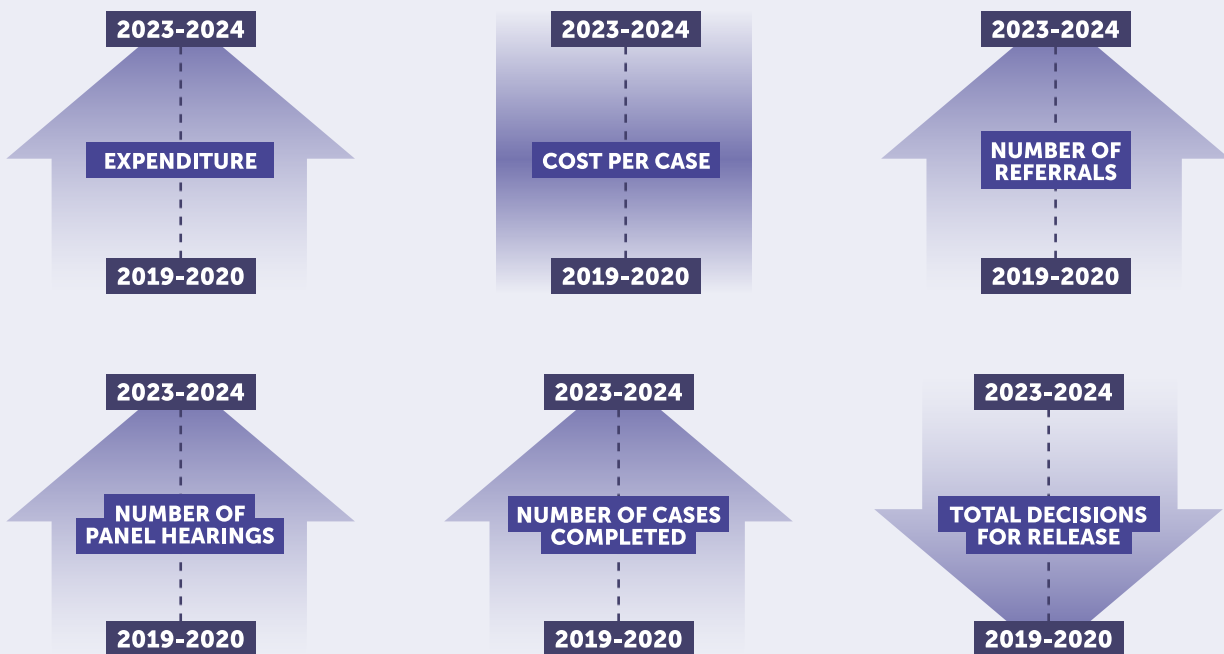
PPB: Public Protection Branch, DoJ.

PPSD: Policing Policy and Strategy Division, DoJ.

WORKLOAD OF THE PCNI

- 1.15 The PCNI's workload had increased very significantly since the first CJJ inspection of the PCNI in 2011, exceeding the projected caseloads anticipated when the new sentencing framework was first introduced (2008). In 2010-11, 177 cases were referred to the PCNI compared with 679 in 2023-24. A total of 71% (484 of 679)³ of all referrals in 2023-24 related to recall cases, the majority of which were for DCS cases. The workload and key statistics for 2023-2024 showed 671 cases were completed, and overall, 1,038 provisional directions, directions, decisions or recommendations of various aspects of case management were issued. In 60 cases Parole Commissioners directed the release of prisoners; this represented 14% of all cases completed where a release decision was an option.
- 1.16 A summary of the PCNI's workload during 2023-24 and trends in workload in these areas from 2019-20 is set out in Figure 3. Supporting charts are included at Appendix 1 or are used later in this report.

Figure 3: PCNI trends since 2019-20



³ This figure includes initial reviews of recall requests, subsequent reviews of the decision to recall and re-release after recall.

DEVELOPMENTS IN OTHER JURISDICTIONS

The Parole Board of England and Wales

- 1.17 The Parole Board in England and Wales (Board) was an Arm's Length Body (ALB) of the Ministry of Justice (MoJ). It operated as an Executive Non-Departmental Public Body (NDPB) meaning that although it received its funding from the MoJ, its day-to-day operations were independent from the MoJ. The Secretary of State for Justice appointed Board members in England and Wales. There were around 240 members and 120 members of staff to support them. The Board dealt with around 25,000 cases per year and its net expenditure in 2022-23 was £22,458,000.
- 1.18 The parole system in England and Wales had been the subject of a high level of scrutiny and review since 2018 when a judicial review quashed the Board's decision to release John Worboys⁴ and found one of the Board's Rules, which prevented the Board from disclosing information about its decision-making, to be unlawful. A Tailored Review⁵ of the Board published in 2020⁶ and a Root and Branch Review of the Parole System published in March 2022⁷ made recommendations for significant changes to practice. Since the Worboys judgment a new reconsideration mechanism was introduced, the Board now published summaries of its decisions and new processes were introduced to address inquiry around previous offending (in the Worboys case the High Court also found that although the Board was entitled to make enquiries of the police in relation to his offending they had not). The MoJ also instructed officials to ensure that all relevant evidence related to previous offending was submitted in dossiers.

The Parole Board of Scotland

- 1.19 The Parole Board of Scotland was a Tribunal NDPB. It was funded by the Scottish Government's justice budget but operated independently of Government and the Court system. Members were appointed by the Judicial Appointments Board for Scotland. It had almost 50 members. In 2022-23, 150 casework meetings, 560 life prisoner tribunals, 224 Extended Sentence Prisoner tribunals and 522 oral hearings were conducted and its annual expenditure was £3,122,706.

4 *The Queen of the application of (1) DSD and NBV (2) Mayor of London (3) News Group Newspapers Ltd and (1) The Parole Board of England and Wales (2) The Secretary of State for Justice and John Radford [2018] EWHC 694 (admin) (formerly known as John Worboys, 28 March 2018, available at <https://judiciaryuk/wp-content/uploads/2018/03/dsd-nbv-v-parole-board-and-ors-summary.dpf>*

5 *Tailored Reviews provide assurance to Government and the public on the continuing need for the functions delivered by public bodies, as well as assessing the potential for improved efficiency, effectiveness, governance and different delivery models. Within the Ministry of Justice (MoJ) these reviews are conducted by the ALB Centre of Expertise and are independent of the MoJ policy teams.*

6 *MoJ, The Parole Board for England and Wales: Tailored Review, October 2020 available at <https://assets.publishing.service.gov.uk/media/5f8d61a98fa8f56ad88562f2/parole-board-tailored-review.pdf>*

7 *MoJ, Root and Branch Review of the Parole System: The Future of the Parole System in England and Wales, March 2022 available at <https://assets.publishing.service.gov.uk/media/624438e8e90e075f1120586a/root-branch-review-parole-system.pdf>*

1.20 The Scottish Government consulted on parole reform during 2017 to clarify the role and status of the Parole Board, simplify and modernise processes and support consistency of approach. The findings from the consultation were published in February 2018.⁸ New Rules supporting the administration of the parole process took effect from 1 April 2023. The previous Rules were over 20 years old and had undergone many changes and amendments resulting in them becoming complex and inaccessible. The new Rules:

- included changes to simplify casework procedures;
- introduced a reconsideration mechanism;
- made provision for victims to observe oral hearings;
- provided for the Parole Board to take account of a failure to disclose a victim's body; and
- introduced measures to assist prisoners to be better prepared for a parole hearing including a written statement of their readiness to proceed to hearing.

The Irish Parole Board

1.21 The Irish Parole Board was created on an independent and statutory footing from July 2021 and considered applications for parole for prisoners serving life sentences after they have served at least 12 years of their sentence. Like other Parole Boards it was funded by the Department of Justice but was statutorily independent in its decision-making. Under the Parole Act 2019, victims had a right to engage in the parole process. The Board comprised of no fewer than 12 and no more than 15 Board members who were appointed by the Minister of Justice. During 2021-2022 (the last published data) the Board reviewed 22 applications for parole and was engaged with 105 applications. The Board's expenditure for 2022 was €1,470,000.

PREVIOUS CJI INSPECTIONS OF PCNI GOVERNANCE

1.22 CJI first inspected PCNI governance in 2011,⁹ two years after the introduction of the new sentencing framework (the provisions set out in the Order). Then Inspectors made two strategic and five other recommendations for improvement. A Follow-Up Review was conducted in 2014¹⁰ to assess the progress made against the recommendations. Inspectors found that five recommendations had been achieved and progress had been made in the remaining two areas. The 2011 Inspection Report recommendations and assessment of implementation is at Appendix 2. Following a review of sponsor arrangements, the PCNI transferred to the NICTS who provided operational support and governance while the DoJ retained responsibility for overall policy direction including Commissioners' terms and conditions.

8 *Scottish Government, Parole reform in Scotland: analysis of consultation responses, 12 February 2018* available at <https://www.gov.scot/publications/parole-reform-scotland-analysis-responses-consultation-proposals-legislative-change/>

9 *CJI, Governance Inspection of the Parole Commissioners for Northern Ireland, September 2011* available at <https://cjini.org/getattachment/03b77ef8-d196-447c-8d8d-52875dda6dcc/Parole-Commissioners.aspx>.

10 *CJI, Corporate Governance of the Parole Commissioners for Northern Ireland A Follow-Up Review of Inspection Recommendations, March 2014* available at <https://cjini.org/TheInspections/Action-Plan-Reviews-Inspection-Follow-Up-Revie/2014/Corporate-governance-of-the-Parole-Commissioners-f>

- 1.23 The Follow-Up Review found that the introduction of fixed fees had helped control costs and the average unit cost per case had fallen. Although a performance management regime was not in place, the then Chief Commissioner dip sampled cases and provided guidance to all Commissioners. A policy to deal with non-performance issues and complaints was being finalised. A need to accurately assess and forecast projected caseloads and the mix of cases referred to the PCNI remained.
- 1.24 It was 10 years since the last inspection of the governance and operation of the PCNI. The workload of the PCNI and operating environment had changed significantly and it was therefore important to provide assurance on the effectiveness of the governance and operation of the PCNI.
- 1.25 Respecting the independence of Commissioners, their decision-making is outside the scope of this inspection. However, the administrative processes and services that support their decision-making were examined.
- 1.26 During this inspection the DoJ commissioned a review of criminal legal aid remuneration, that included the remuneration of legal representatives at parole hearings, was underway and was due to report in June 2024. This aspect of the parole system was outside the scope of this inspection but legal representatives consulted during this inspection said that current fees did not adequately remunerate them for the work undertaken and risked prisoners not having access to legal representation during the process. There was some anecdotal evidence provided of barristers being offered attendance at hearings for the following day which gave very little time to review dossiers and adequately prepare their cases.

HOW WAS THE INSPECTION CONDUCTED?

- 1.27 The Terms of Reference for this inspection were published in February 2024 (see Appendix 3) and fieldwork was conducted from March to May 2024. Full details of the methodology can be found at Appendix 4.
- 1.28 Prior to the commencement of fieldwork, the PCNI, the NICTS and the DoJ completed a self-assessment and provided supporting information and data. Interviews and focus groups were conducted with Commissioners, members of the PCNI Secretariat and sponsor organisations. Inspectors also had an opportunity to observe two oral hearings. Interviews were conducted with stakeholders including representatives of the NIPS, the PBNI, the DoJ, the Law Society of Northern Ireland and a member of the Bar of Northern Ireland. Focus groups and individual discussions were held with 18 prisoners who had experience of the parole process across the three prison sites at Maghaberry Prison, Magilligan Prison and at Hydebank Wood Secure College and Women's Prison.
- 1.29 The information provided at interviews and documentation were reviewed and analysed resulting in the findings set out in this report.

CHAPTER 2: STRATEGY AND GOVERNANCE

STATUS OF THE PCNI

- 2.1 The status of the PCNI was unlike many other ALBs in Northern Ireland in that it was not an executive agency, a NDPB, a commission or tribunal.¹¹ Established under Schedule 4 of the Order and appointed by the Minister of Justice, Commissioners were an independent body of Commissioners. They were appointed as corporation soles¹² who came together as a body as required but each were individual decision-makers in their own right. The Chief Commissioner was appointed by the Minister of Justice from among the existing Commissioners. As well as undertaking casework, the Chief Commissioner led the Commissioners and was responsible for developing guidance and policies, assuring the work of the Commissioners and had specific functions for example, the allocation of cases, hearing of appeals and investigation of complaints. The Chief Commissioner was the point of contact between the Commissioners and the Minister of Justice/DoJ and stakeholders. As stated previously, Secretariat staff who supported the Commissioners were NICTS staff.
- 2.2 Schedule 4 of the Order did not define the organisational structure, status or governance arrangements of the PCNI and whereas other Parole Boards in England and Wales, Scotland and the Republic of Ireland were structured as corporate bodies, the PCNI was not, even though they have the same quasi-judicial character and fulfilled similar functions. The independence of Parole Boards and their Court-like status had been underpinned in Court rulings in Great Britain and brought into focus the issue of the perceived and actual independence of the PCNI from the DoJ. In a further judgment in Northern Ireland in 2017, the Court stated that the directions of Commissioners equated to an Order of the Court.¹³

11 See the definition of an arms-length body as set out in the Cabinet Office Public Bodies Handbook – Part 1, Classification of Public Bodies: Guidance for Departments, April 2016 available at https://assets.publishing.service.gov.uk/media/5a74d700e5274a59fa715592/Classification-of-Public_Bodies-Guidance-for-Departments.pdf

12 A Corporation Sole is a legal entity consisting of a single (“sole”) incorporated office, occupied by a single (“sole”) person. This allows corporations to pass without interval from one office holder to the next successor in office, giving the position legal continuity, with subsequent office holders having identical powers to their predecessors.

13 In the High Court of Justice in Northern Ireland, Queen’s Bench Division Judicial Review) in the matter of an application by Ian Quin for Judicial Review [2017] NIQB 125 available at <https://www.judiciaryni.uk/files/judiciaryni/decisions/Quinn%27s%20%28Ian%29%20Application.pdf>

- 2.3 The status of the PCNI was considered in CJI's inspection of the PCNI in 2011 and it was recommended then that a review of sponsorship arrangements take place which should guarantee the independence of the Commissioners while seeking to provide the DoJ with adequate assurances that public resources are being managed to appropriate standards (Strategic recommendation 1)¹⁴ and that the PCNI should be repositioned within the NICTS to provide a governance and accountability structure consistent with other adjudicative bodies (Strategic recommendation 2)¹⁵.
- 2.4 In the 2014 Follow-Up Review Inspectors, while noting concerns of the then Chief Commissioner that the PCNI continued to not have a proper status as a properly accountable body unlike other parole bodies, assessed that both recommendations had been met. It was considered then that creating the PCNI as a statutorily distinct body ran counter to the approach in Northern Ireland to reduce the number of ALBs and associated expense. Inspectors viewed that the independence of the Commissioners centred on their decision-making and casework management and that this could remain within the purview of the Chief Commissioner '*buttressed by appropriate process and protocols without structural enhancement*'. In its response to Recommendation 2 (repositioning the PCNI within the NICTS) the DoJ had stated that the scheduling of the Commissioners as non-Crown judicial office holders under Schedule 1 of the Act was agreed in principle by the DoJ and the outworking of such was under '*active consideration*.'
- 2.5 Ten years on there remained a tension in the current status of the PCNI and their perceived independence which was bound up in large part in the effectiveness of the current sponsorship arrangements impacting on the governance and operation of the PCNI which are discussed at paragraphs 2.8 to 2.19.
- 2.6 There had been no change to the status of the PCNI and despite scheduling of the Commissioners under Schedule 1 of the Act being given '*active consideration*' in 2014, there had been no substantive progress on this matter. Some recent discussions, instigated by the Chief Commissioner, had taken place with the Lady Chief Justice. In practice such a move would result in Commissioner recruitment coming under the remit of the Northern Ireland Judicial Appointments Commission (NIJAC) and removal matters brought under the auspices of the Lady Chief Justice.
- 2.7 The overall benefit of this change would enhance the perception of PCNI independence and would be in keeping with the model outlined by Inspectors in 2011. However, it would not address some of the long-standing matters related to the governance and accountability framework, which will be explored later in this report, nor enable a similar operating model to that in neighbouring jurisdictions.

14 *Strategic recommendation 1: (Pending consideration of the second strategic recommendation) Inspectors recommend the sponsoring department review the sponsorship arrangements in place and redefine these arrangements. They should guarantee the independence of the Commissioners whilst seeking to provide the department with adequate assurances that public resources are being managed to appropriate standards.*

15 *Strategic Recommendation 2: It is recommended consideration should be given to reposition the Parole Commissioners within the Northern Ireland Courts and Tribunals Service given its similarities to a tribunal (use of a Panel; adversarial nature of proceedings). This will underpin the independence of the Parole Commissioners, provide a governance and accountability structure consistent with other adjudicative bodies (including courts and tribunals) and provide a model for the role and responsibilities of the Chief Commissioner, Commissioners and their administrative support.*

SPONSORSHIP ARRANGEMENTS

- 2.8 As stated earlier in this report, changes were made to the PCNI's governance arrangements in 2012 following CJJ's previous Inspection Report with the role being split between the DoJ and the NICTS. This was to enhance the perceived independence of the PCNI by providing some distance between the DoJ Units directly involved in aspects of the parole review process, that is executive release and recall functions, and address some anomalies in the governance arrangements in place at that time.
- 2.9 The DoJ's Policing Policy and Strategy Division (PPSD) was responsible for Parole Commissioner appointments, terms and conditions and policy and legislation. As part of its remit this Division also sponsored a number of policing bodies, the PBNI and the Offices of the Police Ombudsman and Prisoner Ombudsman. The NICTS was responsible for the PCNI Secretariat function and the Accounting Officer role in a similar way in which it supported the Judiciary and tribunal appointees and operations.
- 2.10 The relationship between the NICTS and PCNI was underpinned by an up-to date Memorandum of Understanding (MoU) which set out the role of and relationship between the Secretary to the PCNI and its Secretariat and the Chief Commissioner and Commissioners. While this document referenced the contribution and role of the sponsor Branch within the DoJ, PPSD, there was no specific MoU or other written agreement detailing the relationship between the Chief Commissioner and Commissioners, the Secretariat and PPSD.
- 2.11 Inspectors were advised that a draft MoU had been developed between the NICTS and DoJ and that this was to be taken forward after this Inspection and take account of any findings and recommendations.
- 2.12 It was not clear to DoJ officials or Inspectors where responsibility for policy and legislation related to the PCNI and other aspects of the DoJ sponsorship role sat. The last changes to the legislation underpinning parole in Northern Ireland were led by the DoJ's Public Protection Branch (PPB) that performed the Executive recall function for DCS, ECS and ICS prisoners. These introduced provisions for parole of terrorist risk offenders and for victims to receive summaries of Commissioners' decisions.
- 2.13 Since 2013 the DoJ had sought to bring forward changes to the Rules but said that there had not been sufficient time in the Northern Ireland Assembly mandate at that time to proceed with the proposals. These principally related to making provision within the Rules for the review of DCS recall cases. In 2016 the DoJ's PPB began a further process to review the Rules and this was broadened out to consider wider matters impacting on the efficiency and effectiveness of the parole review framework. A retired Judge who had been a Commissioner produced an interim

report and suggested a range of changes some of which would require new legislation but others that could be dealt with using the existing powers of Commissioners to regulate their own procedures (Rule 3 of the Rules).

These changes were not agreed or progressed at the time and, apart from the Rule changes referred to at paragraph 2.12, there had been no further work progressed to assess and bring forward proposals to ensure that the parole process operated efficiently and effectively.

2.14 The DoJ's PPB had taken forward the 2016 review because of their knowledge of parole procedures as opposed to it being the remit of that Branch. No-one in the DoJ currently owned the policy and legislation remit for the PCNI. Despite it being listed as one of the functions of PPSD, this was not regarded by officials Inspectors spoke to as being within its remit.

2.15 As stated PPSD was responsible for Commissioners' terms and conditions. In 2012 standard fees were introduced based on an assessment at that time of the nature of the work associated with a particular element of proceedings and the time taken to conduct that work. The rates of remuneration, the basis on which they had been deduced and other aspects of terms and conditions had not changed since 2012. An independent review of the Commissioners' financial terms and conditions was commissioned by the DoJ and a report was submitted in 2015. This compared the fees payable with other jurisdictions and the preferred option identified by the authors was to align the daily rates to the fees paid in England and Wales which would have represented a 9% saving on the fees being paid at that time. Recognising the sensitivity of such a proposal and potential impact on the availability of Commissioners, a further option to achieve operational efficiencies of the same level was advanced instead. There was no evidence of any follow-up on the options outlined in this review or any further formal review of Commissioners rates of remuneration. However, PPSD had recently commenced some exploratory work and was benchmarking fees paid in Northern Ireland to those paid elsewhere. It was not clear if this work would include a broader review of the basis on which the current fees had been calculated. One limiting factor identified during the inspection and evident in records provided during the inspections was the lack of a formal mechanism to change Commissioners' fees even if the DoJ was minded to do so. An urgent resolution was required especially as the same issue presented itself in respect of tribunals except that an independent mechanism through the Senior Salaries Review Body was in place to regularly review their rates of remuneration. The operational impact of the lack of any movement in respect of remuneration is explored in Chapter 3.

2.16 There was not a sufficient appreciation of the PCNI's role and function within PPSD nor of the breadth of its sponsorship role. This was evident through discussions with a range of staff and in records. This had the potential to create a risk for both parties for example in the setting of strategy, providing assurance that the current framework operated efficiently and effectively, in bringing forward new legislation and policy and in responding to the outworkings of Court rulings.

For example, in a recent judgment¹⁶ related to the recall process, the absence of a statutory test set out in Rules for Commissioners to apply meant that potentially Commissioners (as independent decision makers) could arrive at a different interpretation of the ruling and were not currently under an obligation to follow the DoJ's interpretation.

- 2.17 There was not sufficient clarity around responsibility for progressing particular matters between the DoJ, NICTS and Chief Commissioner or Secretary/Secretariat and the approach to resolving them. Examples given were in relation to changes in Northern Ireland Civil Service terms and conditions, for example changes to claims for mileage and holiday pay and how these might apply to Commissioners, assessing broader outcomes of the PCNI and assessing the operational impact of Rule changes.
- 2.18 There was very limited evidence to demonstrate that the current sponsorship role performed by the DoJ, in particular, other than in the area of recruitment was operating effectively. Many issues raised with the Sponsor Branch over lengthy periods had not progressed, for example, changes to terms and conditions including on age retirement, levels of remuneration and expenses.
- 2.19 Arrangements with the NICTS in terms of their sponsor role worked better although it was not clear how the DoJ and to a lesser extent the NICTS assured themselves that the PCNI was fulfilling its statutory obligations and how it was meeting the business objectives it was funded to deliver.

STEERING GROUP

- 2.20 When the revised sponsorship arrangements were introduced, a biannual Steering Group was established to manage the interdependencies between three workstreams aimed at maximising the effectiveness and efficiency of the PCNI. These workstreams were: a Statutory Rules Review (see paragraph 2.13), members' terms and conditions and PCNI resourcing.
- 2.21 The Group was chaired by the NICTS's Chief Operating Officer and was currently attended by the Chief Commissioner, Secretary to the PCNI, DoJ representatives including the head of PPSD and head of the division responsible for the Executive recall of prisoners (PPB), the NIPS and the PBNI.
- 2.22 While all agreed that the Steering Group was a useful forum to air issues, in practice resolution to pertinent matters impacting on operational delivery were mostly progressed outside of it in bilateral meetings with the current Chief Commissioner and the respective organisation. The Chair and NICTS members in particular reflected that they had very little contribution to make on many of the issues raised nor had the authority to direct actions by participating members. For them, this raised a question about the merit in having a NICTS Chair.

16 *Judgment in the matter of an application for Stephen Hilland for Judicial Review (Appellant) (Northern Ireland) [2024] UKSC 4, 7 February 2024 on appeal from [2021] NICA 68* available at <https://www.bailii.org/uk/cases/UKSC/2024/4.html>

- 2.23 The Steering Group had not been an effective mechanism in providing strategic oversight of the three designated workstreams it was established to consider or in other matters the Chief Commissioner or others brought to it.
- 2.24 A review of the available minutes showed an inconsistency in terms of membership and progression of different issues with no clear follow-up on matters nor related to their accountability over the time the Steering Group had been established.

PCNI STRATEGIC DIRECTION

- 2.25 The strategic direction of the PCNI was set and directed by statute. The central element of their work was to ensure that decisions were made in accordance with the relevant statutory tests. The DoJ had no current mechanism that set out how the PCNI contributed to meeting DoJ objectives nor a process for any review of its purpose and function. ALBs were subject to an independent review of their functions but because of their unique status these arrangements did not extend to the PCNI.
- 2.26 As it was not a corporate body the PCNI did not produce corporate or business plans setting out its strategy direction and objectives unlike other parole bodies.
- 2.27 While the NICTS self-assessment response to CJI referenced PCNI business plan objectives within the annual NICTS Business Plan which supported the DoJ mission and Programme for Government (PfG) outcome of *'working in partnership to create a fair, just and safer community where we respect the law and each other,'* there was no specific reference to how the Parole Commissioners supported delivery of that mission other than reference to the NICTS providing administrative support to the PCNI.
- 2.28 The PCNI Secretariat had its own Business Plan and performance measures which will be discussed further in Chapter 3 (Delivery).

PARTNERSHIP

- 2.29 Relationships between the current Chief Commissioner and senior leaders of the criminal justice system were reported as positive.
- 2.30 The Chief Commissioner had an annual meeting with the DoJ Permanent Secretary but most other meetings were ad-hoc with criminal justice bodies and other external stakeholders rather than formalised regular meetings. While acknowledging the demands on the Chief Commissioner in terms of the time allocated to that role, regular meetings with a more timely and sustained focus on addressing problems which impact on operational effectiveness and efficiency would be important. It would also create a framework for sustained engagement beyond the term of the current Chief Commissioner.

- 2.31 There have been some recent examples of collaboration between Commissioners and stakeholder organisations. These included a joint workshop in June 2023 attended by a number of Commissioners and Secretariat staff and representatives of the DoJ, the NIPS and the PBNI. Twenty-four cases were reviewed collectively and as a result some duplication of work, requests for unnecessary reports and misunderstandings in terminology and roles were clarified. It was reported that stakeholders felt that such an event had resulted in better, more open lines of communication while respecting the PCNI's operational independence.
- 2.32 A further example was the Chief Commissioner's input to the training of 37 Probation Officers. He provided an overview of the Rules and expectations of Commissioners which was very positively received.
- 2.33 Internally, effective partnership working among Commissioners and between Commissioners and Secretariat managers and staff was evident. An Advisory Group of Commissioners supported the Chief Commissioner and developed policy, strategy and guidance for all Commissioners. The legal group of Commissioners met quarterly or as required and plans were being developed for psychology/ psychiatry and criminal justice groups to meet within their own cadres.
- 2.34 Opportunities for all Commissioners to meet were limited to at least one annual in-person plenary chaired by the Chief Commissioner. Commissioners felt that they would benefit from further plenaries but affordability was a restricting factor to facilitate face-to-face meetings, however additional virtual meetings could be scheduled.

RISK MANAGEMENT

- 2.35 The Advisory Group of Commissioners assessed and reviewed risks pertinent to the work of the Commissioners. Any risks assessed as high after mitigation were escalated to the NICTS for inclusion in their organisational Risk Register. At the time of the inspection, neither the NICTS nor DoJ Risk Registers reflected these risks. Inspectors were told that this was because there were no matters that required this. The Chief Commissioner regularly raised risks identified by the Advisory Group at Steering Group meetings although the Advisory Group's Risk Register (or extract of escalated risks) was not formally reviewed at that meeting. The absence of a formal review mechanism of escalated risks either by the Steering Group or with sponsor bodies limited the awareness of the mutual understanding of these risks and their impact. Furthermore, the opportunity to discuss and collectively review and assign responsibility for delivery of mitigating actions was lessened.
- 2.36 The absence of a satisfactory mechanism had resulted in the Chief Commissioner escalating matters of concern to respective organisations outside of Group meetings. This was appropriate as it was important that organisations were alerted to and had the opportunity to address risks and take action at the earliest point.

- 2.37 Separately the PCNI Secretariat maintained a Branch Risk Register which escalated certain risks into a NICTS Tribunal and Enforcement Division risk register. These generally related to Secretariat staffing and other governance matters such as information assurance.
- 2.38 Overall the approach to risk management was confusing in terms of the overlap and relationships between the various risk registers in operation and more crucially, the gap in the ownership of the controls and mitigating actions identified to address identified risk. The inadequacy of the current process is probably best highlighted when the Chief Commissioner wrote directly to the NIPS Director General and PBNI Chief Executive in late 2022 to escalate his concerns about issues impacting on the ability of the PCNI to effectively discharge their statutory functions at that time. **As an area for improvement the current mechanisms for escalating risk should be reviewed by the PCNI, the DoJ and the NICTS to ensure that an effective process for escalating and addressing risk was in place.**

OVERALL ASSESSMENT OF STRATEGY AND GOVERNANCE

- 2.39 The Northern Ireland Code of Good Practice¹⁷ (the Code) outlined five principles of good practice which could be applied to derive greater value from, and bring consistency to, relationships between Departments and ALBs. They are:
- leadership;
 - purpose;
 - assurance;
 - value; and
 - engagement.
- 2.40 The Code stated that good engagement underpinned leadership, purpose, assurance and value and that adherence to the principles would ensure effective partnerships between Departments and ALBs.
- 2.41 While recognising that the PCNI was not a designated ALB it was helpful to use this important tool to assess the efficacy of the approach to the sponsorship of the PCNI.
- 2.42 Using the principles of the Code to assess the relationship between the sponsor bodies and the PCNI as a guide, Inspectors made the following assessment (Table 2) of what was working well and what needed to improve.

17 DoF, *Partnerships between Departments and Arm's Length Bodies, Northern Ireland Code of Good Practice March 2019, Version 3* available at <https://www.finance-ni.gov.uk/sites/default/files/publications/dfp/NI%20Code%20of%20Good%20Practice%20v3%20%28300323%29.pdf>

Table 2: CJJ assessment of the relationship between the PCNI and its sponsor bodies

Leadership	
<p><i>Partnerships work well when Departments and Arm's Length Bodies demonstrate good leadership to achieve a shared vision and effective delivery of public services. Strong leadership will provide inspiration, instill confidence and trust and empower their respective teams to deliver good outcomes for citizens.</i></p>	<p>What was working well? Good leadership by the Chief Commissioner and Secretariat managers.</p> <p>A shared vision within the PCNI on effective delivery of services and Secretariat staff were empowered to deliver good outcomes.</p> <p>Partnership between the NICTS and the Chief Commissioner worked relatively well.</p> <p>Annual meetings between the Chief Commissioner and Permanent Secretary.</p> <p>What could be better? More regular meeting structure between PCNI leaders and its sponsor organisations.</p> <p>Continuity of Secretary to the PCNI and of senior leaders in DoJ sponsor impacted delivery.</p> <p>Evidence of a shared vision and outcomes of the parole process across the justice system.</p>
Purpose	
<p><i>Partnerships work well when the purpose, objectives and roles of Arm's Length Bodies and the sponsor Department are clear, mutually understood and reviewed on a regular basis. There needs to be absolute clarity about lines of accountability and responsibility between Departments and Arm's Length Bodies. In exercising statutory functions Arm's Length Bodies need to have clarity about how their purpose and objectives align with those of Departments.</i></p>	<p>What was working well? The PCNI had clarity about its current purpose and objectives in exercising its statutory function.</p> <p>An MoU between the PCNI and the NICTS clearly articulated objectives and roles and was kept under review.</p> <p>What could be better? Greater understanding of respective purpose, objectives and roles and alignment with DoJ objectives and PfG objectives.</p> <p>Clarity about lines of accountability between the PCNI and its sponsor bodies and between its sponsor bodies.</p> <p>An MoU or framework document/partnership agreement or equivalent framework between the Chief Commissioner and the DoJ sponsor branch.</p> <p>Regular review of the operation of the PCNI, for example a quinquennial or tailored review.</p> <p>Changes to policy were largely reactive rather than there being a shared strategic vision.</p>

Assurance	
<p><i>Partnerships work well when Departments adopt a proportionate approach to assurance, based on Arm's Length Bodies' purpose and a mutual understanding of risk. Arm's Length Bodies should have robust governance arrangements in place and in turn Departments should give Arm's Length Bodies the autonomy to deliver effectively. Management information should be what is needed to enable Departments and Arm's Length Bodies to provide assurance and assess performance.</i></p>	<p>What worked well? The PCNI worked largely autonomously.</p> <p>The PCNI was developing its management information and this had evolved in response to emerging operational issues.</p> <p>There was no evidence of interference by sponsor bodies with the operational independence of the PCNI.</p> <p>The NICTS were currently meeting resource requests and expenditure was carefully monitored in line with NICS procedures by the Secretariat and within the NICTS.</p> <p>The experience and continuity of Secretariat managers was a strength.</p> <p>What could be better? Better understanding of mutual risk and risk management appeared to be process driven.</p> <p>More robust arrangements for governance arrangements by the DoJ and the NICTS.</p> <p>The accessibility of PCNI management information.</p> <p>Greater use being made of PCNI management information by sponsor bodies to provide assurance and assess performance or benchmark with other similar organisations.</p> <p>A sense of what success looked like and how it could be measured.</p>

Value	
<p><i>Partnerships work well when Departments and Arm's Length Bodies share knowledge, skills and experience in order to enhance their impact and delivery. Arm's Length Bodies are able to contribute to policy making and Departmental priorities. There is a focus on innovation, and on how Departments and Arm's Length Bodies work together to deliver the most effective policies and services for its customers.</i></p>	<p>What worked well? Recent engagement between the PCNI and delivery bodies (the NIPS and the PBNI) to share knowledge and expectations around delivery.</p> <p>What could be better? A greater focus on innovation or opportunities to share knowledge, skills and experience.</p> <p>The adoption of a proactive rather than reactive approach to policy making related to parole.</p> <p>Greater transparency of the PCNI performance measures as well as system wide performance.</p>

Engagement	
<p><i>Partnerships work well when relationships between Departments and Arm's Length Bodies are open, honest, constructive and based on trust. There is mutual understanding about each other's objectives and clear expectations about the terms of engagement.</i></p>	<p>What worked well? Relationships between the sponsor bodies and the PCNI were described as positive although they were not always productive or open.</p> <p>What could be better? Understanding of the terms of engagement with and role of the PCNI and the DoJ and the NICTS.</p> <p>A regular engagement process rather than the current arrangements which were largely ad-hoc and sporadic.</p> <p>Evidence of constructive challenge to the PCNI.</p>

2.43 The current arrangements were not working effectively for any party. As the PCNI was not a designated ALB the same approach to strategic oversight and governance as applied to other bodies that the DoJ sponsored was largely in name only. The revised arrangements implemented since the last inspection, had introduced distance between the DoJ and the PCNI in so far as the Accounting Officer role was concerned and brought the Secretariat under the NICTS. However, this had not adequately addressed the deficits identified during this inspection as summarised in Table 2 nor other matters such as a mechanism for the regular review of remuneration of Parole Commissioners which are discussed later in the report. It was important that the current status of the PCNI and its attendant sponsorship is reviewed so that there is a proportionate framework which underpins its ability to deliver efficient and effective outcomes. Strategic recommendation 1 should be considered along with strategic recommendation 2 to develop a strategic vision and outcomes framework for the end-to-end parole process (see Chapter 4).

STRATEGIC RECOMMENDATION 1
<p>Within nine months of the publication of this report, the Department of Justice should review the status of the Parole Commissioners for Northern Ireland and improve its strategic oversight and governance while respecting the operational independence of the Commissioners. The review should encompass a reconsideration of sponsorship arrangements to ensure that the principles of good practice are adopted and there is an effective relationship between the Parole Commissioners for Northern Ireland and its sponsor division.</p>

CHAPTER 3: DELIVERY

STAFFING

- 3.1 There were 41 Commissioners appointed at the time of the inspection. The Commissioners are appointed under the Rules as single Commissioners or members of a two- or three-person Panel depending on the type of case being considered. As far as reasonably practicable the Chair of the Panel will be a legally qualified Commissioner in cases considering the release of a prisoner where the provisional direction of the single Commissioner is that he/she be released or where the single Commissioner has referred the case to a Panel. A second member of the Panel will usually be a psychology/psychiatry member and the third from the criminal justice experienced Commissioners. One Commissioner was a serving Judge and they presided over protected information cases only. Most of the Commissioners were based in Northern Ireland with 13 based elsewhere in the United Kingdom or Republic of Ireland. The review of DCS recall cases requiring a Panel hearing could be conducted by a two-person Panel.
- 3.2 Currently there were 16 legally qualified Commissioners, 13 from the psychology/psychiatry profession, 11 criminal justice Commissioners and one serving Judge (Figure 4). The most recent appointments were made in August 2023. Commissioners had served on average 10 years, with the shortest length of appointment being eight months and the longest around 22 years. The Chief Commissioner was appointed by the Minister of Justice from the serving Commissioners. The current Chief Commissioner was first appointed to a three-year term in September 2019 and reappointed for a further term of three years in 2022.

Figure 4: Makeup of the Commissioners



Average 10 years' experience as a Parole Commissioner

Minimum 8 months and longest 22 years

* Including Chief Commissioner

- 3.3 Commissioners were formally assigned to cases under the Rules by the Chief Commissioner from a series of rotas managed by Secretariat staff. This process was kept under review.
- 3.4 The Secretariat staff were NICTS staff. There were 14.3 Full Time Equivalent staff divided across two teams: a Corporate Governance and Finance Team and a Case Management Team. The Corporate Governance and Finance Team was responsible for internal governance, financial management and payment processes, asset management and information technology and assurance. The Case Management Team was responsible for timetabling, case progression, case allocations, the issue and receipt of documentation related to a case including the processing of Commissioners directions and decisions. There were three Case Managers who were responsible for case management associated with the single Commissioner stage of the process and five Hearing Clerks who dealt with the Panel stage of proceedings. One member of staff was responsible for actioning recall requests which were to be processed within a 24-hour period. Each Team was managed by a Northern Ireland Civil Service Staff Officer and Deputy Principal.
- 3.5 The Secretary to the PCNI (Head of Secretariat/Secretary) was a Grade 7 within the NICTS. Inspectors were advised this role accounted for 20% of their time. The Secretary acted as the interface between the NICTS and the Chief Commissioner. They were the Secretary to the Steering Group and attended key meetings as requested by the Chief Commissioner. They line managed Secretariat staff managers.
- 3.6 There was a monthly Secretariat staff meeting and a quarterly Senior Management Team meeting attended by Secretariat managers and the Chief Commissioner. The Secretariat provided administrative support and contributions to other meetings, for example, the Advisory Committee meeting and others as required.
- 3.7 Effective induction processes were in place for Commissioners and Secretariat staff. Induction training for Commissioners was scheduled over three days and over a three-week period for Secretariat staff. The latter covered all aspects of casework and comprised a mix of individual learning and group sessions.
- 3.8 Secretariat staff clearly understood their remit and respective roles and effectively supported the work of Commissioners. Both Commissioners and Secretariat staff felt empowered and well supported to fulfil their respective responsibilities. There were good working relationships between Commissioners and Secretariat staff and managers.
- 3.9 Given the nature of the work conducted it was positive that Secretariat staff had access to specialist support services through the NICTS if they required it.

- 3.10 Commissioners reported limited opportunities for continuous learning and training beyond their induction and annual plenary and some felt that additional opportunities for professional development should be available. The records indicated a number of areas where this would be beneficial. The PCNI Handbook which provided guidance on all processes and procedures (last updated in 2023) was a useful source of information. Guidance on other matters arising from judicial reviews was shared in a timely manner. Each non-legal Commissioner was appointed a legal mentor to assist them with any issues which arose in the conduct of their casework and regular advice and guidance was available from peers and the Chief Commissioner which was highly valued.

TECHNOLOGY AND SYSTEMS TO SUPPORT DELIVERY

- 3.11 A new case management system had been introduced from September 2023 to replace the previous older and unsupported system. The new system would facilitate Secretariat staff to manage case progression from start to finish including the processing of referrals, allocation of cases to a Commissioner (on the direction of the Chief Commissioner), assignment of tasks, listing of hearings, recording of Commissioner decisions and sharing of relevant documentation. The system was also designed to include enhanced reporting functionality and in time would support the administration of payments to Commissioners. Parties to the parole review process including the NIPS and the DoJ PPB could directly upload required documentation such as dossiers and view details of previous referrals through a portal.
- 3.12 At the time fieldwork was being conducted the new system had gone live but a number of requests to change were outstanding which meant that it was not yet operating as fully as intended. It was not known when the changes would be implemented. Staff training had been conducted and staff were still adjusting to the updated system. The transition from the Commissioners perspective had been seamless. Stakeholders were reporting some issues with the new system and a number reported not having been fully consulted as the system was being developed.
- 3.13 Some staff savings had already been achieved but the benefits could not be realised until the system was fully embedded. These included a reduction in duplication of work, a move away from multiple spreadsheets to support operational delivery and the development of enhanced case management reporting.
- 3.14 It was important that the benefits of the new case management system should be fully realised to support operational efficiency and effectiveness. **As an area for improvement work should progress as quickly as possible to resolve outstanding requests to change the system and the realisation of expected benefits should be closely monitored.**

3.15 Positively, the PCNI was a paperless office and training and guidance to Commissioners and staff had been provided to support this transition. This had been accelerated during the COVID-19 pandemic (pandemic) when all staff worked at home for a period and Panel hearings were conducted remotely to maintain business continuity. This model worked well.

3.16 Some issues were raised during fieldwork by a number of Commissioners around the current information and communications technology equipment and support including access to work telephones with e-mail facility which would be worth exploring further. This could facilitate a more efficient response to requests for availability for instance.

3.17 Appropriate information sharing agreements were in place with key stakeholders.

3.18 There had been 22 reported data breaches from 2019 to 2023 of which 19 were considered minor by the PCNI. There was evidence of appropriate follow-up action in response to breaches with polices and guidance being re-issued, the importance of adhering to these procedures highlighted at plenary sessions and issues being addressed with individual Secretariat staff and Commissioners as necessary.

3.19 As was the case in other jurisdictions Panel hearings were now largely taking place remotely and this had become the default position. A remote hearings policy was being finalised by the Chief Commissioner. This was expected to retain provision for Panel hearings in-person if requested by a prisoner.

3.20 People we spoke to during the inspection fieldwork expressed mixed views on the use of remote hearings, including prisoners. While it was evident that the adoption of remote hearings had resulted in time and travel savings, it was important that all stakeholders are aware of the revised policy and understood the grounds on which an application for an in-person hearing could be made to safeguard prisoners' access to a fair hearing. It was important that the revised policy was effectively communicated and kept under review.

Internal systems to support delivery

3.21 As stated previously, internal mechanisms supporting operational efficiency and effectiveness included the following:

- an annual plenary attended by all Commissioners – forum at which information related to performance and operational issues and exchange of best practice information could be shared including inputs from external organisations;
- PCNI Advisory Committee – met quarterly and developed guidance on new issues which was circulated to all Commissioners and reviewed the Advisory Committee's Risk Register;
- the legal group – met on an ad-hoc basis to consider implications of judicial reviews and other legal issues;

- effective communication and guidance – team meetings of Secretariat staff, senior management team meetings and regular liaison between the Chief Commissioner and Secretariat managers and between the Chief Commissioner and individual Commissioners;
- management reports and case monitoring – reports generated and maintained by Secretariat staff across governance and case management and shared with the Chief Commissioner and Commissioners as appropriate; and
- the experience of key staff and the level of engagement between these staff and the Chief Commissioner and supporting committees/groups.

3.22 Internal controls were effective. A key factor was the level and quality of engagement between the Chief Commissioner, Commissioners and Secretariat staff.

3.23 The PCNI response to the pandemic was impressive and case completion rates were maintained during that period. From a very early stage there was evidence in records of the potential impact of safeguarding measures adopted during the pandemic on PCNI operational delivery. Contingency plans were quickly developed and implemented to maintain business continuity.

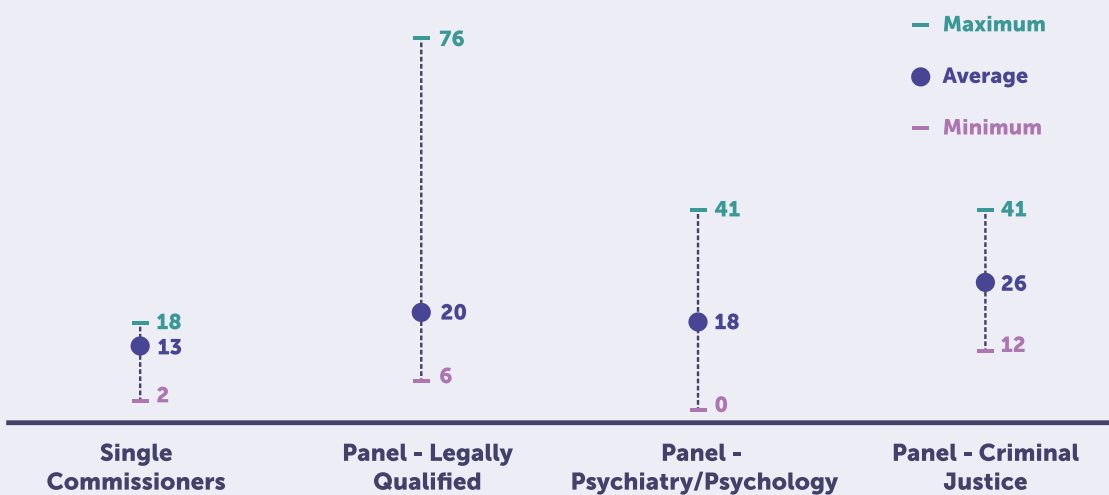
3.24 The case management reports maintained by the PCNI Secretariat indicated some recent difficulty with identifying availability of legal Chairs for Panel hearings. This had been attributed to the levels of remuneration and other matters related to terms and conditions. Commissioners were clearly frustrated that there had been no review of their levels of remuneration since 2012 nor of the basis on which the current standard fees were set. They cited an increasing complexity in the caseload (including of the small number of cases involving protected information), increased volume of documentation, potential for legal challenge and growing length of written decisions as factors which meant that the current fees did not adequately remunerate them for the work they did. Some had experience of other similar work on tribunals or other Parole Boards which was better remunerated or for which a transparent process of reviewing fees existed. It was not satisfactory that no mechanism existed to review the fees and other aspects of terms of conditions in a timely way to ensure the adequacy and fairness of current remuneration levels. This was a matter which should be considered under the implementation of Strategic recommendation 1.

3.25 The allocation of single Commissioners, Panel members and Chairs was recorded by the Secretariat and monitored by the Chief Commissioner. Single Commissioners were allocated from a list while for Panel hearings, Commissioners offered availability and were appointed on that basis. A record was kept of the types of cases Commissioners were allocated to, the number of times they were replaced in cases and the reasons for this. In the case of Panel members, the number of times availability was offered was also recorded from which the proportion of actual allocations against dates offered was calculated.

Taking account of reduced case numbers for Commissioners who were retiring in-year or had just started, it was evident from the available management information that there were disparities in the level of cases undertaken by individual Commissioners overall and within the three cadres of availability offered for Panel work.

- 3.26 Whereas on average Commissioners were allocated as single Commissioners in 13 cases during 2023-24, the minimum number of cases was two and the maximum was 18. There was a much greater variance in Panel allocations where the average number of Panel allocations during 2023-24 was 20 for legally qualified Commissioners, 18 for psychiatry/psychology Commissioners and 26 for criminal justice Commissioners. The minimum and maximum number were six to 76 appointments for legal commissioners, zero to 41 for psychiatry/psychology and 12 to 41 for criminal justice members (Figure 5).

Figure 5: Range of cases undertaken by different cadres of Commissioners and between Panel and single Commissioners 2023-24

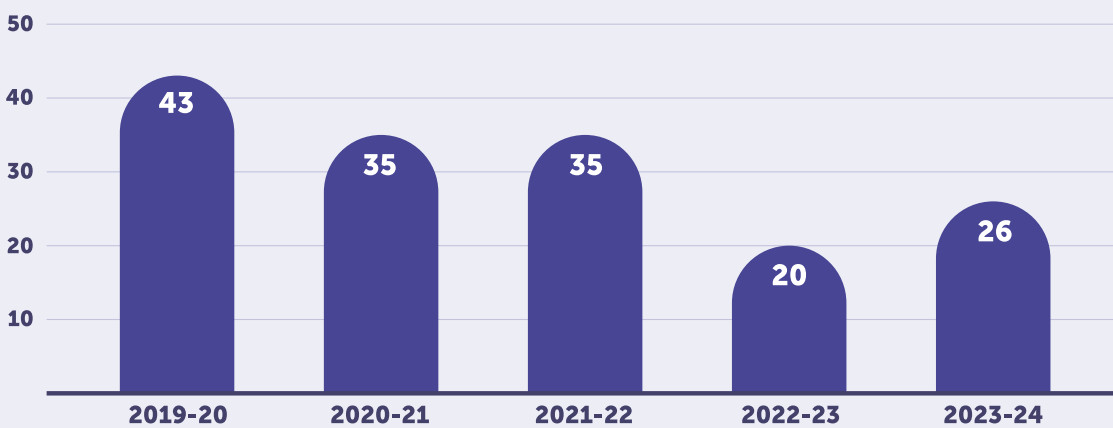


- 3.27 Notably the average availability offered by legally qualified members was much lower than the other two cadres (39 days during 2023-24 compared with 70 days for psychology and psychiatry and 104 days for criminal justice members). Inspectors were told that current dissatisfaction with the levels of remuneration was a contributory factor in terms of what availability was offered and there was evidence of delays in being able to identify legal Commissioners to Chair Panels.

- 3.28 The number of cases referred by single Commissioners to Panel and completed at the single Commissioner stage was being monitored. This was a measure of how efficiently the process was operating. A higher number of cases referred to Panel resulted in more Panels having to be convened and the potential for less cases completing at the single Commissioner stage. This was one of the pieces of data reported in the quarterly management reports and reviewed by the Chief Commissioner. Prior to 2019-20 the number of cases referred to Panels had been steadily increasing and peaked at 74 in 2018-19.

Since that time the number and proportion of cases referred to Panel meetings had decreased steadily to 26 in 2023-24 which was attributed to close monitoring and guidance and information issued to Commissioners (Figure 6). In the same period the number of cases completed at single Commissioner stage had increased although this represented just under a quarter of all completed cases which warranted some consideration of the value of the single Commissioner stage.

Figure 6: Number of cases referred to a Panel by single Commissioners 2019-20 to 2023-24



3.29 To date this had been managed internally and there was not yet significant numbers of Panel meeting dates being vacated or replacements for this reason but it was a concern. In both England and Wales and in Scotland there was a minimum annual time commitment for the level of work to be undertaken by Commissioners, however this was not the case in Northern Ireland. Coupled with the outworkings of Strategic recommendation 1 specifying a minimum annual time commitment in days is worth considering when recruiting new Commissioners. **As an area for improvement the DoJ Sponsor division should give consideration to specifying a minimum annual time commitment for Commissioners to assist with equitable case allocation.**

External factors and controls

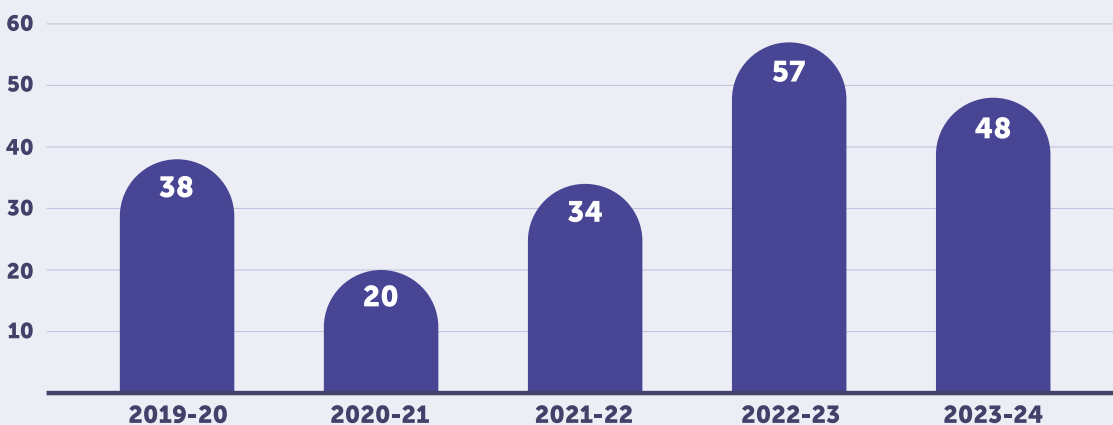
3.30 As illustrated in Figure 2, the PCNI are an integral part of the criminal justice system. Commissioners relied on information provided by criminal justice agencies and the DoJ to make their decisions.

3.31 In successive Annual Reports, at Steering Group meetings and in bilateral meetings with key figures, successive Chief Commissioners have highlighted ongoing issues impacting on the effective delivery of the parole process. This included:

- the service and quality of documentation;
- response to directions made by Commissioners;
- availability of witnesses;
- the absence of reports from prison health care;
- the lack of opportunities for prisoners to access relevant interventions; and
- the lack of DoJ representation at Panel hearings.

3.32 The consequence of this was an increase in the administrative work associated with parole and also a rise in the number of adjourned hearings. The number of adjourned hearings had increased from 38 hearings in 2019-20 to 48 hearings in 2023-24 (Figure 7). The highest number of adjournments of hearings was in 2022-23 when it increased to 57. It was clear in the data that the average number of adjournments in the five-year period before and after 2019-20 had increased pointing to an underlying issue. The reasons for individual hearings being adjourned was recorded and when this was aggregated by Inspectors for data provided for 2023-24, 58% of cases were adjourned because further information was required at hearing or due to witness attendance issues. When the readiness of parties to proceed was added, this rose to almost 70%. Data was not available on the length of time to conclude cases. However, Inspectors believe it is very probable that in cases adjourned for additional reports or assessments or due to witness availability the time taken to conclude the case will have been longer than that timetabled at the outset. Costs associated with moved or adjourned cases were being monitored and had increased by 36% from 2022-23 to 2023-24 (£27,112 to £36,969).

Figure 7: Number of adjournments at Panel hearing 2019-20 to 2023-24



3.33 The most concerning aspects of this were the outcomes arising from parole review which are discussed further in Chapter 4 in terms of the impact on a prisoner's rehabilitation and prospect of release and their attitude towards the process but also for the system more generally. For the process to work effectively and efficiently the majority of cases should be capable for being dealt with first time and within the 26-week schedule or shorter schedule for recall cases.

3.34 Recent CJI inspection reports of Magilligan Prison (2021)¹⁸ and Maghaberry Prison (2022)¹⁹ found performance against the Preparing for Release healthy prison test had declined. The NIPS were planning to review its Prisoner Development Model (the function within prisons which is responsible for assessment sentence planning,

18 CJI, *Report of an unannounced inspection of Magilligan Prison 21 May – 10 June 2021, February 2022* available at <https://cjin.org/getattachment/4ae6bd06-979d-4b1e-a724-c2ab6ee5ac09/report.aspx>

19 CJI, *Report of an unannounced inspection of Maghaberry Prison 20 September – 6 October 2022, June 2023* available at <https://cjin.org/getattachment/0a5f532a-bac4-4c6b-9243-e74e0fe46d03/report.aspx>

interventions and resettlement work) but this review had not commenced at the time of fieldwork for this inspection. Problems with the recruitment and retention of Probation Officers were identified in the full inspection of Probation Practice Northern Ireland (2019) although good progress had been made in the intervening period.

- 3.35 As stated earlier in this report, in December 2022 the current Chief Commissioner wrote to the NIPS Director General and the PBNI's Chief Executive outlining his concerns. In response both the NIPS and PBNI reviewed cases which illustrated the problems identified and a joint workshop was convened with Commissioners to work through the various issues.
- 3.36 The PBNI had made good progress against the work it was taking forward. Examples of changes included the introduction of update reports, closer monitoring of and gatekeeping of reports for Commissioners. There continued to be staffing challenges at Magilligan Prison and Hydebank Wood Secure College and Women's Prison which at the time the fieldwork was conducted did not have full staff teams in place. The PBNI intended to complete an analysis of the workload of prison-based Probation Officers including the work associated with the parole review process to gain a full understanding of the impact on resourcing.
- 3.37 The NIPS had developed and maintained an action plan to address the work arising from the June 2023 workshop although some of this work had not been consistently progressed. Substantive changes to programme delivery/interventions and the work of the Prisoner Development Units (PDUs) was not going to result in major improvements until such time as the review of the Prisoner Development Model (PDM), due to be commissioned in the Summer 2024, was completed and its recommendations implemented. On the issue of representation at Panel hearings, evidence reviewed by Inspectors showed that the NIPS was considering how to progress this including the development of a framework for Governors' attendance at hearings and legal representatives attending certain hearings as necessary. It was clear the NIPS was concerned about the associated cost and resource issues. There were consequences to the DoJ not being represented at these hearings including an increased pressure on other witnesses to account for NIPS operational matters. Also Commissioners had to take DoJ witnesses through their evidence which Commissioners felt was inappropriate and could give rise to a perception that Commissioners were not independent of the DoJ given the role they had to adopt in these situations. The NIPS position was also not consistent with that adopted by other parts of the DoJ where representation was available at recall hearings. Inspectors felt there was merit in progressing a framework to improve representation at Panel hearings and this should consider the issues raised above. The NIPS was planning to consider the issue of representation as part of the planned PDM review.

OPERATIONAL RECOMMENDATION 1

Within six months of the publication of this report, the Northern Ireland Prison Service should develop and implement a framework to provide legal representation at Parole Commissioner for Northern Ireland Panel hearings.

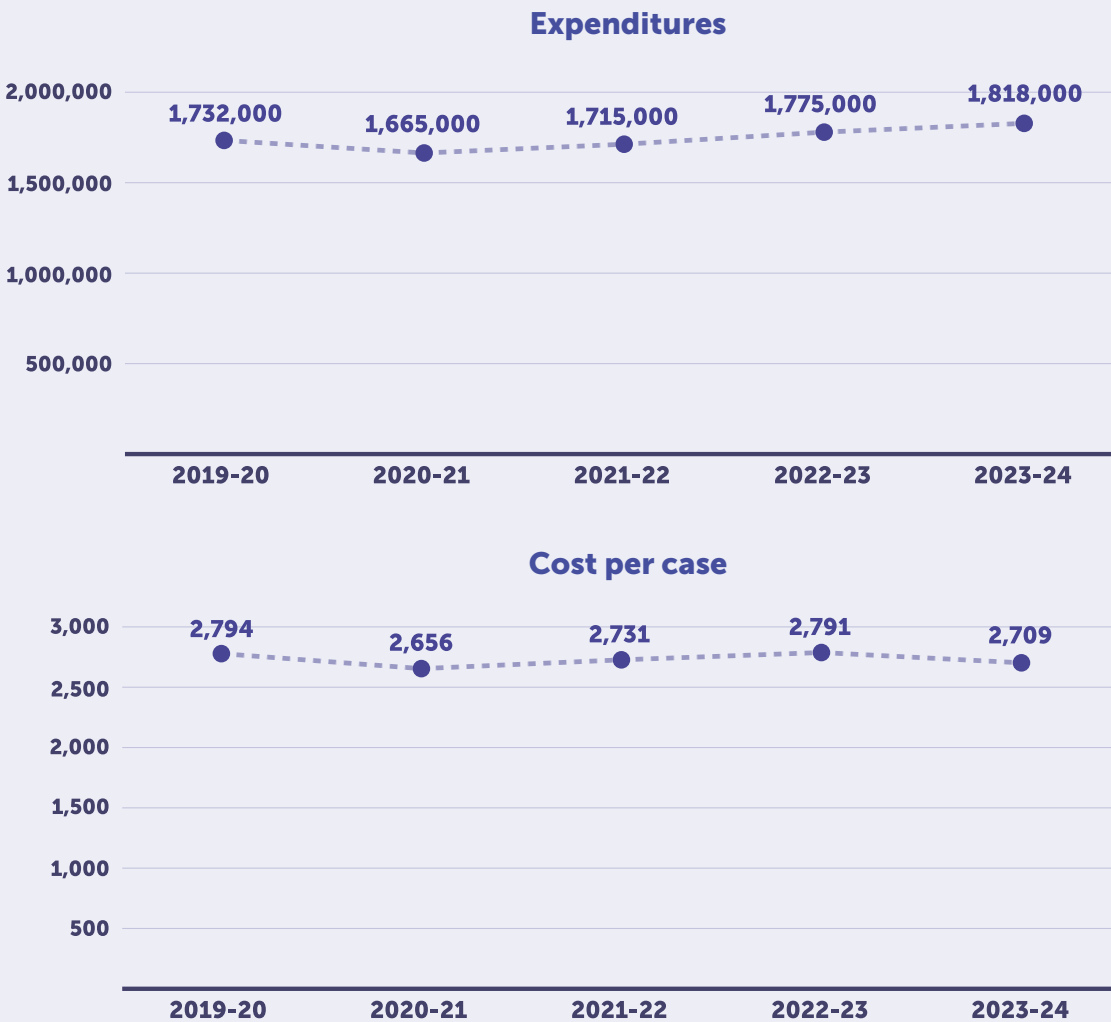
- 3.38 Over and above ad-hoc engagement between the PCNI Secretariat and PDU administration teams, interim quarterly meetings between PDU administrative managers and the PCNI Case Management managers were now taking place. It was important that these continued to ensure that thematic or recurring issues could be resolved in a timely way. Queries arising from issues either raised internally by PDU administration teams or which were raised by the PCNI Secretariat could be escalated to a monthly meeting of senior PDU Governors which was chaired by the Director of Rehabilitation to ensure that they were promptly addressed.
- 3.39 In discussions between Inspectors and prisoners for this inspection, almost all said that they looked to the Parole Commissioners to specify what they needed to do in custody to evidence that they could be safely released. This included assessment work, what they might do in prison to reduce the risk they posed and to change their attitudes and behaviour, how they might address behaviours that led to their offending and details of how they might be tested in the community prior to release. Most prisoners said that they requested Panel hearings because they wanted the NIPS and the PBNI to be held to account for recommendations made by single Commissioners (either at pre-tariff review or as part of their release review) to deliver on direction and recommendations, and not because they expected that their release might be directed by a Panel. This was not how the process was intended to work and was likely leading to more requests for Panel hearings than might ordinarily be made. Sentence planning and preparation for release should begin at the very early stages of a sentence with prisoners being progressed through interventions in advance of a parole review. See further discussion in Chapter 4 on outcomes of parole review and its subsequent impact.

FINANCES ARE AVAILABLE AND USED EFFECTIVELY AND EFFICIENTLY TO SUPPORT DELIVERY

- 3.40 Corporate governance staff in the PCNI Secretariat staff closely monitored running spend, ensured that payment of Commissioners fees were made in line with the fee schedule and finances and resources in general were managed in accordance with NICTS policies and procedures.
- 3.41 At the last inspection there was a focus on budgetary management and a concern about the increased spending in the formative years of the PCNI. However, it was acknowledged at the Follow-Up Review that changes to the terms of conditions of Commissioners such as fixed fees (2012), reduced levels of remuneration for ancillary work and less frequent plenary sessions had contributed to a reduction in forecast expenditure with a commensurate decrease in the unit cost per case.

3.42 In the period since the last inspections, while expenditure was similar (£1,833,000 in 2014-15 compared to £1,818,000 in 2023-24), the unit cost²⁰ had decreased from £2,914 in 2014-15 to £2,709 in 2023-24 (Figure 8). In the last five years from 2019-20 to 2023-24, expenditure had increased by 5% and the cost per case had decreased by 3% which reflected an increase of 8% in the number of cases completed. The most significant changes in budget terms had been a reduction in travel and other associated expenses from £64,000 in 2019-20 (before the pandemic) to £6,000 in 2023-24 as most hearings were conducted remotely rather than face-to-face. Legal costs had more than doubled over the same period.

Figure 8: PCNI expenditure from 2019-20 to 2023-24 and average case costs for the same period



²⁰ Expressed as the total expenditure divided by the number of cases completed.

- 3.43 In overall terms there had been little change in the cost per case which was largely reflective of the fact that there had been no change to the levels of remuneration since standard fees were introduced in 2012. While it is difficult to make like for like comparisons with other jurisdictions it is worth noting that in England and Wales the unit costs for both paper and oral hearings had increased by 20% (to £385 per case) and 18% (to £1,876) respectively in 2022-23 compared with 2021-22 although had been largely static before that. In Scotland the average cost of tribunals convened for lifer prisoners and extended sentence prisoners in 2022-23 was £1,000 and the average cost of case meetings was £200 which had remained the same since 2019-20. Average case cost data for the Irish Parole Board was not published in its Annual Report. As identified during the previous inspections, there was no disaggregation of costs across the different case types which would be useful. With the introduction of the standard fees there was no data available to evidence the time taken to undertake reviews against the fees paid and whether this reasonably represented the work required of Commissioners.
- 3.44 Requisite policies and procedures were in place and government reporting mechanisms were adhered to. Close attention was paid to monitoring expenditure and capturing the reasons for any additional payments and cancellation fees. Any cases which might attract potential loss of earnings payments were flagged on the case management system. Unlike England and Wales there were not backlogs of cases waiting to be dealt with and there were no compensation payments to prisoners.
- 3.45 Where additional funding was required the Secretariat submitted business cases for approval to the NICTS. The NICTS were responsive to meeting current resource needs. There was however no evidence of projected caseload monitoring taking into account the most recent sentencing patterns nor of the implications for the PCNI of the operation of the criminal justice process, backlog of cases and prisoner population after the pandemic. There was no indication in the documentation reviewed during this inspection or gathered through interview of any scrutiny or challenge of the efficiency of the PCNI compared with other Parole Boards. This would be important for projecting future resource needs (see Outcomes Chapter 4).

PROGRAMME OF CONTINUOUS IMPROVEMENT

- 3.46 Issues impacting service delivery were identified and addressed internally by the Commissioners and Secretariat staff through a range of opportunities and structures as already mentioned earlier in this report.
- 3.47 There was limited evidence of a programme of continuous improvement informed by service users other than the formal engagement with criminal justice agencies through the Steering Group and ad-hoc meetings. A users issues group had been in operation but it had ceased some five years ago due to a lack of engagement/attendance by a range of stakeholders. Legal representatives, delivery bodies and other stakeholders reported a high level of confidence in the PCNI.

Despite this some stakeholders expressed a reluctance to raise issues as there was a perception that to do so may impact on the conduct of proceedings although all agreed that the current Chief Commissioner was approachable and open to working in a collaborative way. This worked both ways in that unless a formal issue was raised some organisations believed this meant the Commissioners were content with current delivery. This was expressed by one stakeholder as *'no news is good news'* which was not indicative of open and transparent engagement.

3.48 There had been no direct engagement or consultation with prisoners about service delivery. The consultation conducted for this inspection with those who had experience of the parole process was very valuable in understanding their knowledge of the process, how they experienced it and their views on how fairly they felt they were treated. While not all of the feedback was necessarily for the PCNI to address, there were aspects which could feed into continuous service improvement. This included: what their understanding was of the parole process, how they might best prepare for making a contribution either in writing or orally to proceedings, the ability to challenge decisions, the language used in paperwork including decisions, the experience of attending an oral hearing and the accuracy of material contained within dossiers. In other jurisdictions advice and guidance provided to prisoners and others who might engage with the parole review process was available in easy read and more accessible forms.

3.49 Inspectors understood the challenges of obtaining direct feedback from service users especially of a process involving multiple bodies. However, the absence of a formal, regular mechanism for engagement on continuous improvement was a gap. A more regular working group comprising of key stakeholders and a mechanism to formally engage with prisoners directly as opposed to through criminal justice organisations was needed to maintain a focus on quality delivery.

OPERATIONAL RECOMMENDATION 2

Within six months of the publication of this report, the Parole Commissioners for Northern Ireland should reflect on and implement a mechanism to regularly obtain feedback on service delivery issues with stakeholder organisations and service users to maintain a focus on quality services and improve and ensure the accessibility of the process for all those who engage with it.

3.50 Following the Worboys case in England and Wales (see reference at paragraph 1.18), the Parole Boards in England and Wales and Scotland introduced a right for victims to request to attend hearings as an observer and a requirement for the Boards to publish anonymised summaries of their decisions. In March 2022 the Rules in Northern Ireland were amended to make similar provision for victims or other persons to request anonymised decision summaries. To date 24 requests for summaries have been made and all 24 had been provided.

This was a positive development. Under the Irish parole scheme, victims registered directly with the Parole Board and could make written or oral submissions to members of the Board. The mission statement of the Board was *'an independent Parole Board that protects the community, is fair to parole applicants, and listens to victims.'* In that jurisdiction, victims were viewed as an integral part of the Board's considerations.

- 3.51 The Northern Ireland Victim Charter (2015)²¹ (the Charter) explained the entitlements of victims to information about the decisions of the Parole Commissioners in the context of the Victim Information Schemes operated by the NIPS²² and the PBNI.²³ Under these Schemes registered victims could be supported to provide a victim impact report to the PCNI (the Charter did not yet reflect the ability to request victim summaries). The PCNI, unlike Parole Boards in neighbouring jurisdictions, was not listed as a service provider in the Charter. Other Parole Boards published guidance for members and victims on their websites which were premised on or influenced by the wider European Union (EU) Victim's Directive duties.
- 3.52 On 28 June 2022 the European Commission adopted its evaluation of the 2012-29 Victims Rights Directive.²⁴ While not specifically commenting on parole hearings they referenced entitlements to a *'comprehensive means of communication with victims that takes into account the complexity of victims' need in relation to their right to access information...'*. The findings were important because the Directive had informed the Charters/Codes across the United Kingdom. In her response to the consultation on the adoption of the revised Directive, the Commissioner Designate for Victims of Crime for Northern Ireland said that although Northern Ireland was now outside of the EU, she was hopeful that any improvements to the rights and treatment of victims of crime in EU states could inform improvements to victims of crime in Northern Ireland.²⁵ Improved treatment and care of victims and witnesses engaging with the criminal justice system had been a theme of CJI inspection work.^{26 27} It was important that opportunities across the criminal justice system, including parole, to promote and deliver victims' rights were enhanced.

21 DoJ, *Victim Charter, A Charter for victims of crime, September 2015* available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/Victim%20Charter.pdf>

22 *Prisoner Release Victim Information Scheme*

23 *Probation Board for Northern Ireland Victim Information Scheme*

24 *European Commission, Commission Staff Working Document, Evaluation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, SWD(2022)180 Final, Brussels 28.09.2022* available at https://commission.europa.eu/system/files/2022-06/swd_2022_179_evaluation_rep_en.pdf.

25 *Commissioner Designate for Victims of Crime in Northern Ireland, European Commission, Public consultation on Commission adoption of a proposal for a revision of Victims' Rights Directive, Response from the Commissioner Designate for Victims of Crime Northern Ireland, September 2023* available at <https://www.cvocni.org/files/cvocni/2023-10/CVOCNI%20Response%20to%20EC%20proposals%20to%20VRD.pdf>

26 *CJI, Victims and Witnesses: The Care and Treatment of Victims and Witnesses by the Criminal Justice System in Northern Ireland, July 2020* available at <http://cjini.org/getattachment/5193b4b4-6351-4987-bdfb-03bace145c7e/report.aspx>

27 *CJI, Victims and Witnesses: the care and treatment of victims and witnesses by the criminal justice system in Northern Ireland, A Follow-Up review of Recommendation Implementation, October 2023* available at <https://cjini.org/getattachment/6eca5be7-e517-4072-8dd2-0d54133d952d/report.aspx>

DELIVERY STANDARDS AND PERFORMANCE MEASUREMENT

- 3.53 There was a sharp focus on delivering to the statutory timescales set out in the parole legislation to ensure that the PCNI could fulfil its obligations under Article 5 of the European Convention on Human Rights,²⁸ that is a right to liberty.
- 3.54 The PCNI Secretariat operated to two delivery standards and performance against each was reported in the NICTS Annual Report and Accounts and in the PCNI Annual Reports. They were:
- 95% of cases scheduled within five working days of receipt from the DoJ; and
 - 95% of decisions will be issued within five working days of receipt from a Commissioner.
- 3.55 The outturns in 2022-23 were 99% against each target and a review of previous performance indicated both targets had been met consistently over the last five years. While relevant to the performance of the Secretariat no other performance measure targets related to operational delivery were in place although, as referenced earlier in this Chapter, systems were in place to record and monitor case progression metrics. One explanation for this was that as the PCNI was not constituted as a corporate body it was not required to develop corporate and business plans in the same way as other Parole Boards and ALBs. The tension in this was that neither sponsor could properly discharge its obligation to monitor that the PCNI was delivering the statutory obligations it was publicly funded to deliver but also there were opportunities for the PCNI to enhance transparency around their service delivery.
- 3.56 The Parole Board in England and Wales reported against a range of Key Performance Indicators (KPIs) under the following three strategic aims:
- the Parole Board makes independent, impartial and quality decisions – *included KPIs around handling of complaints, representation of parole board members and operation of a reconsideration mechanism*²⁹;
 - the Parole Board works efficiently and effectively and provides value for money – *included KPIs similar to the two PCNI targets referenced at paragraph 3.54, the proportion of cases concluded at a scheduled hearing; variance of the in-year budget and measures related to aged cases; and*
 - the Parole Board seeks to be as open and transparent as possible – *included KPIs related to its portrayal in the media and volume of media coverage and narrative about its work on continuous improvement, specific projects and practice informed research.*

28 Article 5 of the European Convention on Human Rights (ECHR) is a human right that protects the right to liberty and security of person. It states that no one shall be deprived of his liberty except in certain cases and in accordance with a procedure prescribed by law. It also imposes specific obligations on states to ensure that any deprivation of liberty is lawful and not arbitrary and that it is subject to review by a Court.

29 This mechanism does not exist in Northern Ireland.

- 3.57 The previous inspection recommended the PCNI engaged with the Parole Board to examine the feasibility of using the quality standards under development by England and Wales as a basis for benchmarking the work of Parole Commissioners. At the Follow-Up Review Inspectors assessed this recommendation had been partially achieved. The then Chief Commissioner had stated that the present structure of the PCNI did not allow for proper accountability and that within the present framework the Chief Commissioner had attempted to report on performance and improve efficiency as set out in the last two Annual Reports. The DoJ cited the development of a Code of Practice for Complaints and the plan to schedule Commissioners as non-Crown judicial officer holders under Schedule 1 of the Act would underpin the independence of the Commissioners, *'provide support in both legal and non-legal aspects of the Commissioners without the burden of creating an arms-length body infrastructure.'* Inspectors at the time commented that the envisaged performance management regime was not in place but that a formal policy to deal with non-performance issues, complaints and the possible suspension or removal of a Commissioner was being finalised, and that a performance appraisal analogous to the judicial scheme was being considered.
- 3.58 In the intervening period as has already been stated there had been no change to the status of the PCNI, including their designation under Schedule 1 of the Act and no change to the performance monitoring regime although a formal complaints policy had been finalised in 2023. No Commissioners had been removed on the basis of non-performance. Where any issues had arisen these had been dealt with informally and locally resolved. The Chief Commissioner met with individual Commissioners once every two years, he continued to sample decisions but given the number issued it was not possible to review them all. It was judged that errors had been discovered with a small number of decisions after they had issued and steps had been taken to rectify these.
- 3.59 Unlike in England and Wales (2019) and Scotland (2022), there was no mechanism to request Commissioners reconsider a decision. This was a further area where Northern Ireland had not kept pace with developments in neighbouring jurisdictions and in the absence of a mechanism to proactively review parole legislation, the value of this or otherwise had not been explored. The main course of remedy in Northern Ireland was through judicial review proceedings or complaint. Learning from research was identified by Commissioners as a potential area for development but opportunities to explore this were limited by current capacity and funding constraints.
- 3.60 Quality assurance was mostly delivered through peer support, guidance, developmental activities, reviews of complaints, mentoring or other feedback. This was all internal activity and was not transparent. In other jurisdictions the parole members handbook and guidance was published.

- 3.61 The Parole Board in England and Wales published Quality Assurance guidance in October 2022 and a Quality Assurance Framework in October 2022 with one of the considerations being the need to demonstrate externally that the Board operated to established principles and processes.
- 3.62 This inspection was not considering the decision-making of Commissioners and the discussion around quality assurance did not indicate in any way that the decision of Commissioners was not of a high quality but rather that the current quality assurance mechanisms were not sufficiently open and transparent. The PCNI should develop and publish a framework to enhance the openness and transparency of its current approach to quality assurance.

OPERATIONAL RECOMMENDATION 3

Within six months of the publication of this report, the Parole Commissioners for Northern Ireland should develop and publish a quality assurance framework and report against this framework in their Annual Report. This should provide more transparency about the duration of cases, costs, reasons for delay and adjournments and deprivation of liberty considerations.

CHAPTER 4: OUTCOMES

INTRODUCTION

- 4.1 Given the operational independence of the Parole Commissioners it was not appropriate to look at individual case files and decisions to release or not to release prisoners in individual cases. Rather in this Chapter the overall outcomes of the PCNI at the time of the inspection were considered.
- 4.2 The PCNI produced an Annual Report which included quantitative data which largely spoke to case progression metrics as opposed to outcomes arising from the parole review process. The format of the report had not changed in some years and was not an accessible document. Data on the time taken to complete cases, average case costs and reoffending rates was not published.
- 4.3 Data on the prisoner population, proportion of cases where release was directed, the level of prisoners recalled to custody, rate of serious further offending and information related to complaints, judicial reviews and equality outcomes was reviewed and is set out in the following paragraphs. There is little academic research on outcomes arising from the parole process or the process itself in Northern Ireland.

PRISON POPULATION

- 4.4 There has been much attention and an increased awareness of the rise in the number of prisoners held on remand in Northern Ireland and the impact of this on the prisoner population. This had been the focus of a CJI inspection of Bail and Remand³⁰ which had highlighted the length of time people were held on remand in comparison with other jurisdictions and also the increase in time served as a disposal. The latter was reported as an increasing problem and was resulting in referrals to the PCNI shortly after sentence. Official statistics for 2022-23 showed that the overall daily prison population had increased by 12.8% and that the remand population was at the highest level it had been over the last eight years.³¹ Further, CJI's Bail and Remand report also highlighted that the proportion of prisoners held on remand in Northern Ireland was higher than in neighbouring jurisdictions.

30 CJI, *The operation of Bail and Remand in Northern Ireland, 11 January 2023* available at <https://cjini.org/TheInspections/Inspection-Reports/2023/Jan-Mar/The-operation-of-Bail-and-Remand-in-Northern-Irela>

31 NISRA, *The Northern Ireland Prison Population 2022-23, October 2023* available at <https://www.justice-ni.gov.uk/publications/northern-ireland-prison-population-2022-23>

- 4.5 A snapshot of the prison population on 1 April 2024³² showed that:
- 40% of sentenced prisoners were currently subject to or had been subject to a parole review;
 - one third of those serving life, an ICS or ECS sentence were post tariff or parole eligibility date;
 - just under one fifth of sentenced prisoners (18%) had been or were subject to recall proceedings; and
 - those serving DCS sentences made up the greatest proportion of prisoners who had been recalled to custody (79%).
- 4.6 Following a review, recalls and revocation of licence offences were no longer classified as Other Offences in the official prison population statistics and they were now classified as Public Order Offences. As a result of this change it was not possible to compare any data related to these two categories from previous reports. However Public Order Offences accounted for the largest proportions of immediate custody receptions, at 22.7% (185) in 2022-23.
- 4.7 Management data provided by the NIPS showed that the proportion of all committals that were subject to recall has remained persistently at the same level. Since 2014 to 2023, on average 28% of those committed to custody related to recall, with the largest proportion being of those subject to DCSs.

RELEASE OUTCOMES FROM PAROLE REVIEW

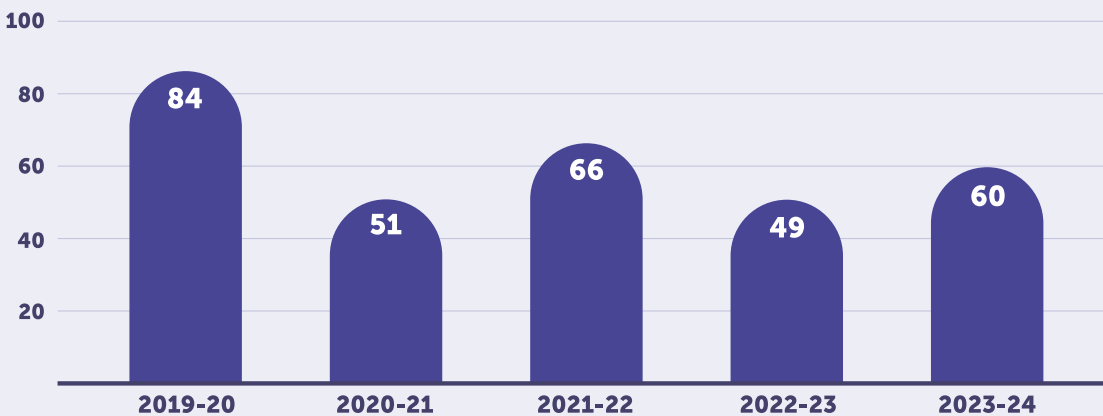
- 4.8 The overall number and proportion of decisions for release (expressed as the percentage of decisions for release arising from Panel hearings) had been decreasing since the time of the last inspection from 78 in 2014-15 (40%) to 51 in 2023-24 (19%).³³ This data excluded directions for release made by single Commissioners considering the re-release of DCS recalled prisoners.
- 4.9 Looking more closely at the five-year period from 2019-20 to 2023-24:
- the overall number and proportion of release decisions had decreased from 61 (27%) to 51 (19%);
 - the reduction in the number and proportion of release decisions was evident for the main case types that is the release of life, ICS and ECS cases; and
 - was most pronounced over that time period for re-release of DCS cases following recall – from 39% in 2019-20 (24 of 62 cases which were considered by a Panel) to 25% in 2023-24 (21 of 85 cases).

³² Data provided by the Northern Ireland Prison Service.

³³ These figures were derived from PCNI management information. It should be noted that the percentages expressed here are approximate given the potential for decisions to fall across different reporting periods.

4.10 The PCNI published data in its Annual Reports of the number of decisions for release made by Panels and by single Commissioners (DCS recall cases) (Figure 9). This data showed a similar reduction in the number of release decisions but this was not expressed as a proportion of all cases in which a decision could be made. The proportion of DCS recall cases where release was directed was low. In 2023-24, this was 4% of all cases (9 of 251) considered by single Commissioners. The low prospect of re-release was reflected in conversations with prisoners who expressed a sense of hopelessness about the outcome of the recall process and single Commissioner stage more generally.

Figure 9: Total number of release decisions made by Commissioners



4.11 In England and Wales the Parole Board published the release outcome of all decisions in its Annual Reports which the PCNI did not. For 2022-23 this was 25% meaning that 75% of people whose cases were reviewed on the papers or by a Panel needed to remain in custody for the protection of the public. A higher proportion of prisoners (53%) had their release directed by a Panel for the same period. The Scottish Parole Board's Annual Report aggregated data is not published but of the 560 life sentence tribunal hearings that took place in 2022-23, the Board did not direct release on 264 occasions, that is, in 47% of cases. Using a similar measure to that adopted in England and Wales and taking account of all cases completed in Northern Ireland (rather than decisions arising from Panel hearings) a comparable figure for Northern Ireland for 2022-23 was 13% (49 decisions for release of 391 cases completed where a decision for release was an option). If based on Panel hearings alone in Northern Ireland, decisions for release accounted for 19% of Panel decisions issued. A comparison with the data published for Scotland is not appropriate but worth noting that of 60 Panel hearings held in Northern Ireland in 2022-23, release was directed in 10 life sentence cases.

- 4.12 The decline in the number and proportion of decisions for release in Northern Ireland is concerning when referenced with data from other Parole Boards in the United Kingdom. On the one hand it indicated that the public protection duty of the PCNI was being upheld. However, the decline over a significant period indicated that opportunities for those whose release was contingent on satisfying Commissioners that they could be safely managed in the community had been diminishing. Some of the reasons for this were set out in Chapter 3. Rather than being reflective of difficulties with the operational efficiency and effectiveness of the PCNI, although that remained a risk going forward if issues identified in this report were not promptly remedied, the difficulties experienced by the PBNi and the NIPS over a protracted period were impacting the timeliness and quality of information being available to Commissioners on which to base their decisions. CJI's Bail and Remand report had also highlighted the need to look at offending behaviour programmes given the time prisoners spent on remand.
- 4.13 The rate of release following recall was a concern raised in CJI's 2016 report³⁴ on the impact of prisoner recalls on the criminal justice system. Then the data had shown a significant drop in the rate of re-release decisions. Up until 2015 around 12% of recalled prisoners were re-released at the single Commissioner stage and 53% of those who requested and were granted an oral hearing were re-released following an oral hearing. The rate of recalls had remained at a stubbornly persistent level of around 28% (from 2017 to 2022) and while a review of recalls was documented in CJI's 2016 report, it is not clear to what extent the actions identified had been actioned; what impact they had had and that any subsequent analysis of recalls had taken place. The DoJ's PPB had been capturing data and subject to capacity and resource pressures planned to do an in-depth analysis (see later discussion at paragraphs 4.26-4.27). Statutory Rules were not in place for the handling of these cases by the Parole Commissioners and there had been no broader review of the policy.
- 4.14 The average proportion of referrals to the PCNI related to recall over the past five years from 2019-20 to 2023-24 was just under 70% (68%) of all referrals. This represented a significant workload not just for the Commissioners but had implications for the workload of other agencies, for the length of time prisoners were detained and the size of the prison population.
- 4.15 In CJI's 2014 Follow-Up Review Inspectors noted that the rate of recall then was above those predicted when the new sentencing framework was introduced and the rate of referrals had continued to grow since then.

34 CJI, *The Impact of Prisoner Recalls on the Criminal Justice System in Northern Ireland, June 2016* available at <https://cjini.org/getattachment/5d2e6aa6-495a-428e-aec8-136e7ee716b8/report.aspx>

JUDICIAL REVIEWS AND COMPLAINTS

- 4.16 Over the last five years the PCNI had dealt with on average 15 judicial review proceedings at any one time. On average seven were brought forward from one year to the next and they received an average of eight new cases each year with the same number being completed in year.
- 4.17 There was a ruling against the PCNI in only one of the 42 cases completed since 2019-20, which was an indication of their effectiveness and was a good outcome. The majority of cases (86%, 36 of 42), either did not proceed after the PCNI responded to the pre-action protocol letter of the cases or were dismissed at Court.
- 4.18 There was a very low number of complaints made to the PCNI with just one being submitted in 2023-24. As mentioned, prisoners and others reported a reluctance to complain as they feared it might impact on future release decisions.

Serious further offences

- 4.19 There was no formal mechanism for referral of cases to the Parole Commissioners where Serious Further Offences had occurred or to review such cases which was a gap. One case had been reviewed several years ago but it was not evident to Inspectors how this had been conducted and whether any learning had resulted. The Chief Commissioner told Inspectors that if a case came to the PCNI's attention where a prisoner they had released had subsequently committed a very serious violent or sexual offence, it would be reviewed.
- 4.20 Quarterly PCNI case management reports recorded the number of recall cases where release or re-release had been directed by the Commissioners. This data showed that the proportion of recalls whose release or re-release had been directed by the PCNI had reduced from 2019-20 when it was 18% (37 of 202 recall recommendations made by the PCNI) and was 9% in 2023-24 (20 of 212 recall recommendations).
- 4.21 The most recent adult reoffending data³⁵ for Northern Ireland based on the 2020-21 cohort showed that very small numbers of individuals in the cohort whose release would mostly³⁶ have been directed by the PCNI had reoffended. One in four life licensees had offended, none of three released under an ICS licence and three of 19 on an ECS licence had reoffended. The one year proven reoffending rate for those serving DCS sentences in the cohort was 32% and supports the volume of recall work undertaken by the Commissioners.

35 NISRA, *Adult and Youth Reoffending in Northern Ireland (2020-21 Cohort)*, 19 October 2023 available at <https://www.justice-ni.gov.uk/publications/adult-and-youth-reoffending-northern-ireland-202021-cohort>

36 It is not possible to ascertain from this data whether the PCNI had directed release of all 19 serving ECS sentences as they could also have been released at the expiry of the relevant custodial period specified by the court.

4.22 The decisions made by the PCNI, despite their best efforts, cannot be risk free and the reasons for the recall of prisoners or incidents of Serious Further Offences having occurred where release had been directed by the PCNI could be for a very wide variety of reasons. Research pointed to factors such as accommodation, relationships, throughcare support, mental health and addiction being significant drivers of this as did the discussions Inspectors had with prisoners and their representatives during this inspection. In England and Wales the Parole Board had a Review Committee which reviewed cases involving serious further offending being referred to the Board and it published this data in its Annual Report which provided assurance in the decisions and processes of the Board. In 2022-23, 28 cases involving Serious Further Offences were referred to the Parole Board which represented 0.7% of release decisions. Although it was likely to be a small number of cases, it was important that there was a mechanism to learn lessons and review decisions particularly where Serious Further Offences had occurred.

OPERATIONAL RECOMMENDATION 4

Within three months of the publication of this report, the Parole Commissioners for Northern Ireland should establish a process for Commissioners to be promptly notified of cases where Serious Further Offences had occurred and a mechanism to review learning and evidence the quality of decision-making.

MEASUREMENT OF OUTCOMES INTEGRATES DIVERSITY ISSUES TO ENSURE FAIRNESS AND EQUALITY

4.23 There was no evidence available to assess the equality outcomes of the parole review process across different Section 75³⁷ groups. As it was not a public authority there was no requirement on the PCNI to ensure equality considerations were mainstreamed and built into their processes. There was therefore no understanding of the outcomes experienced by different groups subject to parole review and therefore a lack of opportunity for Commissioners or criminal justice organisation to address any potential challenges/barriers. By way of comparison in England and Wales oral hearing outcomes for ethnicity and gender were published. It was important however that there was an understanding of any differentials between different groups in the decisions of the Parole Commissioners for mechanisms to enhance accessibility such as adjustments and use of interpreters but also if there were other differential outcomes which may warrant further investigation.

³⁷ Section 75 of the Northern Ireland Act 1998 places a statutory obligation on public authorities to carry out their functions with due regard to the need to promote equality of opportunity and good relations in respect of religious belief, political opinion, gender, race, disability, age, marital status, dependants and sexual orientation.

- 4.24 Prisoners did not raise any concerns about their treatment in terms of most of the Section 75 groups but there were concerns expressed by a number about the use of remote hearings and how well or otherwise this took account of their mental health or other vulnerabilities. A further issue raised during the inspection was how foreign national prisoners and more specifically, those subject to deportation were treated in comparison to other groups which highlighted the need for regular monitoring. Interim arrangements had been put in place to address this during the inspection.
- 4.25 The diversity of the Commissioners was not monitored by the DoJ although monitoring forms were completed as part of the recruitment competitions. There was no breakdown of the Commissioners available in terms of Section 75 groups or assessment of how reflective Commissioners were of the community they served, nor of evidence of enhancing applications from under-represented groups. The Parole Boards in England and Wales and Scotland published some (albeit limited) equality data on their Commissioners. This is one area that would be enhanced if the future appointment of Commissioners was by the NIJAC that had a stated aim of securing and providing a judiciary reflective of the community in Northern Ireland.
- 4.26 There was no specific approach within the PCNI, by the sponsor bodies or criminal justice system to assess how the parole review process operated as a whole and of the implications of Commissioners' decisions for different parts of the criminal justice system. There was no joint work ongoing to forecast future referrals as there had been when CJI last inspected. The data available to evidence outcomes was piecemeal and focussed solely on the work of the PCNI but required a system wide analysis to understand and manage the interfaces between the PCNI and the criminal justice agencies and others especially related to forecasting the impact on the prison population and costs. In England and Wales statistical reports showed the impact on the prison population of changes to sentencing frameworks and other major changes to legislation. The 2020 Tailored Review of the Parole Board had sought to examine the monetary cost of delays to release arising from deferrals and adjournments and estimated the demand for additional prison places. No comparable analysis was available in Northern Ireland but would be helpful.
- 4.27 The delivery of the parole process is complex involving multiple delivery organisations including multiple branches/divisions within the DoJ. There was a lack of strategic oversight and ownership of the end-to-end parole process and specifically of the outcomes it was delivering. The new sentencing framework introduced through the Order has now been in operation for 16 years and there has been no evaluation or analysis of the processes which underpinned it or its impact. The data on recalls and release outcomes in particular warranted system wide analysis. It was good that the NIPS had undertaken a further review of cases where a decision that the prisoner was not suitable for release on five or more occasions but again this was an ad-hoc piece of work.

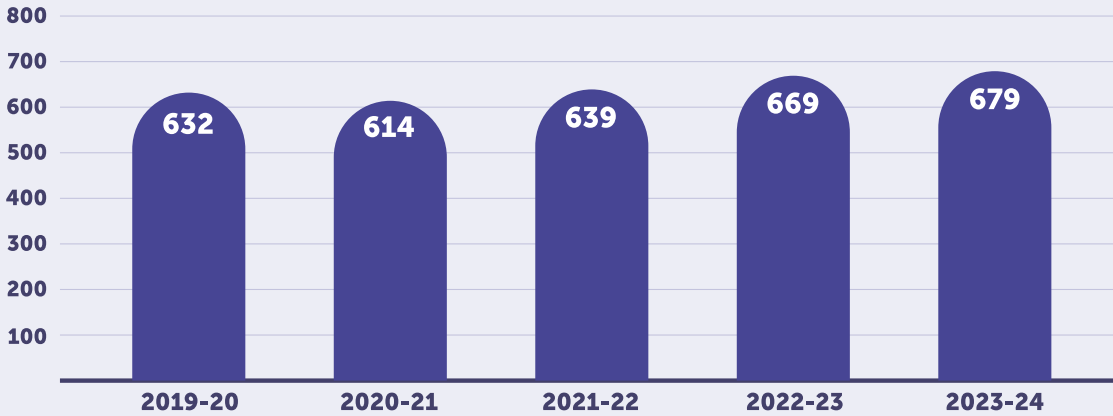
A shared strategic vision of parole which respected the independence of the PCNI with agreed measures and indicators of what success looked like across the system was needed to drive its effective and efficient delivery and also to inform service delivery and changes to legislation and policy. This coupled with a reconsideration of the status of the PCNI and its sponsorship arrangements were needed to sustain the membership and work of the Commissioners at a time of DoJ funding pressures.

STRATEGIC RECOMMENDATION 2

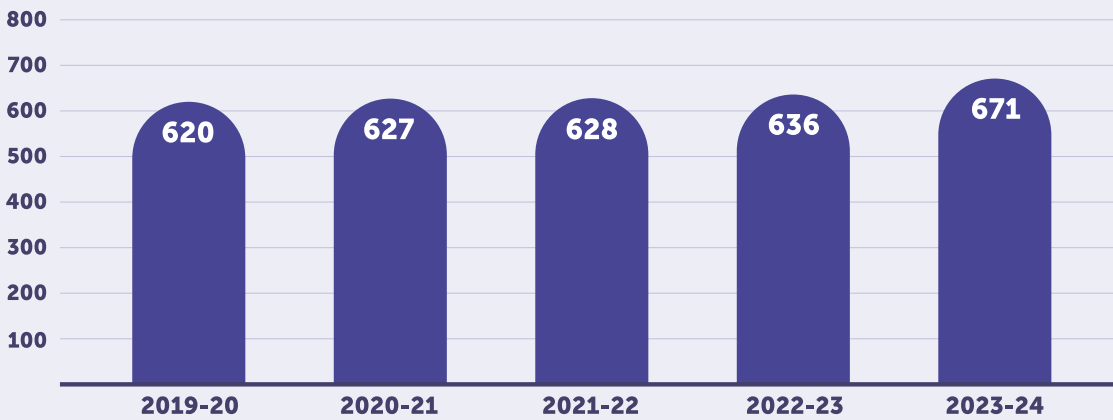
Within six months of the publication of this report, the Department of Justice should establish a project with appropriately senior representation from the Parole Commissioners for Northern Ireland, the Northern Ireland Courts and Tribunal Service, the Northern Ireland Prison Service and the Probation Board for Northern Ireland to deliver performance indicators and outcome measures, including equality monitoring for the end-to-end parole system and develop processes to effectively manage the delivery of improvement work across the system to ensure that it works efficiently and effectively.

APPENDIX 1: CHARTS SHOWING THE NUMBER OF REFERRALS, NUMBER OF CASES COMPLETED AND NUMBER OF PANEL HEARINGS HELD FROM 2019-20 AND 2023-24

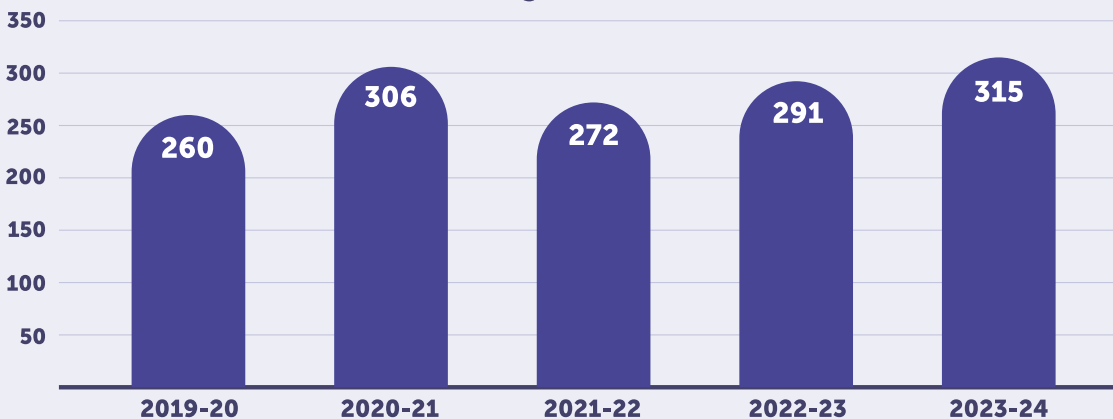
Number of referrals 2019-20 to 2023-24



Number of all cases 2019-20 to 2023-24



Number of Panel hearings held from 2019-20 to 2023-24



APPENDIX 2: PREVIOUS CJI RECOMMENDATIONS (2011) AND ASSESSMENT OF PROGRESS (2014)

Recommendations (2011)	Assessment of progress (2014)
Inspectors recommend the sponsoring Department review the sponsorship arrangements in place and redefine these arrangements. They should guarantee the independence of the Commissioners whilst seeking to provide the Department with adequate assurances that public resources are being managed to appropriate standards.	Achieved
It is recommended consideration should be given to reposition the Parole Commissioners within the Northern Ireland Courts and Tribunals Service given its similarities to a tribunal (use of a Panel; adversarial nature of proceedings). This will underpin the independence of the Parole Commissioners, provide a governance and accountability structure consistent with other adjudicative bodies (including Courts and tribunals) and provide a model for the role and responsibilities of the Chief Commissioner, Commissioners and their administrative support.	Achieved
It is recommended the Parole Commissioners secretariat develop their budget monitoring and their associated cost targets to allow them to track the cost of casework and aim to deliver the most efficient process. Similarly, if possible they should gather unit costs for the various types of hearing to act as internal monitors for their casework management process.	Achieved
Inspectors recommend the Chief Commissioner gains assurance that the relative level of work ancillary to casework is reasonable and that the overall budget is reasonable and kept under review.	Achieved
It is recommended the projected caseload and case mix statistics should be reviewed taking into account the most recent sentencing patterns to date.	Partial achievement
Inspectors recommend the Commissioners should develop requisite measures including if possible, unit costs that provide the Chief Commissioner with an insight into absolute and comparative performance. The Chief Commissioner's Annual Report could provide a vehicle for reporting year-end outturns including (if developed) unit costs for various types of hearings.	Achieved
It is recommended the Parole Commissioners engage with the Parole Board for England and Wales to examine the feasibility of using the quality standards under development by England and Wales as the basis for benchmarking the work of the Parole Commissioners.	Partial achievement

APPENDIX 3: TERMS OF REFERENCE

Introduction

Criminal Justice Inspection Northern Ireland (CJI) proposes to undertake an inspection of the governance and operation of the Parole Commissioners for Northern Ireland (PCNI) including case management, risk management and operational support.

The PCNI have a critical role in the delivery of criminal justice in Northern Ireland by protecting the public from serious criminal offending and supporting the rehabilitation of prisoners. They make significant decisions about the safe release of prisoners back into the community.

The PCNI is an independent body with a Chief Commissioner and Commissioners who make decisions about the continued detention, release or recall of prisoners referred to them by the Department of Justice (DoJ) and a Secretariat of Northern Ireland Courts and Tribunals (NICTS) staff, an agency of the DoJ, that provides an administrative support service.

Commissioners are appointed by the DoJ under Schedule 4 of the Criminal Justice (Northern Ireland) Order 2008 (the Order) as independent Commissioners. The Chief Commissioner is appointed from the body of Commissioners.

The PCNI operate independently of criminal justice organisations but make decisions based on the information they receive from them, including the Northern Ireland Prison Service (NIPS), the Probation Board for Northern Ireland (PBNI), the Police Service of Northern Ireland (PSNI) and the DoJ. Critically, decisions made by the PCNI are made without interference from criminal justice agencies, other parties or Government.

An inspection of the PCNI was included in CJI's 2023-24 Inspection Programme and while the inspection will largely focus on the governance of the PCNI, the contribution criminal justice organisations make to supporting good governance and the operation of the PCNI will also be examined.

Respecting the independence of Parole Commissioners, their decision-making is outside the scope of this inspection. However, the administrative processes and services that support their decision-making falls within the scope of this inspection.

Context

The PCNI was originally constituted as the Life Sentence Review Commissioners; their role changed in 2008 with the introduction of new sentences, including two public protection sentences, under the Criminal Justice (Northern Ireland) Order 2008. At that time the number of Commissioners increased from 24 to 40 in anticipation of an increased caseload.

CJI first inspected PCNI governance in 2011³⁸, two years after the introduction of the new sentencing framework. Inspectors made two strategic and five other recommendations for improvement. A Follow-Up Review was conducted in 2014³⁹ to assess the progress made against the recommendations. Inspectors found that five recommendations had been achieved and progress had been made in the remaining two areas. Following a review of sponsor arrangements, the PCNI transferred to the NICTS who provided operational support and governance while the DoJ retained responsibility for overall policy direction including terms and conditions of the Commissioners. This remains the position.

The Follow-Up Review found that the introduction of fixed fees had helped control costs and the average unit cost per case had fallen. Although a performance management regime was not in place, the Chief Commissioner dip sampled cases, provided guidance to all Commissioners, and a policy to deal with non-performance issues and complaints was being finalised. A need to accurately assess and forecast projected caseloads and the mix of cases referred to the PCNI remained.

The PCNI operate under three legislative frameworks:

- The Life Sentences (Northern Ireland) Order 2001 (*provided for the release and recall of persons serving a life sentence*);
- The Criminal Justice (Northern Ireland) Order 2008 (*established new sentencing and release arrangements for Northern Ireland and the Parole Commissioners for Northern Ireland*); and
- The Parole Commissioners' Rules 2009 (the Rules) (*provided the arrangements under which prisoners serving indeterminate or extended custodial sentences would be reviewed and assessed for release by the PCNI*).

While the Rules do not make provision for the referral and review of Determinate Custodial Sentenced prisoners who are subject to recall to custody, cases are processed as far as possible in keeping with the Rules. There have been a number of recent changes to the legislative frameworks which provided for the review of terrorist related offenders and gave victims and others the right to request summaries of PCNI decisions. No other significant changes to the legislation related to the work of the Parole Commissioners have been made since they were introduced.

38 CJI, *Governance Inspection of the Parole Commissioners for Northern Ireland, September 2011* available at <https://cjini.org/getattachment/03b77ef8-d196-447c-8d8d-52875dda6dcc/Parole-Commissioners.aspx>.

39 CJI, *Corporate Governance of the Parole Commissioners for Northern Ireland A Follow-Up Review of Inspection Recommendations, March 2014* available at <https://cjini.org/TheInspections/Action-Plan-Reviews-Inspection-Follow-Up-Revie/2014/Corporate-governance-of-the-Parole-Commissioners-f>

The workload of the PCNI has increased very significantly since 2011, exceeding the projected caseloads anticipated when the new sentencing framework was first introduced. In 2010-11, 177 cases were referred to the PCNI compared with 669 in 2022-23. Fifty eight percent (391 of 669) of all referrals in 2022-23 related to recall cases, the majority of which related to Determinate Custodial Sentence cases. The workload and key statistics for 2022-2023 indicated 636 cases were completed, which included 49 release decisions across all types of cases. Overall, 958 provisional directions, directions, decisions or recommendations related to various aspects of case management were issued.

There is a complement of 41 Parole Commissioners (including the Chief Commissioner) who are supported by a Secretariat of 15 NICTS staff across two sections: a corporate governance and finance team and a case management team. A new case management information technology system went live in September 2023.

Aims of the Inspection

The broad aims of the inspection are to assess that:

- the statutory role and remit of the PCNI is clearly identified and the needs of the organisation are well understood;
- effective leadership and internal and external relationships support good governance;
- sponsorship arrangements are effective and proportionate and uphold the independence of the Parole Commissioners;
- governance and case management systems and processes effectively support effective administration, operational delivery and performance management;
- resources are well managed to deliver quality outcomes and a mechanism is in place to monitor and manage performance; and
- systems are in place to effectively manage risk.

Any other matters arising during the inspection, if considered appropriate, by CJI may be included.

Methodology

The inspection will be based on the CJI Inspection Framework for each inspection that it conducts. The three main elements of the inspection framework are:

- Strategy and governance;
- Delivery; and
- Outcomes.

Constants in each of the three framework elements and throughout each inspection are equality and fairness, together with standards and best practice. The CJI inspection methodology can be found at www.cjini.org.

Design and Planning

Preliminary research

Data and initial information was reviewed to inform the scope of the inspection. CJI also undertook early scoping discussions with the Chief Commissioner, PCNI staff and with representatives of the DoJ, the NICTS, the NIPS and the PBNI.

Benchmarking, research and data collection

Benchmarking information and data will be collected and a review conducted of other inspection and relevant reports. This will include information related to the governance and operation of Parole Boards in other jurisdictions.

Contact with agency(ies)

Terms of Reference will be shared with the PCNI and with the DoJ, the NICTS, the NIPS and the PBNI. The PCNI and other organisations identified in this Terms of Reference will be asked to nominate a liaison officer for the inspection.

Policies and procedures, management information, minutes of meetings and related documentation from the PCNI and other organisations as appropriate, will be requested and examined.

Delivery

Stakeholder consultation

The following stakeholder organisations will be consulted:

- the DoJ;
- the Lady Chief Justice's Office;
- the NICTS;
- the NIPS;
- the Law Society of Northern Ireland;
- the Bar Council of Northern Ireland; and
- the PBNI.

Other stakeholders may be consulted as appropriate. In this inspection the DoJ and NICTS will be involved both as stakeholders and fieldwork will be conducted with both organisations reflecting the different roles that different parts of these organisations have in relation to the governance and operation of the PCNI.

Self-assessment

The PCNI, the NICTS and the DoJ sponsoring division will be invited to complete a self-assessment. These will be reviewed by CJI prior to the commencement of fieldwork.

Development of fieldwork plan

Interviews and focus groups will be conducted with Parole Commissioners, Secretariat staff and managers, those involved in sponsorship roles, as well as managers/staff in key stakeholder organisations.

Fieldwork will also be conducted with service users.

CJI will liaise with inspection liaison officers to plan and organise fieldwork within their respective organisations.

Initial feedback

On conclusion of the fieldwork the evidence will be collated, triangulated and analysed and emerging findings will be developed. CJI will then present the findings to the Chief Commissioner, the PCNI Secretariat, the NICTS and other criminal justice organisations involved in the inspection.

Drafting of report

Following completion of the fieldwork and analysis of data, a draft report will be shared with the PCNI and other criminal justice organisations for factual accuracy check. The Chief Inspector will invite the PCNI and other organisations that recommendations refer to complete an action plan within six weeks to address the recommendations and if the plan has been agreed and is available, it will be published as part of the final inspection report. The inspection report will be shared, under embargo, in advance of the publication date with the inspected bodies.

Publication and Closure

A report will be sent to the Minister of Justice for permission to publish. When permission is received the report will be finalised for publication. A press release will be drafted and shared with the PCNI and other organisations involved in the inspection prior to publication and release. A publication date will be agreed and the report will be issued.

Indicative Timetable

Scoping/Research: January-February 2024.

Stakeholder consultation: February 2024.

Agency fieldwork: March-April 2024.

Draft Report to agencies: June-July 2024.

Factual accuracy feedback received: July-August 2024.

The above timetable may be impacted by factors outside CJI's control. The inspected organisations will be kept advised of any significant changes to the indicative timetable.

APPENDIX 4: METHODOLOGY

DESKTOP RESEARCH AND DEVELOPMENT OF TERMS OF REFERENCE AND QUESTION AREAS

Reports, statistics and other documents (including previous inspection reports) relevant to the governance and operation of the PCNI were reviewed. A number of meetings with stakeholders were conducted prior to the development of the Terms of Reference. The Terms of Reference and assessment criteria were published on the CJI website.

SELF-ASSESSMENT AND DOCUMENT REVIEW

The Chief Commissioner and each sponsor body that is the DoJ and NICTS incorporating the PCNI secretariat function were invited to complete a self-assessment template against the CJI Inspection Framework areas of Strategy and Governance, Delivery and Outcomes. The NIPS, the PPB and the PBNI were asked and provided information and data to support this inspection. All of this material was reviewed and used to inform the fieldwork plan and interview question sets.

FIELDWORK

Fieldwork with the PCNI included:

- an interview with the Chief Parole Commissioner;
- three online focus groups attended by 18 Parole Commissioners at which the three different cadres of Commissioners (that is legal, psychology/psychiatry and criminal justice) were represented;
- observation of two online Panel hearings;
- an interview with the then Secretary to the PCNI;
- interviews with Secretariat managers responsible for operations and governance; and
- two meetings with Secretariat staff attended by eight staff members.

Fieldwork with PCNI sponsor bodies included:

- interviews with the Chief Operating Officer NICTS and the then Head of the Tribunal and Enforcement Division (with responsibility for the PCNI); and
- an interview with the Policy Policing and Strategy Division (DoJ) Lead for PCNI.

Stakeholder meetings were conducted with representatives of:

- Reducing Reoffending Directorate, DoJ;
- Public Protection Branch, DoJ;
- Civil Policy Branch, DoJ;
- Enabling Access to Justice, DoJ;
- The Law Society of Northern Ireland Criminal Law Committee; and
- The Bar Council of Northern Ireland.

Focus groups were held with prisoners who had experience of the parole process at Maghaberry Prison (five) and Hydebank Wood Secure College and Women's Prison (three female and three male service users attended). Individual interviews were conducted with seven men at Magilligan Prison. In each case individuals were given a short information leaflet explaining the background to the inspection and invited to comment on their experience of the different stages of their parole journey including:

- their understanding of the process at the beginning of their journey;
- their experience of the process including the opportunity to contribute to reports, access to representation and their experience of attending a Panel hearing;
- their understanding of how decisions were made and how fairly they felt they were treated;
- what worked well about the process; and
- what did not go well and what could be improved.

ANALYSIS AND EMERGING FINDINGS

At the conclusion of fieldwork the documentation and data provided during the self-assessment process, additional information requested during fieldwork and evidence gathered from focus groups and interviews was analysed and triangulated to adduce the findings set out in the report.

Emerging findings were tested internally and a read-out given to relevant parties involved in the inspection.

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Block 1, Knockview Buildings

Belfast BT4 3SJ

www.cjini.org