



Humza Yousaf MSP  
Cabinet Secretary for Justice  
Scottish Government  
St. Andrew's House, Regent Road  
Edinburgh EH1 3DG

27 March 2019

Dear Cabinet Secretary,

### **Transforming parole in Scotland: consultation**

Community Justice Scotland (CJS) and Wellbeing Scotland welcome the opportunity to respond to the Consultation on transforming parole in Scotland.

The consultation is of relevance to CJS as a public body with a corporate plan commitment to ensure the effective reintegration into the community of people who have been convicted, including those serving long custodial sentences where the possibility of parole is relevant. Wellbeing Scotland are a third sector organisation supporting whose life experiences have impacted negatively on their wellbeing, including victims of serious crimes.

Parole can play a vital part in providing people with the opportunity to reintegrate successfully, a key step in their rehabilitation and ultimately to reduce the likelihood of further offending. We also recognise that for victims, the parole process can reopen old wounds and create new anxieties.

We believe it possible to modify the parole process to improve the experience of victims and their families, while maintaining fairness of the process and rights of people with convictions and their families, and this consultation includes some positive proposals which may achieve this aim. In particular, the rationale for increasing transparency and improving communication is sound and laudable. We particularly support the proposals to improve communication with the victims and families. We would suggest proposed changes be considered in line with trauma-informed approaches. We also support the suggestion that the Parole Board set out their rationale for conditions and exclusions.

We do however have some concerns around the proposals, as outlined below.

Increasing the involvement of victims in the parole process is likely to have a high emotional cost. This is not to say that victims should be shut out from the process,

but any involvement must be considered carefully as regards its implications for the health and wellbeing of those involved.

Victims and families of victims who may wish to become engaged in the parole process are likely to have been subject of the most traumatic crimes, suffered the greatest degree of harm and loss. We know being the victim of a crime of this type has substantial impact on physical and mental wellbeing, and many require support, often specialist, intensive and long-lasting, in order to address resulting needs and aid their journey to recovery. Increased involvement in the parole process is likely to involve revisiting this original trauma, and the concurrent psychological harm.

We are concerned about the parole process potentially turning into a reiteration of the original trial, where victim and perpetrator are brought into competition or conflict again, revisiting much of the trauma and distress, but this time without the closure of a guilty verdict. The purpose of parole is not to confirm guilt, but to consider with evidence and impartiality if someone poses risk to the community, or if they can be released under supervision.

Where victims feel invested in the possibility they can influence an outcome related to the perpetrator, any resulting outcome which to them is negative can have a seriously harmful impact on their wellbeing. It is only right that evidence on behalf of the victim and their family be used in considering additional licence conditions and restrictions, but it is imperative that expectations be managed about what involvement in the parole process can achieve for a victim. We would suggest this be considered in line with trauma-informed practices, and in relation to the principles and purposes underlying the parole process in terms of rehabilitation and reintegration.

The proposed right of appeal is similarly potentially problematic. We have a concern that the concept of a right of review or appeal may create a misleading impression to victims who object to a parole being granted of their potential to have a greater influence on the process and to change an outcome. Our understanding is that any appeal mechanism will be based on point of law or error of fact. A belief that the decision is wrong, even if deeply felt, will not influence this outcome or constitute grounds for review or appeal. Furthermore, victims will likely require costly legal advice to understand if a review or appeal is possible. How could this be accessed by victims with low incomes? Will legal aid be available? If so, this may require a financial assessment to be made for this proposal.

We note that as this is secondary legislation there is no accompanying policy or financial memorandum which could reflect anticipated additional costs arising from this change. Although there may be no additional funds required to sustain the proposed relocation of the Parole Board, the increased involvement of victims must be resourced appropriately to support involvement and to address potential unintended impact.

A prisoner's progress in their rehabilitation journey is a prerequisite to parole being granted. We therefore have a concern about the suggestion that parole hearings be made open to others, namely the media and the wider public, rather than those to whom it is directly relevant, i.e. parties to the original case. We struggle to see in whose interest wider access would be. These cases are likely to be those which

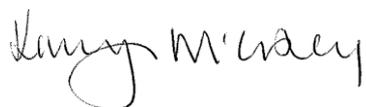
inspire greatest strength of public emotion and bestir media interest, but we would suggest that interest would be unlikely to serve to reduce anxieties of any party involved, or indeed the general public. While arguably there is merit in setting out the rationale for judgements after they are made, inviting public involvement through attendance carries a risk of disrupting the process and compromising fairness.

We welcome the proposals related to improving communication of decisions and conditions with prisoners. We know that prisoners often have additional needs relating to language and comprehension. In addition, many have experienced significant trauma which may have had an impact on their development and cognitive function. We would suggest that in communicating with prisoners, a trauma-informed approach taking cognisance of additional communication needs would be most effective in order to help them understand and in turn, comply.

The return to the community from prison is an incredibly high-stakes and potentially fragile process. To successfully integrate, people must have their needs taken into account. To recover, people need to be supported on their journey.

We would be happy to continue a dialogue on these matters.

Yours sincerely



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