

**MINUTES OF THE PLENARY MEETING OF THE LIFE  
SENTENCE REVIEW COMMISSIONERS HELD ON THURSDAY 11  
MARCH 2004**

*Commissioners:*

Mr Peter Smith QC	Mr Donal McFerran
Mr Thomas Craig	Dr Patrick McGrath
Dr Ruth Elliott	Ms Clodach McGrory
Mrs Anne Fenton	Dr Duncan Morrow
Mr Brian Garrett	Mr Stephen Murphy
Dr Ronald Galloway	Mrs Elaine Peel
Dr Adrian Grounds	Mrs Elsbeth Rea
Prof Peter Hepper	Judge Derek Rodgers
Prof John Jackson	Mr Nigel Stone
Mr John Leckey	Prof Herbert Wallace
Dr Damien McCullagh	

*Secretariat:*

Mr Brian McCready  
Mrs Sheena McKittrick

*Apologies:*

Ms Teresa Doherty  
Prof Andrew Sanders  
Mrs Mary Gilpin  
Dr Oliver Shanks

1. The minutes of the last meeting were confirmed.
2. A draft Publication Scheme, as required under the Freedom of Information Act, would be produced for the next plenary. As part of that scheme, an abridged version of the minutes for approval for publication on the Commissioners' website would also be produced.
3. The revised Guidance Notes for prisoners had been sent to the Prison Service and Probation for consultation, and would now also be sent to NIACRO and EXTERN for their comments.
4. Commissioners agreed that no corporate response should be made to the Prison Service about the consultation paper on mandatory minimum terms, but that all were at liberty to make a personal response.
5. Commissioners were updated on the current caseload, and told that no cases had been referred since the previous meeting.
6. One panel Chairman explained to Commissioners that in one of his cases he had taken the decision to adjourn the case for a specific period as opposed to refusing release and reviewing after that same period as this allowed him to give directions as opposed to just making recommendations. However, since the oral hearing, only two of his five directions had been implemented so it had not achieved what he had hoped for. It was agreed that this course of action should be discussed further at the next Legal Group meeting.
7. At a recent oral hearing, instead of the expected solicitor, an unqualified law student had been sent to represent the prisoner instead. It was agreed that if the expected representative does not appear, the replacement should simply be

- asked if they are legally qualified. If they are not, the panel should be informed and the Chairman should raise the matter with the prisoner, who may be expecting to be represented by a legally qualified person. Their response should be noted, since it might have a bearing on Legal Aid matters.
8. Commissioners heard a report from the Legal Group in which they were told that the new Lord Chief Justice intended fixing tariffs soon and would be holding oral hearings to do so. The Trial Judge would also be present if possible. The Group had agreed that Commissioners would hold to the policy they had already adopted on non-tariff cases, and that they would process whatever cases are referred to them. However, in light of the LCJ's plans, it was unlikely that any more of these cases would come up.
  9. Commissioners heard a report from the Rules Revision group in which the thinking behind the suggested changes to various particular rules was explained. Commissioners have one month in which to comment on the proposed changes. The group also agreed to look at the Order to consider any changes required. Commissioners were told that the "separation" of prisoners in HMP Maghaberry could lead to information certified as "damaging" by the Secretary of State being included in some LSRC cases in the future. The Sentence Review Commissioners already had a methodology for handling such information, and had agreed that this should be made available to the Group.
  10. Commissioners heard a report from the Complaints Procedure group confirming that the tabled procedure was based on the Parole Board model. The procedure covered complaints against all sections and levels of the LSRC. Commissioners have one month to comment on the proposed procedure, but in the meantime it will be used as the working model.
  11. Commissioners heard a report from the Licence Conditions group. They would be proposing that the group stay in existence so that the document can evolve in line with changes in case law and procedures. Commissioners have one month to comment on the proposed conditions but in the meantime the list of standard conditions was adopted as policy and the suggested list of non-standard conditions will be used as the working model. It was agreed that the list of standard conditions should be attached to the Guidance Notes for prisoners as an appendix and that the subject of conditions, and the consequences of breaching them, should be covered in the body of the Guidance Notes. A paragraph would be produced for consideration at the next plenary. A paper would also be produced on the question of how conditions could be applied to "separated" prisoners as Probation do not get involved in the supervision of paramilitaries.
  12. The Chairman outlined the policy that had been adopted for 3-year pre-tariff expiry referrals but, as Commissioners had been advised of the pitfalls of being too prescriptive in their recommendations, he undertook to change the wording to reflect this. It was agreed that a meeting should be scheduled with Prison and Probation Services to set up the protocols needed for these referrals. Approximately seven such cases were currently in the pipeline so this meeting would need to be held as soon as possible.
  13. Commissioners were told that the Secretary of State's View on release had been abolished in all cases. All reports would now contain an opinion by the author, indicating whether or not the prisoner was safe to release.
  14. The Chairman told Commissioners that the case of *Brooks v Parole Board* had raised two important issues: the issues of best evidence, and of issuing a

subpoena in respect of a witness. Both of these are points arise in a case in which he is panel Chairman. The Legal group would consider the implications of the case and bring their findings to the next plenary.

15. Commissioners agreed that the review meeting with Prison and Probation Services had been very informative. However, they were concerned that the separation of prisoners recommended in the Steele report would have an adverse impact on the regime and management of ordinary life sentence prisoners. The lack of available courses raised the level of risk and therefore had consequential impact on the work of the Commissioners. While everyone needed to face the reality of scarce resources, if it impacted on both liberty and risk there had to be a mechanism for addressing this and Commissioners should reserve the right to be prescriptive in circumstances where they saw fit.
16. Concerns were expressed that if the case of a "separated" prisoner were referred for consideration the dossier would not be complete, as paramilitary prisoners do not engage with the authors of the required reports. The Chairman undertook to write to the Prison Service seeking a meeting to discuss the problems associated with the separated regime.
17. Commissioners were told that the site visits that had been promised by the Prison Service had never taken place because of operational difficulties and security problems. The Secretary would approach the Prison Service again to see if they would be able to accommodate the visits in the near future.
18. As it would be useful for the Psychology/Psychiatry group to have access to the current professional thinking on accredited courses and/or medical research the Secretariat undertook to circulate relevant papers as required.
19. Commissioners would also have to consider how to deal with prisoners who seemed likely to be confined indefinitely. This would be discussed at the next Legal group meeting.
20. The date of the next meeting was confirmed as Thursday 10 June.

Secretariat

19 March 2004

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## **MINUTES OF THE PLENARY MEETING OF THE LIFE SENTENCE REVIEW COMMISSIONERS HELD ON THURSDAY 10 JUNE 2004**

<i>Commissioners:</i>	Mr Peter Smith QC	Dr Damien McCullagh
	Mr Donal McFerran	Dr Patrick McGrath
	Mr Thomas Craig	Dr Oliver Shanks
	Dr Ruth Elliott	Dr Duncan Morrow
	Mrs Anne Fenton	Mr Stephen Murphy
	Mr Brian Garrett	Mrs Elaine Peel
	Dr Ronald Galloway	Mrs Elsbeth Rea
	Dr Adrian Grounds	Judge Derek Rodgers
	Prof Peter Hepper	Mr Nigel Stone
	Prof John Jackson	Prof Herbert Wallace
	Mr John Leckey	Mrs Mary Gilpin

*Secretariat:* Mr Brian McCready

Mrs Deirdre McMahon

*Apologies:*

Ms Teresa Doherty  
Prof Andrew Sanders  
Ms Clodach McGrory

1. The minutes of the previous meeting were confirmed.
2. Commissioners were updated on the current caseload, and told that no cases had been referred since the previous meeting.
3. The summary document of Commissioners' policies was agreed with one minor amendment.
4. In addition, the policy was adopted that, in general, a fresh panel should be appointed each time a case comes up for review. However, this might not always be appropriate and the Chairman of the Commissioners would make the final decision.
5. The Commissioners' draft Publication Scheme met the requirements of the Freedom of Information Act and was adopted as policy and should be submitted to the Information Commissioners for formal approval.
6. As the process for the 3 year pre-tariff expiration review was administrative rather than statutory, Commissioners accepted that it was a matter for the Secretary of State to determine how it should operate. They would however expect their views to be taken into account before prisoners were formally advised about the procedures. It was agreed that the 3year pre-tariff expiration interview should follow the practice adopted by the Parole Board in England and Wales and be conducted on a one-to-one basis. A group of multi-disciplinary Commissioners should convene to devise a procedure for handling confidential material in both reviews and formal hearings.
7. Commissioners heard a report from the Licence Condition sub-Group advising that licence conditions set by the Commissioners are recommendations to the Secretary of State, who does not have to accept them but he cannot vary or set new conditions. Commissioners It was agreed that the operation of licence conditions should be kept under review, and for that purpose the sub- group should remain in existence.
8. Commissioners heard a report from the Rules Revision group in which they outlined the changes that they proposed should be made to the Rules.
9. Commissioners heard a report from the Complaints Procedure group indicating in which they were told that Commissioners' their comments would be incorporated in a further draft that would then go to the next Plenary for approval. In the meantime, the outline procedures would be followed if the need arose.
10. It was agreed that arrangements should be made with the Prison Service to facilitate Site Visits for Commissioners in the autumn.
11. It was confirmed that all professional reports should include a Release Management Plan, even those in which the writer did not consider release to be appropriate at the time. This would avoid any suggestion that report writers were, as they could not pre-judging the panel's decision.
12. Commissioners considered formally raising with the Secretary of State their concerns about the continuing absence of appropriate rehabilitative facilities in the NI Prison Service estate with the Secretary of State. However, as the

Criminal Justice Directorate of the Northern Ireland Office is currently working on a new initiative in this area it was decided not to raise the matter proceed at this time.

13. The date of the next meeting was confirmed as Thursday 9 September 2004.

**Secretariat**  
**14 June 2004**

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**MINUTES OF THE PLENARY MEETING OF THE LIFE SENTENCE  
REVIEW COMMISSIONERS HELD ON THURSDAY 9 SEPTEMBER 2004**

*Commissioners:* Mr Peter Smith QC; Dr Damien McCullagh; Mr Thomas Craig; Mr Donal McFerran; Ms Teresa Doherty; Dr Patrick McGrath; Dr Ruth Elliott; Ms Clodagh McGrory; Dr Ronald Galloway; Mrs Elaine Peel; Mr Brian Garrett; Mrs Elsbeth Rea; Mrs Mary Gilpin; Judge Derek Rodgers; Prof John Jackson; Dr Oliver Shanks; Mr John Leckey; Prof Herbert Wallace

*Secretariat:* Mr Brian McCready; Mrs Sheena McKittrick

1. *Apologies:* Mrs Anne Fenton; Mr Stephen Murphy; Dr Adrian Grounds; Prof Andrew Sanders; Prof Peter Hepper; Mr Nigel Stone; Dr Duncan Morrow
2. The minutes of the meeting held on 10 June 2004 were confirmed.
3. Commissioners who had visited HMP Maghaberry the previous day said that their visit had been very informative and it was agreed that a letter of thanks should be sent to the Governor.
4. Commissioners discussed a particular case in which there were ongoing problems in securing Legal Aid and agreed that although it was a difficult problem to resolve, they had to be proactive and do all they could to progress the case. If the matter was not resolved in the next few weeks, the Panel Chairman might consider it appropriate to write directly to the Head of the Legal Services Commission.
5. The Commissioners' Legal Group had considered whether the Probation Service should be asked to provide a Risk Management Plan and possible licence conditions in all cases, even where the report writer was not recommending release. A sub-group had been convened to address the feasibility of this issue and would be meeting with PBNI shortly.
6. Commissioners were given copies of a guide that the Prison Service had recently issued to prisoners on the subject of 3-year pre-tariff expiration reviews, and were asked to forward any comments they had on it to the Secretariat who would take them up with the Prison Service.
7. The first pre-tariff review had already been referred and although the procedure for handling these cases was not covered by the Rules, a panel had been appointed and a case timetable had been drawn up
8. The Prison Service had provided a dossier, a copy of which had been sent to the prisoner. The prisoner had subsequently been interviewed and a report produced of the interview. This was also sent to the prisoner.
9. It was agreed that the Commissioner who had conducted the interview should be invited to hold a training session in interviewing and report writing for those Commissioners who would be required to conduct similar interviews in future.

10. The Chairman said that a few amendments were still required to the draft Complaints Procedure and that a final version would be circulated in due course.
11. A study of the Commissioners' Rules would commence in the autumn to consider any changes that may be required to the drafting in order to make their intention clearer and more workable.
12. Commissioners agreed that in a case where the index offence had paramilitary connections, and where the Panel was minded to release, there would need to be a licence condition that specifically precluded the prisoner from further involvement. The text for such a condition would also be discussed with PBNI at the upcoming meeting.
13. As the Board of Prison Visitors was interested in the work of the Commissioners, it was agreed that an invitation could be extended to the next plenary meeting. However, since there were so many of them, and assigned separately to different Prison Establishments, it was agreed that if they would like to invite a Commissioner to address one of their meetings within that establishment then that could be easily arranged.
14. Commissioners heard that there had been a referral under Article 7(2) of the Order, which says that the Secretary of State can release a prisoner on compassionate grounds at any time so long as he consults the Commissioners first. Although the Commissioners are consulted, the final decision lies with the Secretary of State.
15. These cases are not governed by the Rules, but a panel had been appointed to deal with the case, and had met to consider the material provided by the Prison Service.
16. The Panel took the interim view that the consideration of "compassionate" was not for the Commissioners and that they should consider only the issue of risk. It would then be for the Secretary of State to decide in light of what the Commissioners had said.
17. In due course a policy statement would be produced on this type of case so that it would be available for any similar referrals.
18. Commissioners had recently been asked to consider the cancellation of conditions attached to the licence of a long-term licensee. It was agreed that the policy for handling such cases should be to appoint a panel in the usual way, which would meet and decide if they needed to seek additional first hand information from the Probation Service, adjourning as necessary to facilitate this.
19. It was agreed that the paper on vulnerable witnesses that had been circulated should be adopted as policy.
20. The date of the next plenary was confirmed as Thursday 9 December.

## **Secretariat**

**15 September 2004**

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### **MINUTES OF THE PLENARY MEETING OF THE LIFE SENTENCE REVIEW COMMISSIONERS HELD ON THURSDAY 9 DECEMBER 2004**

Commissioners: Mr Peter Smith QC; Mr John Leckey; Mr Thomas Craig; Dr Damien McCullagh; Ms Teresa Doherty; Mr Donal McFerran; Dr Ruth Elliott; Dr Patrick McGrath; Mrs Anne Fenton; Ms Clodach McGrory; Dr Ronald Galloway; Dr Duncan

Morrow; Mr Brian Garrett; Mrs Elsbeth Rea; Mrs Mary Gilpin; Dr Oliver Shanks; Dr Adrian Grounds; Mr Nigel Stone; Prof Peter Hepper; Prof Herbert Wallace; Prof John Jackson.

Secretariat: Mr Brian McCready; Mrs Sheena McKittrick.

Apologies: Mr Stephen Murphy; Judge Derek Rodgers; Mrs Elaine Peel; Prof Andrew Sanders;

1. The minutes of the meeting held on 9 September 2004 were confirmed.
2. The Northern Ireland Prison Service were working to resolve the ongoing problems associated with the completion of dossiers on life sentence prisoners housed in separated accommodation in HMP Maghaberry. The Secretary undertook to keep Commissioners informed of any progress.
3. Following Mr McFerran's address to the Board of Visitors (BOV) Conference, the Secretary had written to the Chairman of each local prison BOV asking them to consider the mutual benefits of further exchanges. As a result, the Chairman had been invited to address the HMP Maghaberry BOV meeting in January. Similar invitations would likely issue from HMP Magilligan and Hydebank Wood YOC.
4. Ongoing Legal Aid problems in a particular case had been resolved following personal undertakings given at a meeting of the panel Chairman, the prisoner's legal representative and the Head of Operations of the Legal Services Commission held in the Commissioners' offices.
5. Commissioners agreed to adopt Ms McGrory's draft protocol on the provision of Community Resettlement Plans (CRPs) subject to its acceptance by PBNI as an acceptable working practice. A meeting with PBNI to discuss the protocol would be arranged in the New Year.
6. Following discussion, Commissioners accepted the interim findings on confidentiality of Mrs Peel's sub-group, as subsequently amended by the Legal Group. They agreed that prisoners should be asked to indicate their consent to the interview and must also be made aware that whatever they tell the interviewing Commissioner will be told to the panel by way of the interview report. The Chairman undertook to raise these matters with NIPS in due course.
7. The Bar Council had agreed to appoint the people necessary to deal with any complaints against the Chairman of the Commissioners, should any be made. Commissioners agreed that, with this now in place, the Complaints Procedure should be adopted as policy. The Chairman thanked Mr Stone for his valuable contribution to this aspect of the Commissioners' work.
8. No further work had taken place on the revision of the Rules, but would commence again in the New Year.
9. The list of standard licence conditions should be checked to ensure that it was understood, agreed and in common use by the Commissioners, NIPS and PBNI. While Commissioners had not yet settled their policy on a condition relating to paramilitary activity, in cases where the index offence was paramilitary-related, a further meeting should be arranged with PBNI to try to establish an acceptable position.
10. Commissioners noted the current caseload and were generally satisfied with the progress in each case. However, they were far from satisfied with the way in which the Lifer Management Unit (LMU) at HMP Maghaberry actually

managed the casework. Panels were still not being provided with up-to-date information or updated reports in cases in which a significant period of time had elapsed since previous information had been submitted. The Secretary undertook to continue discussions with LMU to resolve this continuing problem.

11. A customer survey form on the work of the Secretariat would issue to Commissioners in the New Year they were anxious to ensure that the administration and support service was effective, efficient and in line with Commissioners' expectations. At a later date, a similar survey seeking views from other parties involved in the life sentence review process about the performance of Commissioners would be issued. The Chairman endorsed the survey and agreed that it should help improve practices, policies and procedures all round.

- The date of the next plenary was confirmed as Thursday 10 March 2005.

Secretariat

15 December 2004