

Clinks evidence to the Parole Board Triennial Review January 2014

About Clinks

Clinks is the national infrastructure organisation supporting voluntary sector organisations working with offenders and their families. Our aim is to ensure the Sector and all those with whom it works, are informed and engaged in order to transform the lives of offenders and their communities. We do this by providing specialist support, with a particular focus on smaller voluntary sector organisations, to inform them about changes in policy and commissioning, and to help them build effective partnerships and provide innovative services that respond directly to the needs of their users.

Founded in 1993, and registered as a charity in 1998, we have over 600 member organisations, including the sector's largest providers as well as its smallest. Our vision is of a vibrant and independent voluntary sector working with informed and engaged communities to enable the rehabilitation of offenders.

About this response

Clinks welcomes the opportunity to give evidence to the Triennial Review of the Parole Board. Although we have been unable to facilitate an extensive consultation with our members in the time available, we know that many of them work to support both offenders and their families through parole hearings. Since there is also significant crossover between offenders and victims, especially among vulnerable groups such as those with substance abuse or mental health issues, we know that the treatment of victims in the process will be a concern for many also.

“Is there a continuing need for the functions of the Parole Board: the administration of risk assessments of prisoners to decide whether they can safely be released into the community?”

Given that the responsibility for ensuring fairness in judicial procedures, including sentencing, is a matter of international law, the continuing need for the functions of the Parole Board cannot be in doubt. Clinks is not aware of any argument against the continuation of these functions, and so we have chosen to focus our remarks on the second part of the consultation.

“How should this function be delivered?”

As the functions performed by the Parole Board are judicial in nature, its political impartiality and independence are essential, and we therefore presume it is unnecessary to provide great detail on why direct delivery by central government would not only be inappropriate but also unconstitutional. The Court of Appeal judgment in the case of R [Brooke] v Parole Board ([2008] EWCA Civ 29) of course gives the definitive version of the legal principles at stake.

In particular, we would draw attention to the risk of individual parole decisions being influenced, or more realistically seen to be influenced, by political considerations. The cases dealt with by the Parole Board are often high-profile, and decisions themselves are not uncommonly exposed to negative media coverage; the prospect of justice being undermined in any way by ministers assuming more control is therefore not a remote risk, even if it were more in the perception than the reality.

Similarly, we would oppose any suggestion of delivery by local government because of the need for consistency of decision-making at the national level. The arrival of Police and Crime Commissioners has prompted discussion within and outside Parliament about which crime and justice functions could be devolved in future; this has in some contexts included sentencing guidelines. Clinks would be opposed to any such move, and would extend this opposition to related functions including that of the Parole Board. As well as leading to duplication of administrative costs, localisation in this context would pose a serious threat to key principles of equality, transparency and legal certainty. Just as the criminal law applies across England and Wales, the essentials of sentencing, especially for the most serious offences, should not vary by locality.

The degree of expertise and accountability required in matters of public safety and legal obligations to offenders and victims also militate against outsourcing the function to the private or voluntary sectors: the loss of expertise from the Parole Board, and the likelihood of increased legal challenges, both represent significant costs. Finally, to Clinks' knowledge, the Parole Board does not duplicate or cross over with the functions of any other body, and so we have no potential merger to suggest.

Overall, then, Clinks would favour either a continuation of the Parole Board as a Non Departmental Public Body (NDPB) or conceivably its conversion to an Executive Agency. We would, however, like to raise a specific point in relation to the Parole Board's current performance, particularly in answer to the question of whether it is using "the freedoms and flexibilities inherent in the NDPB model" to their full potential. One area in which NDPBs can benefit enormously from their arms-length status is their ability to engage with a variety of stakeholders. In the case of the Parole Board, this would be particularly relevant in terms of producing guidance in the first instance, and monitoring practice afterwards, for example in relation to consistency of decisions, quality of communication, and equalities issues.

At present, however, the Parole Board appears only to reach out to statutory partners in any formal way, the most recent example being its commitment to work with the Victims' Commissioner on making proceedings more open and inclusive of victims, which we support. Given the seriousness of the decisions that the Board is tasked with making, engagement with outside voices is clearly a positive move with the potential to increase transparency and promote best practice. However, we would like to see this extended to include contributions from the voluntary sector.

Voluntary sector organisations working with offenders have experience and insights that can add considerably to those of probation. Secretary of State for Justice Chris Grayling has said that he is "very clear that there is a level of expertise to be found in the voluntary sector that cannot be found elsewhere" specifically in relation to criminal justice.¹ The Centre for Social Justice think tank also found, in their recent report on the role of the sector in criminal justice, that "voluntary organisations often bring something unique to the areas they work in, such as a strong connection with communities and an acute responsiveness to the distinct needs of individuals".²

¹ Rt Hon Chris Grayling MP (2013) *The opportunities for the voluntary sector in criminal justice*, speech given at the Centre for Social Justice.

² Centre for Social Justice (2013:5) *The new probation landscape: why the voluntary sector matters if we are going to reduce reoffending*, Online: <http://www.centreforsocialjustice.org.uk/UserStorage/pdf/Pdf%20reports/landscape.pdf> (last accessed 23.01.2014).

Of Clinks' large membership, many are indeed very local in scope, and hence rooted in local communities, and able to give a unique perspective on reintegration of offenders in practice. Another crucial asset is that the relationships between offenders and the staff and volunteers in the voluntary sector are almost invariably voluntary rather than mandatory, and are in many cases much longer-term than supervision, which leads to a distinct perspective on how to promote desistance from crime.

In addition, there is a significant degree of specialism within the voluntary sector, with many organisations providing services specifically designed to meet the needs of offenders with protected characteristics, such as women offenders or offenders with disabilities.³ The Parole Board already has a clearly-stated commitment to equality and diversity, but in our view opening up both its guidance and its practical impact to the scrutiny of the voluntary sector would enhance its ability to realise that commitment, particularly by identifying any areas of potential discrimination in advance.

A stakeholder engagement strategy would also enable better, more detailed consideration not only of the needs of both offenders and victims, but also of offenders' families. Like victims, offenders' families are at risk of being overlooked in terms of communication with the Parole Board, because they too are non-parties in proceedings. We feel that the Parole Board would benefit from including organisations representing families' interests in any future engagement strategy.

This Triennial Review has provided a valuable opportunity to unite those with an interest in the effective working of the Parole Board; it has also, however, underlined that this is currently not a regular practice. We hope that, whatever the outcome of the review in terms of its main remit, it will also note the usefulness of convening such a forum more permanently.

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³ Protected characteristics are defined as by the Equalities Act 2010 as including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.