

Parole Board Chief Executive's blog – October 2021

The fact that many prisoners have mental health problems is no secret. The whole criminal justice system must do better to ensure those individuals experiencing mental health issues do not become stuck in the system and are given the treatment they need.

Parole Board members do see prisoners who clearly need mental health support and often require treatment, and yet remain in prison, where access to such services and support can often be limited or delayed, and as a result their wellbeing can deteriorate further. The Board recently made a number of submissions on the Reforming the Mental Health Act White Paper and I gave evidence to the Justice Select Committee around this important issue, which I feel strongly about. I write this in the same week the Justice Committee published its report into mental health in prisons with no surprises in its conclusions.

The number of prisoners dealing with mental health issues is anecdotally quite prevalent, however, there seems to be little data available to properly assess the scale. One of the fundamental problems is that the term “mental health” is often ambiguous, can get confused with emotional wellbeing, and there are unclear thresholds of diagnoses to gain access to treatment needs.

All too often, mental health concerns are identified far too late in the parole process, which makes it very difficult to put in place measures to support the prisoner to engage meaningfully in their parole review, and can cause delays.

The Parole Board strongly supports the aim to reduce delays for prisoners to be transferred from a prison establishment to a hospital setting where that is deemed appropriate, either by way of the Mental Health Act or for specific treatment. Transferring prisoners as swiftly as possible out of the prison setting to one where they can receive the treatment they need is critical.

It is often difficult for prisoners to engage in their parole review whilst their treatment needs are not addressed. Whilst it is appreciated there are limited resources, these prisoners tend to be very vulnerable and sometimes need to be transferred to a hospital setting far more quickly than currently happens. In some cases, it would be more beneficial for a prisoner to have a period of assessment in hospital, and not necessarily treatment. However, it is acknowledged that the current Mental Health Act does not facilitate this.

The Parole Board is doing a great deal of work to improve policy and process around prisoners affected by mental health issues or where mental capacity may be a concern.

This year, we launched a project to streamline cases for prisoners transferred from prison to hospital under the Mental Health Act. The project

aims to improve the timeliness and effectiveness of the parole process once the prisoner has been discharged by a Mental Health Tribunal (MHT) and it then falls to the Parole Board to determine whether the prisoner can be released back into the community.

Currently the average length of time between the MHT hearing and the Parole Board decision is around 12 months, however sadly in many cases it is longer. Significant concerns were raised by the Mental Health Act Review, undertaken by Professor Sir Simon Wessely and published in December 2018, in relation to the length of time between the MHT hearing and the Parole Board decision.

The Mental Health Streamlining Project involves a review of all relevant existing cases by a team of specialist members with expertise in the field, to ensure they are assessed and progressed efficiently and effectively. The ongoing management of existing cases has already resulted in 17 cases reaching a conclusion since the project recommenced in the six months between February and August 2021. As a comparison, for the previous reporting year there were 21 cases concluded across the whole 12 months in total.

Following on from this early work, the Board will be launching a pilot to continue and test the process for all new referred cases later this Autumn. The HMPPS Public Protection Group and the Board have been working on developing implementation plans and guidance for those who will be involved in the pilot. As part of this, there have been meetings with the MHT and other interested stakeholders.

The issue of prisoners' mental capacity and litigation friends in the parole process is also one of growing prevalence. This was explored in a 2019 Judicial Review, with the judgment being handed down in June 2020. The judgment has been very helpful in providing a steer to assist with our thinking in how to support such prisoners.

The key to success, as ever, is cross-agency co-operation. That is why we established a working group with the Official Solicitor, HMPPS, and others to map out the role of a litigation friend of last resort; and worked with the Ministry of Justice to develop measures to assist in identifying cases where capacity may be an issue as early as possible in the parole process. The guidance is now in its final stages of approval and we are hoping to publish by the end of October.

Difficulties in obtaining specialist reports where there are mental health concerns is an issue that can delay parole reviews. We have been working closely with HMPPS on improving timely compliance with directions for these reports. We are working closely with partner agencies to tackle issues to support the progression of psychology risk assessments, compliance with directions and effective evidence giving at oral hearings. We are also working with HMPPS on the timely provision of other specialist reports, such as psychiatric reports.

We plan to launch a dedicated multi-agency working group before the end of the year to look at wider mental health of prisoners in more detail.

The Parole Board's primary focus is protection of the public. However, we have a responsibility of fairness to prisoners and must ensure the most vulnerable, and those who need psychiatric treatment, do not become lost in the system.