



Parole Commissioners
for Northern Ireland



**Parole Commissioners
for Northern Ireland**

Annual Report 2010/11

**PAROLE COMMISSIONERS FOR
NORTHERN IRELAND**

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Report for the year ended 31 March 2011

Laid before the Northern Ireland Assembly pursuant to
Paragraph 7 (2) of Schedule 4 to the Criminal Justice
(Northern Ireland) Order 2008. Amended by the NI Act 1998
(Devolution of Policing and Justice Functions) Order 2010.

on

30 June 2011

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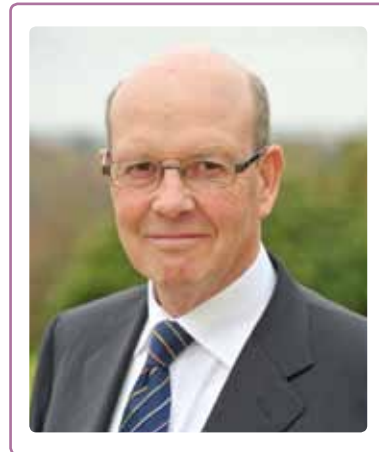
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Foreword

Mr David Ford MLA
Minister of Justice
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Dear Minister

Paragraph 7(1) of Schedule 4 of the Criminal Justice (Northern Ireland) Order 2008, as amended, requires that, as soon as reasonably practicable after the end of each financial year, the Chief Commissioner of the Parole Commissioners for Northern Ireland shall submit a report to the Department of Justice on the performance of the Commissioners' functions during that year. In compliance with that requirement I am pleased to submit my report to your Department in respect of the financial year 1 April 2010 to 31 March 2011.

Workload

As will be seen from the figures the year under review has seen a huge expansion in the work of the Commissioners. Although the Commissioners do not have the necessary information that would enable accurate predictions to be made, it seems likely that this will continue into the indefinite future. If the Commissioners are to meet their statutory obligations this will necessitate your Department making available commensurate resources.

Advisory Committee

In my report for the financial year 2009/2010, I described the restructuring of the Commissioners' governance arrangements involving the creation of an Executive Committee designed to bridge the gap between the annual Plenary meetings of all Commissioners.

It quickly became apparent that as, in reality, the power to act on behalf of the Commissioners between Plenary meetings lies with the Chief Commissioner, this should be recognised by renaming the committee the Advisory Committee, a title more apt to describe its function.

The Dismissal and Suspension of Commissioners

In last year's report I drew attention to the fact that there is no machinery in place that would enable a complaint that could lead to the dismissal of a Commissioner to be processed in accordance with law. I record that this remains the situation. It means that in the event of such a complaint being made it would not be possible to process it expeditiously because the creation of machinery complying with law, whether by statute or on an ad hoc basis, would inevitably take a considerable period of time. Such prolonged delay would be grossly unfair to the Commissioner concerned and, if the complaint were to be made by a member of the public, quite possibly to that individual as well. I deal with another unsatisfactory aspect of this issue under the heading of "Independence" below.

I also drew attention to the absence of the power to suspend from office a Commissioner against whom such a complaint has been made and, once again, this remains the case. This is potentially an even more serious lacuna. The absence of the power to suspend means that, pending the lawful adjudication on the complaint which, for the reason adumbrated above, could be a protracted period, the Commissioner in question could insist on performing all of the functions of a Commissioner. This would seriously impair public confidence in the Commissioners.

May I invite you to have your Department address these matters of vital importance as a matter of urgency.

Protected Information

In my report for 2009/2010 I referred to the potential impact of the European Court of Human Rights in the cases of *A –v- UK* (Application No 3455/05) and *Secretary of State for the Home Department –v- AF* [2009] UKHL 20 on references to the Commissioners involving information certified as confidential under the Parole Commissioners' Rules 2009. As a consequence of the legislation dealing with the devolution of policing

and justice where such information is certified on the ground of national security it is thenceforth to be described as “protected information” and it remains the responsibility of the Secretary of State for Northern Ireland and not of your Department.

The first reference involving such information since the authorities to which I have referred were promulgated is currently being processed by a panel of Commissioners. In the course of it the Secretary of State has conceded that the two authorities are applicable where protected information is proffered. Once this reference has been completed it is intended that guidance derived from the experience of the panel will be prepared for use by Commissioners in subsequent cases involving information of this sort.

Connected with this issue, I have informed the official in charge of the entity that acts for the Department of Justice in cases in which the advice of the Commissioners is sought under Article 46(3) of the Criminal Justice (NI) Order 2008 three years prior to the expiration of a prisoner’s tariff that, by reason of the procedural impact of the authorities to which I have referred, the Commissioners dealing with such a reference will not entertain protected or confidential information. Thus, they will make their recommendations without regard to such information, leaving it to government to take such account of the same as it sees fit.

Oral Hearings

In my report for 2009/2010 I drew attention to the fact that there was evidence that the scheme of the Parole Commissioners’ Rules 2009 designed to avoid unnecessary oral hearings was being frustrated by no or inadequate representations being furnished on the prisoner’s behalf at the single Commissioner stage so that an oral hearing before a panel of three Commissioners thereby became inevitable. I went on to say that the remedy would appear to lie with government by way of empowering the Legal Services Commission to provide adequate remuneration to solicitors acting for prisoners at the single Commissioner stage, thereby making it cost effective for them to prepare adequate written representations at that stage.

As at the date of reporting no effective steps appear to have been taken by government to remedy this situation. Having said this, however, I have since come to the conclusion that there is an additional step that could be taken that would significantly ameliorate



this problem. As the Rules stand at the moment they confer on prisoners an automatic right to an oral hearing irrespective of how weak their claim to release on licence may be and even if there is no other issue, such as the rehabilitation of the prisoner, in respect of which such elaborate examination would be appropriate. On the other hand, there is clear authority that prisoners do not have an absolute entitlement in law to an oral hearing before a panel – it depends on the circumstances of each particular case.

I have proposed to the official in your Department currently considering amendment of the Rules that this automatic entitlement should be revoked and replaced by a provision to the effect that where the single Commissioner directs that the prisoner be not released an oral hearing before a panel of three Commissioners will only be held where the prisoner requests a panel hearing and a Commissioner, other than the Commissioner who acted as single Commissioner, having considered certain criteria, concludes that such a hearing should take place.

Even if my proposal were to be implemented, however, it would still be necessary to hold a large number of oral hearings. As matters stand at the moment, this almost invariably involves Commissioners, legal representatives and witnesses going to the prison where the prisoner whose case is being considered is incarcerated and the provision there of appropriate accommodation. The travelling and other costs are considerable.

The Commissioners' Secretariat is currently investigating the possibility of conducting hearings by means of a secure video conferencing system (VCR). There seems to be no doubt that technology exists that would permit Commissioners' oral hearings to be held using this medium. The Northern Ireland Prison Service has a VCR system which it is currently in the process of updating. If it were to become possible for all oral hearing participants to be linked into this updated system the consequent savings both in cost and convenience would be very significant.

The Processing of References

In my previous report I mentioned new arrangements that had been introduced by the Commissioners for the effective monitoring of cases with the objective of ensuring that references are processed more quickly and efficiently. These have since been augmented by sustained and skilful action on the part of the Case Managers in the Commissioners'

Secretariat which has had considerable success in terms of ensuring that the hearing date fixed in accordance with the Rules has been met in most cases. Connected with this, I am pleased to be able to report that in this jurisdiction there is no backlog of prisoners awaiting oral hearings.

Your Department's failure to provide psychology and other evidence at the requisite stage has continued to cause difficulties and delays and it has been necessary for me to write to the head of the entity that acts on behalf of the Department of Justice in cases coming before the Commissioners drawing these problems to his attention. I have also issued guidance to the Commissioners advising them to make timely use of the power of direction comprised in the Rules in cases in which this problem manifests itself.

Quality Control

The monitoring process to which I have referred has another function. This is to identify procedural shortcomings on the part of Commissioners. These are addressed either by way of written communication with the Commissioner concerned or by way of an interview with myself or the deputy Chief Commissioner. To date this procedure has been largely successful in ensuring that such shortcomings do not recur.

An additional quality control mechanism has been introduced whereby the decisions of Commissioners are routinely copied to all Commissioners and I comment as appropriate and to all Commissioners on issues of law and practice that arise from the same. The purpose of this procedure is to ensure as far as possible that errors that could lead to a miscarriage of justice or prejudice to public safety are picked up before they are repeated and to ensure consistency of approach. As it happens, the number of occasions on which I have had to comment on anything of a serious nature has been few. Given the complexity of the legislation governing the Commissioners' work and the variety of cases with which we are required to deal this is a significant tribute to the very high standard met by my Commissioner colleagues during the year under report.

In my report for 2009/2010 mentioned the establishment of the Commissioners' User Group that brings together representatives of the parties to and other participants in cases coming before the Commissioners. In the year under report regular meetings have been held providing an open forum for the free discussion of matters relating to the work



of the Commissioners. These have proved to be of great value to the Commissioners and, it is hoped, to the participants.

Policies and Guidance

Since the inception of the Life Sentence Review Commissioners policies have been developed and adopted designed to cover situations in which there is either no or no clear cut applicable guidance in the legislation or general law. Since nowadays the Commissioners only meet in Plenary session once a year a practice has developed whereby, as the need arises, I, as Chief Commissioner, issue interim policies which are subject to endorsement or amendment at Plenary. Often such policies or interim policies or, indeed, developments in law or practice, require clarification by way of guidance from me or the deputy Chief Commissioner. Furthermore, Prisoners Guides have been produced dealing with the various categories of reference coming before the Commissioners. These policies/interim policies, guidance papers and Prisoners Guides are listed within the body of this report.

In order to keep Commissioners and members of the Secretariat abreast of developments and to foster consistency, the Secretariat has devised and distributes electronically at regular intervals a newsletter called "PCNI Focus."

Website

Over the years the Commissioners' website has progressively fallen further and further short of modern standards. This has been compounded by the huge increase in information that should properly be included consequent upon the introduction of the Criminal Justice (Northern Ireland) Order 2008 and the Parole Commissioners' Rules in 2009. Arrangements have now been made for the production of a website fit for purpose as such and a member of the Commissioners' Secretariat has been trained in its upkeep.

Accommodation

In October 2010 the Commissioners' Office was relocated to much more suitable accommodation. Besides providing greatly improved working and associated facilities for the Commissioners' Secretariat the new premises are much better suited to the needs of the Commissioners. Identifying and obtaining suitable accommodation and

arranging its layout and refurbishment involved a great deal of hard work on the part of the Commissioners' Secretariat and the actual move was carried out with the minimum of disruption to the Commissioners' operations.

Commissioners

During the year under report one Commissioner – Dr. Oliver Shanks – has retired and another – Professor Herb Wallace – has resigned for personal reasons. Both were excellent Commissioners whose skills and experience were greatly valued. On behalf of my Commissioner colleagues and myself I record our appreciation of their outstanding contributions to our work and offer them every good wish for the future.

It is the policy of the Commissioners that oral hearings are chaired by legally qualified Commissioners. This policy is dictated by the complexity in legal terms – both substantive and procedural – of our work and the importance of avoiding unnecessary and extremely expensive judicial reviews. Unfortunately, for various reasons, the cadre of legally qualified Commissioners available to chair hearings has become greatly reduced in number and is likely to continue to shrink in the foreseeable future. Although your Department has taken steps to remedy this situation, there remains the real possibility of the shortage reaching crisis proportions in the immediate future, particularly if the issue of the entitlement of prisoners to unnecessary oral hearing is not speedily addressed. The consequences of failure to do so will not only be the cost of judicial reviews but the inability of the Commissioners properly to fulfill their statutory functions with a consequent unacceptable risk to public safety.

Independence

In my two Annual Reports immediately preceding this one I made reference to a decision of the Court of Appeal of England and Wales in *R (Brooke) and Others –v- The Parole Board and Others* [2008] EWCA Civ 29. In its judgment that court emphasized the fundamental imperative of the Parole Board not only being actually independent of Government but also appearing to be so. This is equally important as far as the Parole Commissioners for Northern Ireland are concerned. During the year under report I have had cause to consider the full dimensions of the implications of the Brooke judgment and how they impact on the relationship between the Commissioners and your Department.



Your Department is a party to practically every case coming before the Parole Commissioners. It seems to me to be patently incompatible with Commissioners appearing or being perceived to be independent of government for the power to make rules for the proceedings before the Commissioners to remain vested in your Department. To my mind, if the reasoning in Brooke is carried to its logical conclusion, the evolution of the rules applicable to proceedings before the Parole Commissioners should be in the hands either of the Commissioners or of an entity other than one that contests cases before us.

This logic applies also to the appointment of Commissioners. Notwithstanding that your predecessor, the Secretary of State for Northern Ireland, abjured any input into the selection of Commissioners, I pose the rhetorical question as to how it can be said that there is no appearance or perception of lack of independence from your Department if it, by its officials, continues to be involved in the selection and appointment of Commissioners?

The same applies to the issue of the dismissal of Commissioners, to which I have already referred above. By virtue of paragraph 3 of Schedule 4 of the Criminal Justice (Northern Ireland) Order 2008 the statutory power to dismiss Commissioners remains vested in your Department. Again, I ask rhetorically: How can it be said that the imperative of the appearance or perception of the independence of the Commissioners is met when the power of dismissal remains explicitly vested in an entity that is a party to most of the cases coming before the Commissioners?

By the same token, it seems to me to be inconsistent with the requirement of perception of independence that the Chief Commissioner should be required to report annually to your Department.

I invite you to take appropriate steps to have these important issues addressed as a matter of urgency.

Valediction

Towards the end of the year under report I indicated to your Department that I intended to stand down both as a Commissioner and as Chief Commissioner as soon

as I had completed this report. I do so for personal and family reasons. I have been in post successively as Chairman of the Life Sentence Review Commissioners and Chief Commissioner of the Parole Commissioners for Northern Ireland for over eight years. During that time I have enjoyed the unfailing support of my Commissioner colleagues. They have consistently displayed a determination, often in difficult circumstances, to meet the twin imperatives of securing public safety and affording a high degree of procedural fairness to prisoners. I believe not only that they have been highly successful in these respects to date but their skills and continually developing experience will enable them to meet these exacting requirements into the future.

May I also take this opportunity to acknowledge a particular debt of gratitude for the work of my deputy, Mrs Elsbeth Rea OBE. In the two year period since her appointment she has willingly taken on and completed to a very high standard a huge amount of work that would otherwise have fallen to me, leaving me free to deal with the innumerable problems, mostly of a legal nature, posed by the new legislation and the consequent huge expansion of the Commissioners' work.

At the same time I wish to pay tribute to the work of the members of the Commissioners' Secretariat, particularly the Secretary to the Commissioners, Mrs Moya Cushley. In recent years they have had to contend not just with rapid expansion in the work of the Commissioners but also with a multitude of journeys across uncharted waters. Under Mrs Cushley's strong leadership they have met these challenges with great professionalism and dedication in accordance with the highest standards of the public service.

Last, but by no means least, I would like to express my gratitude to the officials of the Northern Ireland Office and, more recently, your Department who have, to date, greatly facilitated the Commissioners in performing their statutory functions. I very much appreciate their patient efforts, which have been largely successful, in resolving what sometimes appeared to be intractable problems, often the consequence of our mutual incomprehension.

PETER SMITH CBE QC
Chief Commissioner



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I

Background

The appointment of the Life Sentence Review Commissioners (LSRC) was the result of a review of Northern Ireland prisons legislation conducted by the Government in anticipation of the coming into effect, in October 2000, of the provisions of the Human Rights Act 1998. An important aspect of that work was to review the arrangements then in place for the consideration of the suitability for release of prisoners who had been sentenced to life imprisonment. The review considered the three types of life sentence: mandatory life sentences (for murder), discretionary life sentences (for other serious violent offences) and juvenile offenders sentenced to detention in circumstances that would, for an adult, have merited either a mandatory or a discretionary life sentence.

The review concluded that the existing procedures for discretionary life sentence prisoners and those sentenced to detention at the Secretary of State's pleasure could be deemed inconsistent with the requirements of the European Convention on Human Rights. This was based on advice on the suitability of the prisoner for release being given to the then Secretary of State by the Life Sentence Review Board, a non-statutory body consisting largely of senior officials of the Northern Ireland Office. It was considered that compliance with the European Convention on Human Rights would require that, once the punitive element of the sentence had been completed, each prisoner should have his or her case reviewed periodically by a judicial body. To have judicial character, the body would need to be independent of the executive (and of the parties concerned); impartial; and able to give a legally binding direction regarding the prisoner's release.

In March 2000, the report of the Review of the Criminal Justice System in Northern Ireland endorsed this conclusion and further recommended that an independent body should make decisions on the release of all life sentence prisoners.

The Government accepted this recommendation and brought forward legislation that required all life sentence prisoners to have the punitive element of their sentence judicially determined and their suitability for release independently assessed and directed at the appropriate time by an independent body of judicial character. The legislation in question was the Life Sentences (Northern Ireland) Order 2001 (2001 Order) and the Life Sentence Review Commissioners' Rules 2001 (2001 Rules). The Order was approved by, and the Rules laid before Parliament in July 2001 and both came into force on 8 October 2001.



The Criminal Justice Act 2003 made a number of significant changes to the sentencing framework for England and Wales. As a result it was felt that Northern Ireland should have its own review. In March 2005 the Northern Ireland Office published a consultation paper on the sentencing framework in Northern Ireland which considered new measures to enhance public protection. The exercise was largely informed by provisions contained in the Criminal Justice Act 2003, particularly the introduction of indeterminate and extended public protection sentences for dangerous sexual and violent offenders.

Ministers concluded that the sentencing framework should be revised and that legislation should be brought forward to provide for the introduction of indeterminate and extended sentences for dangerous sexual and violent offenders allowing individuals posing a risk of serious harm to be detained indefinitely or to the end of their extended sentences.

Criminal Justice (Northern Ireland) Order 2008

The relevant legislative provisions are contained in the Criminal Justice (Northern Ireland) Order 2008 (2008 Order). Among other things it provided that the Life Sentence Review Commissioners be renamed the Parole Commissioners for Northern Ireland and that the responsibilities of the Commissioners be extended to include decisions as to the release and recall of prisoners sentenced to indeterminate and extended custodial sentences and the recall of prisoners who receive other determinate sentences.

The Parole Commissioners' Rules (Northern Ireland) 2009 (2009 Rules) came into operation on 1 April 2009. These Rules replaced the Life Sentence Review Commissioners' Rules 2001 and apply to both the 2001 Order and the 2008 Order.

Current Legislation

The work of the Parole Commissioners for Northern Ireland is governed by two 'Orders' and one set of 'Rules' - The Criminal Justice (Northern Ireland) Order 2008¹, the Life Sentence (Northern Ireland) Order 2001 and the Parole Commissioners' Rules (Northern Ireland) 2009.

¹ The NI Act 1998 (Devolution of Policing and Justice Functions) Order 2010, provides for the continuing role of the Secretary of State in cases where national security is involved.

The principal provisions of the Life Sentence (Northern Ireland) 2001 Order provide for:

- The setting by the court of a relevant period, or 'tariff', as the period of the sentence to be served to satisfy retribution and deterrence before review for release;
- The power of the Commissioners to direct a prisoner's release on licence if continued detention is not required for the protection of the public;
- The attachment by the Department of Justice's of conditions to the release licence, in accordance with recommendations of the Commissioners;
- The revocation by the Department of Justice of the licence of a released prisoner and the latter's recall to prison;
- The consideration by the Commissioners of such recalls and their power to direct the release of recalled prisoners; and
- The arrangements for setting of tariffs for prisoners already serving life sentences.

The principal provisions of the Criminal Justice (Northern Ireland) 2008 Order provide for:

- the appointment of Commissioners;
- the Commissioners to advise the Department of Justice with respect to any matter connected with the release or recall of prisoners referred to them;
- the renaming of the LSRC as the Parole Commissioners for Northern Ireland (PCNI);
- the appointment of Parole Commissioners to include a Chief Commissioner and, if necessary the appointment of a deputy Chief Commissioner;
- the introduction of public protection sentences (PPS) for violent and/or sexual offenders based on an assessment of dangerousness;
- the necessity for all public protection sentence prisoners to be referred to the Commissioners to assess suitability for release;

- the imposition of licence conditions on persons who have been sentenced to a public protection sentence or a determinate sentence of 12 months or more;
- the revocation by the Department of Justice of the licence of a released prisoner and recall to prison, if so directed by Parole Commissioners; and
- the consideration by the Commissioners of such recalls and their power to direct release.

The Rules set out in detail the procedures that apply where the Department of Justice refers a prisoner's case to the Commissioners regarding his release or recall. They provide, in particular, for:

- the exercise by the deputy Chief Commissioner of such powers and functions as may be delegated by the Chief Commissioner and for the deputy Chief Commissioner to act on the Chief Commissioner's behalf if he is unavailable;
- the appointment by the Chief Commissioner of a single Commissioner to consider a case initially and provide a provisional direction on release;
- the appointment by the Chief Commissioner of a panel of three Commissioners to consider those cases where release has been directed or, in the case where a prisoner is not to be released, the prisoner has requested an oral hearing of his case (wherever practical, one panel member should be legally qualified and another a psychiatrist or psychologist);
- the representation of the prisoner and the Department of Justice;
- the appointment by the Commissioners of a representative to act on behalf of the prisoner or for a single Commissioner to carry out an interview, with the prisoner's consent;
- the submission of information and reports by the Department of Justice and of representations and documentary evidence by the prisoner;

- the making of procedural directions and the holding of oral hearings to consider the prisoner's case and the procedure for such hearings (including the attendance of witnesses);
- the time limits within which notifications and responses must be made;
- the distribution of procedural directions by the single Commissioner and/or panel chairman and the consideration of appeals against such directions;
- the withholding, in specified circumstances, of particular items of evidence from the prisoner, or the prisoner and his representative and in the latter event, the appointment by the Attorney General of a special advocate to represent the prisoner's interests..

Further Developments

As mentioned above, the Parole Commissioners were established through the renaming of the Life Sentence Review Commissioners under Article 46(1) of the Criminal Justice (Northern Ireland) Order 2008, in May 2008. Peter Smith CBE QC, the then Chairman of the LSRC, was appointed as Chief Commissioner and subsequently, in 2009, Elsbeth Rea OBE was appointed deputy Chief Commissioner. In order to deal with the anticipated increase in workload sixteen additional Commissioners were appointed in 2009.

The Commissioners

The Commissioners appointed by the Secretary of State are:

Chief Commissioner

Mr Peter Smith CBE QC is a QC who retired from practice in 2001 after over 30 years' experience at the Bar of Northern Ireland. He was formerly a Judge of the Courts of Appeal of Jersey and Guernsey and a Deputy Judge of the High Court of Justice in Northern Ireland. Between 1998 and 1999 he was a member of the Independent Commission on Policing. He was appointed CBE in 2008.

Deputy Chief Commissioner

Mrs Elsbeth Rea OBE is a registered social worker. She has previously worked as both a Senior Probation Officer with the Probation Board for Northern Ireland and as a lecturer in Social Work at Queen's University Belfast. She is a Lay Magistrate, is a member of the Northern Ireland Committee of Ofqual and has held public appointments with the Ulster Community and Hospitals Trust, the Police Authority for Northern Ireland and the Eastern Health and Social Services Council.

Commissioners from a Legal Background

Justice Teresa Doherty CBE was a barrister. She was formerly a member of the Lord Chancellor's Advisory Committee of JPs, is a part-time Chairperson of the Social Security Appeals Tribunal and also held the positions of Principal Magistrate and Judge of the National and Supreme Court of Papua New Guinea and of the Court of Appeal and High Court of Sierra Leone. In January 2005 she was appointed by the United Nations as a judge of the 2nd trial chamber of the Special Court for Sierra Leone (the international war crimes tribunal for Sierra Leone).

Mrs Anne Fenton has been a qualified solicitor since 1978. She was appointed Director of the Institute of Professional Legal Studies at Queen's University, Belfast in 1998. She is currently a part-time legal member of the Mental Health Review Tribunal and has previously held appointments as part-time Chairperson to both the Child Support and Disability Appeal Tribunals.

Mr Brian Garrett qualified as a solicitor in 1962 and is a consultant with Elliott Duffy Garrett (Solicitors, Belfast). He has been a Deputy County Court Judge and is Chairman of the Northern Ireland Teachers' Salaries and Conditions of Service Committee and a qualified arbitrator. He has previously held appointments as Deputy Chairman of the Northern Ireland Independent Commission for Police Complaints and was a member of the Standing Advisory Commission on Human Rights and the Department of Trade and Industry Arbitration Law Committee.

Mr John Leckey qualified as a solicitor in 1974 and is presently the Senior Coroner for Northern Ireland. From 1996 to 2001, he served as a member of the Criminal Cases Review Commission, which considers allegations of miscarriage of justice in England, Wales and Northern Ireland.

Mr Donal McFerran is a qualified solicitor who practised as partner in a litigation firm in Belfast. He has served as a Deputy Resident Magistrate, and was appointed a Deputy County Court Judge in 1990 and is a legal member of the Mental Health Tribunal. Since 2001, he has also served as a Sentence Review Commissioner.

Ms Clodach McGrory practised at the Bar in Northern Ireland from 1990 to 1995 and subsequently worked at the Law Centre (NI). She was a member of the Standing Advisory Commission on Human Rights from 1998 to 1999 and served a term of office on the Irish Human Rights Commission from December 2000 until August 2006. She is currently a part-time Chairperson of Social Security Appeal Tribunals and has been a Sentence Review Commissioner since 1998.

Judge Derek Rodgers qualified as a solicitor in 1973 and was appointed as a District Judge in 1989 and a County Court Judge in 1997. He is a member of the Legal Advisory Committee of the Church of Ireland and Chancellor of the Diocese of Connor. He holds positions with a number of voluntary organisations.

Professor John Jackson is Dean of the School of Law at University College Dublin and a qualified barrister. He was previously Professor of Law at Queen's University Belfast and has taught at University College Cardiff, the City University, London and the University of Sheffield. He has held visiting professorships at Hastings College of Law,



University of California and the Faculty of Law, University of New South Wales and was a Fernand Braudel Senior Fellow at the European University Institute in 2007 – 2008. From 1998 to 2000 he was an Independent Assessor for the Northern Ireland Criminal Justice Review.

Professor Herbert Wallace OBE is a legal academic and Professor Emeritus at the Queen's University of Belfast. He was formerly Vice-Chairman of the Police Authority for Northern Ireland and since 2002 has served as a statutory adjudicator on the Criminal Injuries Compensation Appeals Panel for Northern Ireland.

Honourable Mr Justice Stephens was called to the Bar of Northern Ireland in 1977 and took silk in 1996. He was appointed as a deputy County Court judge in 1998 and a High Court Judge in 2007. He has been a senior member of the Government Civil Panel of Counsel since 2004 and a member of the Panel of Arbitrators of the Motor Insurers' Bureau since 2005. He has held several other positions including Member of the Direct Professional Access Committee of the Bar of Northern Ireland and Assistant Editor of the Northern Ireland Law Reports.

Judge Patrick Lynch QC was called to the Bar of Northern Ireland in 1975 and made Queens Counsel in 2000. In 2004 he was appointed as a County Court Judge.

Judge Kevin Finnegan QC was called to the Bar of Northern Ireland in 1973 and took Silk in 1986. He has been Emeritus Bencher of The Inn of Court of Northern Ireland since 1995 and was appointed as a County Court Judge in 2001.

Ms Christine Glenn qualified as a barrister in 1980. She was the Justices' Chief Executive in the Inner London Magistrates' Courts Service until 2001 and Chief Executive of the Parole Board for England and Wales from 2001 until March 2009. She is an Immigration Judge and a Parking and Traffic Adjudicator. She is a member of the Thames Valley Courts Board and Deputy Chair of the London and Royal Courts of Justice Audit and Risk Committee. She is also a trustee of a national employment charity, Tomorrow's People. She is assisting the Foreign and Commonwealth Office on parole issues in some of the British Overseas Territories, including the British Virgin Islands, the Cayman Islands and Anguilla.

Mr Paul Mageean qualified as a solicitor in 1991 and was originally in private practice. In 1995 he joined the Committee on the Administration of Justice as their Legal Officer during which time he successfully brought a number of cases to the European Court of Human Rights. He was Head of the Criminal Justice Secretariat of the Court Service from 2004, and joined the Criminal Justice Inspection Northern Ireland in 2005 before taking up his current post as Director of the Graduate School for Professional Legal Education at the University of Ulster in 2008.

Mr Jeremy Mills qualified as a solicitor in 1990. He spent 15 years with a firm of corporate solicitors in Belfast and was a partner for 10 years. In 2007 Jeremy was appointed a part time Legal Chairman of the Northern Ireland Valuation Tribunal and in 2008 he was also appointed to the Department of Agriculture and Rural Development's Independent Review of Decisions Panel. He joined the Board of Bryson Charitable Group in 2008 as a non executive Director. In 2009 he was appointed to Roads Service's panel of Public Inquiry Inspectors.

Commissioners from a Psychiatry and Psychology Background

Dr Ruth Elliott is a retired Consultant Clinical Psychologist. She was Clinical Psychology Services Manager at Belfast City Hospital and served on the Mental Health Commission for over seven years, latterly as Vice-Chairman. She is a Chartered Clinical Psychologist, an associate fellow of the British Psychological Society, and a member of the Northern Ireland Division of Clinical Psychology.

Dr Adrian Grounds is an Honorary Research Fellow at the Institute of Criminology, University of Cambridge. Prior to retirement he was a University Senior Lecturer at the Institute and Consultant Forensic Psychiatrist in the Cambridgeshire and Peterborough NHS Foundation Trust. He has also been a Sentence Review Commissioner since 1998.

Professor Peter Hepper is a Professor of Psychology, and currently is the Head of the School of Psychology, Queen's University Belfast. He is Chair of the Irish Football Association's Appeal Committee. He is a Chartered Psychologist and a Fellow of the British Psychological Society and has been Visiting Professor at Kyushu University, Japan, and University New South Wales, Australia.



Dr Damien McCullagh is a Consultant Clinical & Forensic Psychologist within the Mental Health and Learning Disability Directorate of the Southern Trust (2000-present). He is a Chartered member of the British Psychological Society. He has previously worked as a Principal Psychologist with the Northern Ireland Prison Service where he had primary responsibility for providing psychological risk assessments on Life Sentence Prisoners to the Life Sentence Review Board (1997-2000). He previously held posts in Adult and Child Psychology Services in the Republic of Ireland and with Sperrin Lakeland Health and Social Services in Omagh (1989-1997). Dr McCullagh is an Honorary Lecturer in Forensic Risk Assessment at Queen's University, Belfast. He is also an Association of Chief Police Officers (ACPO) accredited Behavioural Investigative Advisor. He has previously been the Chairman of the Board of Governors of Drumragh Integrated College in Omagh from 1995-2005.

Dr Oliver Shanks is a retired Consultant Psychiatrist in Learning Disability who specialised in forensic psychiatry. He is a member of the Royal College of Physicians, a fellow of the Royal College of Psychiatrists and was a member of The Mental Health Commission from 1996 until 2005. He was an Honorary Clinical Lecturer in Mental Health at Queen's University, Belfast and is currently a member of the Boards of EXTERN and PRAXIS.

Dr Micaela Greenwood is an independent business psychologist and management consultant. Her previous positions include Principal Occupational Psychologist with the Police Service of Northern Ireland and Associate Director of the MSc in Occupational Psychology at the Queen's University of Belfast.

Mrs Deborah McQueirns is a Registered Psychologist and Principal Chartered Forensic Psychologist and Chartered Scientist in HMPS High Security Estate. She is an associate fellow of the British Psychological Society, Division of Forensic Psychology. Her previous positions include Principal Psychologist of a female Prison in England and consultant psychologist in learning disability and mental health in private healthcare. She specialises in the assessment and management of risk of offenders.

Mr Emmet Murray is a Chartered Forensic Clinical Psychologist currently working in the area of Mental Health. He was previously a Principal Psychologist with the Northern Ireland Prison Service and has also worked as a Behavioural Investigative Advisor with Centrex, now the National Policing Improvement Agency.

Dr Shelagh-Mary Rea is a Consultant Psychiatrist and retired from the Western Health and Social Care Trust in Northern Ireland in 2010. She had worked as the Old Age Psychiatrist for the Northern Sector of the Trust for twenty-two years. She also has specialist status in General Adult Psychiatry and is a Fellow of the Royal College of Psychiatrists. She is currently a medical member of the Regulation and Quality Improvement Authority.

Dr Adrian East is the Consultant Forensic Psychiatrist to the Southern Health and Social Care Trust. He is a fully registered medical practitioner and a member of the Royal College of Psychiatrists. He specialises in the assessment and management of mentally disordered offenders.

Commissioners from Other Backgrounds

Professor Andrew Sanders is a Professor of Criminal Law and Criminology at the University of Birmingham, and Head of the School of Law, having previously held similar posts at the University of Manchester. Prior to that, he held the post of Deputy Director of the Centre for Criminological Research at the University of Oxford. His current research is focused on the role of victims in the criminal justice process and he is the author of several criminal justice publications. He was a member of the Parole Board for England and Wales for several years, and is a member of the Criminal Justice Council.

Mr Nigel Stone has been Senior Lecturer in Criminology and Criminal Justice at the University of East Anglia since 1979. Until 1997 he also served in the Probation Service for 25 years, holding a joint appointment as Probation Officer and Head of the Home Office sponsored training programme for probation students at East Anglia. He was a criminologist member of the Parole Board for England and Wales 1997-2007 and was re-appointed to the Board in 2010.



Mr Stephen Murphy CBE is a former Director General of the National Probation Service for England and Wales, prior to which he was Chief Probation Officer in Hampshire and then Northumbria. He was a member of the Parole Board for England and Wales from 1995 to 2005 and from 2010 to date, and is a former member of the Local Review Committee at HMP Wandsworth. He works internationally as a consultant in criminal justice and home affairs, and is Chair of the Board of Your Homes Newcastle Ltd, and a non-executive director of its subsidiary development company, Leazes Homes Ltd.

Mrs Elaine Peel is a former Assistant Chief Probation Officer with the Probation Board for Northern Ireland and in that capacity acted as Chairperson of the Criminal Justice sub-committee on Domestic Violence and Director of the National Community Justice Training Organisation.

Mrs Alexandra Delimata is a self-employed consultant who works primarily with community groups, enterprises and small businesses in North West Ireland. Until 2004, she was Corporate Secretary of The Travel Partnership Corporation, an international consortium of travel associations. Prior to relocating to Ireland in 2001, she was Assistant Director, Corporate Development, for the International Air Transport Association (IATA) in Geneva.

Mrs Ruth Laird has over 25 years experience in human resource management and organisational development in the public, private and voluntary sectors. She was formerly Director of the National Trust NI, Head of Personnel for BBC (NI) and a Fair Employment Commissioner. She is currently a member of the NI Judicial Appointments Commission; a Civil Service Commissioner for NI; a member of the HPSS Regulation and Quality Improvement Authority and a non-executive Director of the NI Transport Holding Company. She is also a member of the Council of the University of Ulster.

Mr Stephen Leach CB is a retired senior civil servant. He was Director of Criminal Justice in the Northern Ireland Office and Chair of the Northern Ireland Criminal Justice Board from August 2000 until the start of 2009. Before that, he held a range of other posts in the NIO and other Departments. He has been a Non-Executive Director of the Northern Ireland Health and Social Care Board since April 2009.

Ms Mollie Weatheritt was, until 2008, a member of the Parole Board for England and Wales where she also served as Director of Quality and Standards. She has a background in research on criminal justice, focusing on policing. She is a member of the Conduct and Competence Committee of the Nursing and Midwifery Council, a member of the General Teaching Council's Casework Committee and a member of the Independent Monitoring Board at HMP Pentonville.

Mr Thomas Craig is a retired Assistant Chief Constable with over 35 years experience of policing in Northern Ireland. He was appointed Regional Commander of South Region in 1998 and had previous experience in a number of headquarter support roles.

Dr Duncan Morrow is Chief Executive of the Community Relations Council (CRC). The Council has responsibility for supporting and developing inter-community and inter-cultural engagement in Northern Ireland and also supports work in the rest of Ireland in conjunction with Border Action, the European Union and the International Fund for Ireland. Since 2002 CRC has also taken a lead role to support Victims and Survivors of violence of the troubles. Dr Morrow was previously a lecturer in Politics at the University of Ulster, a Director of the Future Ways Programme and is currently a Sentence Review Commissioner.

Dr Patrick McGrath retired in 2002 from the NHS after 30 years service as a General Practitioner and now continues in regular clinical practice as a Forensic Physician in Antrim. He teaches Medical Ethics and Law at the University of Ulster as a visiting Professor. In addition, Dr McGrath serves as Chairman of the Northern Ireland Association of Forensic Medical Officers and in 2006 was elected a Foundation Fellow of the Faculty of Forensic and Legal Medicine of the Royal College of Physicians.

Miss Linda McHugh is a Management Consultant and Vice-Chair of Community Housing Association. She is also a Trustee of a number of voluntary sector organisations including Nacro, the crime reduction charity.

She was an Independent Member of the Parole Board for England and Wales from 2002 until 2009 and was a non-executive member of its Management Board and Chairman of its Audit and Risk Management Committee.



2

The Work of the Commissioners

Structures and Communication

The Parole Commissioners have a responsibility to ensure that they adhere to the principles of best practice in governance. With the increase in the number of Parole Commissioners and the drive for greater efficiency, it was decided to review the decision making arrangements for the Parole Commissioners which had evolved over the years since the Life Sentence Review Commissioners were first appointed in 2001.

In June 2009 the Parole Commissioners appointed a Pro Tem Executive Committee designed to breach the gap between the annual Plenary meeting of all Commissioners. In January 2011 the terms of reference of this group were revised and the Pro Tem was renamed the Advisory Committee.

Function of the Advisory Committee

The Advisory Committee was designed to be a mechanism by which the Chief Commissioner will be advised by the Parole Commissioners on issues relevant to their functions.

The membership is drawn equally from the three disciplines of Parole Commissioners, namely:

- legal commissioners;
- psychologists and psychiatrists; and
- those from other disciplines.

Each Commissioner appointed will serve as an advisory member for two years.

Elections to replace three Commissioners who had just completed their first period in office were carried out during March 2011. The new Commissioners will take up their appointments to the Advisory Committee on 1 April 2011.

The Committee will meet quarterly.

User Group

The 'User Group', the purpose of which is to discuss matters of mutual interest and provide a forum for discussion on the operational issues aimed at improving the systems, met on four occasions during this reporting year. The group, chaired by a legally qualified Commissioner, includes members of the relevant Criminal Justice organisations and members of the legal profession.

Matters such as case listings, dossier format, hearing venues and the use of acronyms and jargon were discussed throughout the year and clarification given where appropriate. Explanations in relation to the availability of programmes for prisoners and the offender management process were found to be very useful and discussion around the development of Prisoner Guides benefited from the input of members.

The User Group provided a valuable forum for the free discussion of matters relating to the work of the Commissioners. This has been of assistance to those involved in the process in clarifying issues and in developing good working practices in an open forum involving representatives of prisoners as well as those involved in the management and care of prisoners.

Policy and Procedures

The Commissioners continue to consider the release and recall of life sentenced prisoners and now, following the commencement of the Criminal Justice (Northern Ireland) Order 2008 (CJO), they are also responsible for considering the release and recall of public protection sentenced prisoners and the recall and release of determinate custodial sentenced prisoners.

This has seen a hugely significant increase in the number and types of cases which the Commissioners are now dealing with and has required them to look at the established policies and procedures as well as training requirements to perform their statutory functions.

Throughout the past year the Commissioners have made extensive changes to their policies and procedures to reflect the outworkings of the CJO. The policies/interim policies, guidance papers and Prisoners Guides developed during the year are listed below:

Policies
Standards
Information Security
Structures
Confidential information in Pre-Tariff Expiry References
Anonymising Decisions
Psychology Reports
Interim Policy on Variation of Time
Recall Cases
Interim Policy on Licence Conditions
Interim Policy on Summary Recall of Prisoners Released on Licence
Processing of DCS Cases
Chief Commissioner's Guidance
General Guidance on Procedure
Licence Conditions
Psychology Evidence
DCS Recall Cases
Third Party Representations
Review of Recall in DCS cases
Recall where the Prisoner is in Custody in Respect of an Offence
Summary Recall Recommendations
Deputy Chief Commissioner's Guidance
Mentoring
Pre-Tariff Expiry Interviews
Prisoners' Guides
Life Prisoner Guide
ECS Prisoner Guide
ICS Prisoner Guide
Pre-Tariff Guide for Prisoners
Guide for DCS Prisoners on the Hearing Process / Oral Hearing
Guide for ECS Prisoners who have been Recalled



The introduction of these policies and guides has necessitated the allocation of substantial resources being devoted to the training of the Commissioners to ensure that their working knowledge of the relevant legislation is constantly maintained. Further training is being scheduled to take place in the forthcoming year.

Commissioners continue to maintain their knowledge of current jurisprudence and meet, when required, to discuss the implications of relevant judgments delivered in the United Kingdom and beyond.

The step-by-step guides for prisoners sentenced under the various statutory provisions are available for downloading from the Commissioners' website.

Training

Following the commencement of the Criminal Justice legislation in 2008, the work to deliver on the new sentencing framework continues. This year has seen a heavy commitment to the Training and Development, of not just the new Commissioners, but also the existing Commissioners who were new to the CJO sentencing framework.

It is envisaged that this level of training will continue and be augmented by refresher training as the new legislation works through.



Commissioners attending February Training Event in Hillsborough Castle.

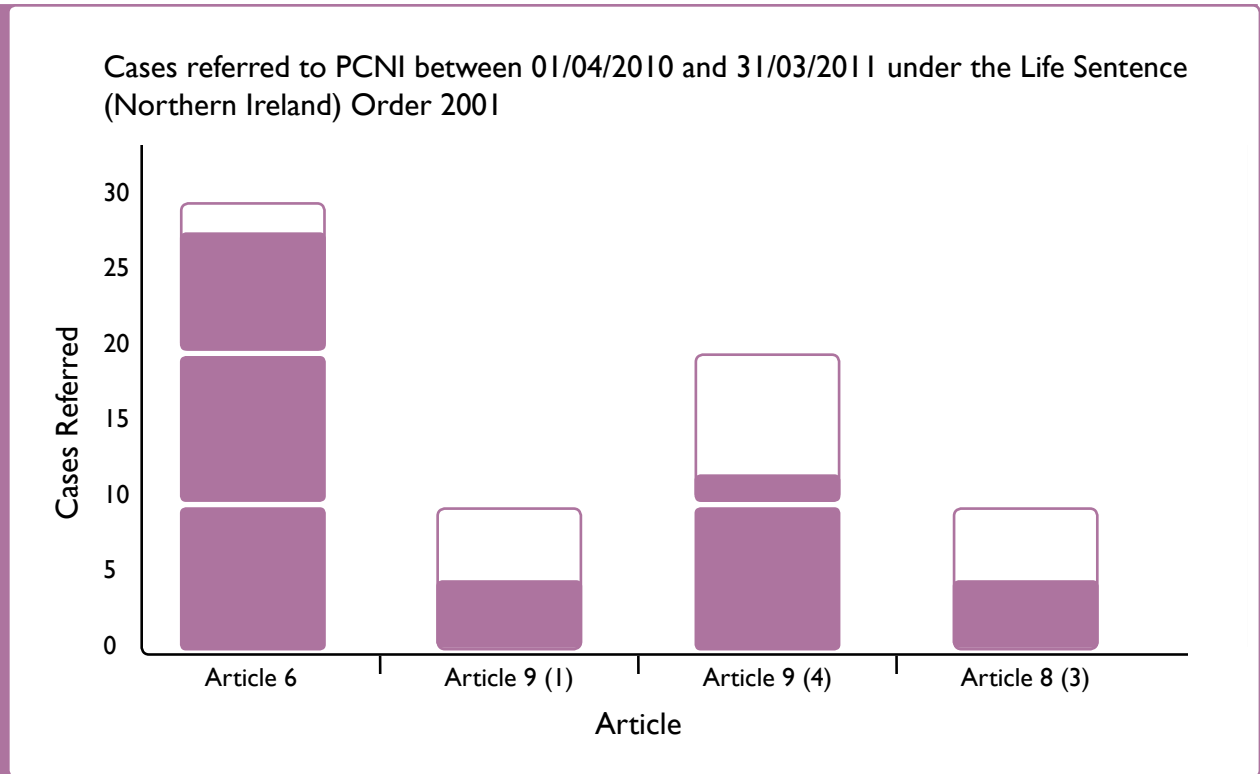
3 Casework

During the year the volume of work of the Commissioners was determined by the number of cases referred to them in accordance with the provisions of the Life Sentences (Northern Ireland) Order 2001 and the Criminal Justice (Northern Ireland) Order 2008.

During the period of this report, cases were referred and processed as follows:

Life Sentence Order (Northern Ireland) Order 2001

- Article 6, release of life sentenced prisoners – 28 cases referred.
- Article 9(1), recommendation for recall – 5 cases referred.
- Article 9(4), review of recall – 12 cases referred.
- Article 8(3), recommendation to amend, vary or cancel a life licence – 5 cases referred.



Criminal Justice (Northern Ireland) Order 2008

- Article 18, release of ICS/ECS prisoners – 23 cases referred.
- Article 46 (3), pre-tariff review – 17 cases referred.
- Article 28 (2) (a), recommendation for recall – 45 cases referred.
- Article 28 (4), review of recall – 35 cases referred.
- Article 24(5) consultation on licence conditions – 2 cases referred.

Cases referred to PCNI between 01/04/2010 and 31/03/2011 under the Criminal Justice (Northern Ireland) Order 2008

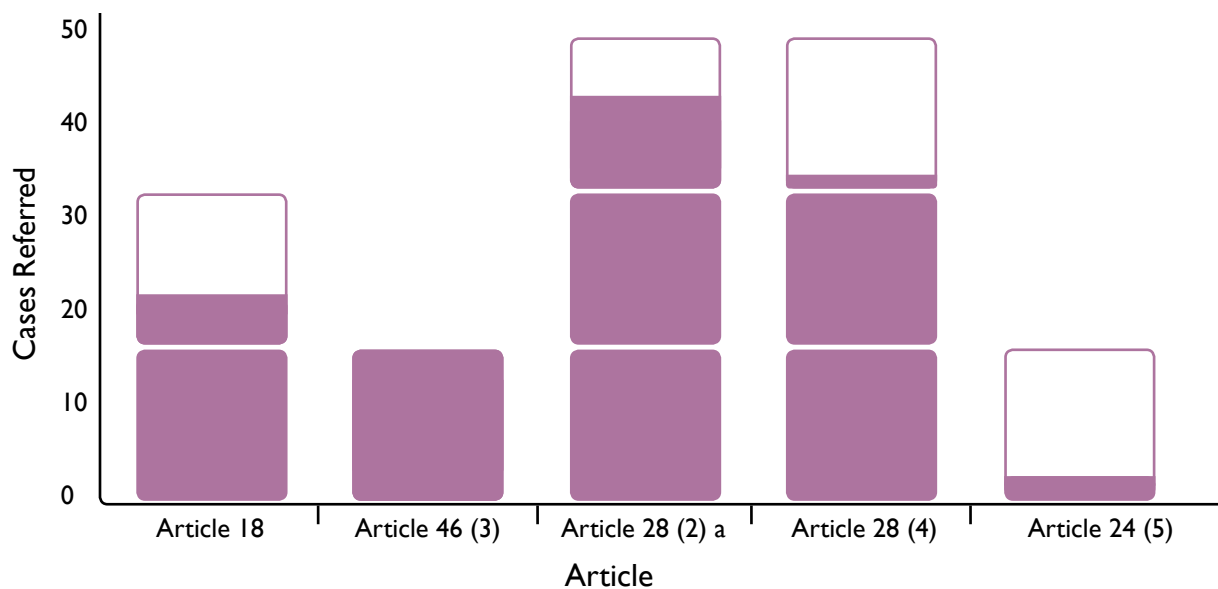


Table I: Breakdown of work at the end of each quarter and the total cases processed in the year.

Cases Processed In-Year

Life Sentence (Northern Ireland) Order 2001

Cases Processed In-Year - Article 6	
Referred for Decision on Release under Article 6	
<ul style="list-style-type: none"> • 18 cases were carried over from the previous year • 28 new cases referred. 	
Of the 46 cases 33 were completed	
Releases Directed	10
Releases Not Directed	23
Not proceeded with/Withdrawn	1 Deceased
Cases Pending	12 cases are pending and are due to be heard in the 2011/12 financial year.

Cases Processed In-Year – Article 8 (3)	
Referred for consultation on cancellation of Licence Conditions under Article 8(3)	
<ul style="list-style-type: none"> • 5 cases were referred during 2010/11 	
Recommendations Given	
Condition varied	1
Additional Licence Condition	1
Licence Cancelled	1
Variation Refused	1
Cases Pending	1 case is pending and is due to be heard in the 2011/12 financial year



Cases Processed In-Year - Article 9 (1)

Referred for Advice on Recall under **Article 9(1)**

- 5 cases were referred during 2010/11

Recall Recommended	5
Recall Not Recommended	0
Cases Pending	0

Cases Processed In-Year – Article 9 (4)

Referred for Decision on Revocation of Licence under **Article 9 (4)**

- 5 cases were carried over from the previous year
- 12 cases were referred during 2010/11

Of the 17 cases 9 cases were completed

Licence Confirmed	2 (release)
Licence Revoked	6 (not release)
No jurisdiction	1
Cases Pending	The remaining 8 cases are due to be heard in the 2011/12 financial year

Criminal Justice (Northern Ireland) Order 2008

Cases Processed In-Year - Article 18

Referred for Decision on Release under **Article 18**

- 5 cases were carried over from the previous year
- 22 cases were referred during 2010/11

Of the 27 cases 15 cases were completed

Releases Directed	2
Releases Not Directed	10
Withdrawn	2
No jurisdiction	1
Cases Pending	The remaining 12 cases are due to be heard in the 2010/11 financial year.

Cases Processed In-Year - Article 46(3) – pre-tariff

Referred for pre-tariff expiration review under **Article 46(3)**

- 7 cases were carried over from the previous year
- 15 cases were referred during 2010/11

Of the 22 cases 19 were completed

Pre-tariff expiration recommendation given	19
Cases Pending	The remaining 3 cases are due to be completed in the 2011/12 financial year.

Cases Processed In-Year - Article 28 (2) (a)

Referred for Advice on Recall under **Article 28 (2) a**

- 45 cases were referred during 2010/11

Recall Recommended	37
Recall Not Recommended	8
Cases Pending	0

Cases Processed In-Year - Article 24 (5)

Referred for consultation on licence conditions under **Article 24 (5) a**

- 2 cases were referred during 2010/11

Referred	2
Cases Pending	0

Cases Processed In-Year - Article 28 (4)

Referred for Advice on Recall under **Article 28 (4)**

- 1 case carried over from the previous year
- 35 cases referred

Of the 36 cases 16 cases were completed

Not Released	11
Release	3
Withdrawn	1
Out of time at SLED	1
Cases Pending	Case due to be heard in the 2011/12 financial year
	20

4 Staff and Resources

For most of the year covered by this report, the Commissioners have been supported and advised by a Secretariat comprising the Secretary to the Commissioners and a team of twelve staff.

During the first half of the year, the Commissioners' Secretariat occupied accommodation on the 5th floor of Windsor House, Belfast. Due to the expansion of the office and hence a lack of space, they moved accommodation on the 14th October 2010 and are now located on the 9th floor of Linum Chambers, Belfast.

The Secretariat also support the work of the Sentence Review Commissioners appointed under the Northern Ireland (Sentences) Act 1998, who occupy the same accommodation.

Expenditure incurred by the Department of Justice in providing for the work of the Commissioners in the year ended 31 March 2011 was:

	2008/09 (£000)	2009/10 (£000)	2010/11 (£000)
Commissioners' Remuneration	182	324	527
Commissioners' Travel, Accommodation and Expenses	26	19	59
Legal Costs	184	119	0
Premises	58	77	179
General Administration	54	75	166*
Staff Salaries etc	207	279	399
Total Expenditure	£711	£893	£1330

* Included the cost of refurbishment of the new accommodation



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