

After Worboys: what next for the parole system in England and Wales?



A fair, transparent, and robust process for the termination of prison sentences is critical to the effective operation of our criminal justice system, writes [Thomas Guiney](#). In light of the Worboys case and the attention drawn to the parole system as a result, he explains what reforms are necessary in order to build a modern parole process that is fit for purpose.

In 2009, John Worboys was found guilty of 19 sexual offences against 12 victims. He received an indeterminate sentence of Imprisonment for Public Protection and ordered to serve a minimum tariff of 8 years imprisonment before he could be considered for parole. Following a review of his case by the Parole Board it was announced in January 2018 that he would be released from prison and supervised under licence in the community for the rest of his life.

In accordance with [Parole Board rules](#) the conditions placed upon his licence were not made public. However, in a subsequent statement the [Chairman of the Board](#) revealed that the Worboys case had been considered by a three-member panel, was chaired by an experienced female member, and included representation from a psychologist. The panel considered a dossier of 363 pages and heard evidence from four psychologists as well as prison and probation staff.

The decision to release John Worboys has generated significant media interest, while Secretary of State for Justice, David Gauke [announced](#) a review of the '[Law, Policy and Procedure Relating to Parole Decisions](#)'. In parallel, a number of parties were granted leave to pursue an application for judicial review against the Parole Board. On 28 March 2018, the [High Court](#) quashed the decision to release Worboys and upheld legal challenges against: a) the rationality of the decision given the failure to undertake further inquiry into the circumstances of his offending; and b) the prohibition against disclosure of information as set out in the Parole Board Rules 2016.

On the same day, Nick Hardwick stood down as Chairman of the Parole Board. His [resignation letter](#) made clear that following a meeting with the Secretary of State his position had become untenable and expressed serious concerns about the independence of the Board moving forward.

The parole system at present

The Worboys decision will be re-considered by the Parole Board in light of the judgement of the court, but the perfect storm now enveloping this case has far wider policy implications for the parole system and the risk-appetite of the Board. Taken that even small changes in law, policy and procedure can have unintended consequences, it can only be hoped that recent history will serve as a warning against the perils of a knee-jerk response.

Overall, the Parole Board has a strong track record of protecting the public from serious harm, with the relevant statutory test requiring it not to give a direction for release unless it is satisfied 'that [confinement] is no longer necessary for the protection of the public'. Accordingly, in 2016/17 the [Parole Board](#) concluded 5,184 cases, of which 872 were recommended for moves to open conditions (17%), 1,825 cases were refused (35%), and 2,468 were recommended for release (48%). In the last four years less than 1% of the total number of decisions made by the Parole Board have resulted in a serious further offence being notified to the Board.

Moreover, it is increasingly clear that while the Board has become a lightning rod for public anger, the case has far wider implications for the administration of justice in this country. Since the offences committed by John Worboys first came to light, criticism has rightly been levelled at [historic police failures](#) in responding to allegations of sexual assault, the evidentiary challenges of successfully [prosecuting complex sexual offence](#) cases and the [overall experience of victims](#) at each stage of the criminal justice process. Reform of the parole system cannot allay these wider concerns and nor should it.

How to strengthen the system

So, what should happen next? It is 50 years since a parole system was first established in England and Wales, and expectations are now far higher. If the Parole Board, and the institutions it relies upon, are to operate effectively in this demanding climate they must be equipped with the right tools for the job:

First, the overuse of indeterminate sentences should be ended as a matter of urgency. In England and Wales, more than twice as many people are serving [indeterminate sentences](#) than in France, Germany and Italy combined. For this growing cohort of prisoners, the burden of proof in parole decision-making has been almost completely inverted and this has resulted in a significant number of individuals being held far beyond their tariff expiry dates. Our over-reliance on prison as a place of containment has undermined attempts to build a stronger strategic focus on sentence progression and the community infrastructure needed to support individual desistance in the long term.

Second, the government should re-visit the case for reconstituting the Parole Board as an independent (and inquisitorial) tribunal. A two-tier tribunal structure would create a clear legal pathway for the appeal of parole judgements (where leave is granted by the lower tribunal) and in many cases, this would dispense with the often time-consuming, and prohibitive costs associated with the judicial review process. Administration by the Majesty's Courts and Tribunals Service would bring the Parole Board into line with comparable bodies but above all else, a tribunal structure would help secure its independence and insulate the system from any semblance of [political interference](#).

Third, the parole system has always operated on the basis of [public trust](#); the renewal of this contract demands that victims and the general public have a far better understanding of how decisions are made. A wide-ranging transparency agenda is long overdue but this must be delivered in a way that is consistent with the overarching aims of the parole system. There is little sense in publishing detailed licence conditions, such as place of residence, if this undermines supervision and licence compliance, or encourages vigilantism. In seeking a more appropriate balance, the government should:

- place far greater emphasis upon improving public understanding of the parole process, and the sentencing pathway more generally;
- publish a parole compact that sets out what victims, prisoners, and the general public can expect from the parole system;
- follow the example set by the [New Zealand Parole Board](#) and publish concise 1-page public statements summarising parole decisions where these are requested by the public;
- establish a publicly accessible information management system that provides access to select, and quality assured information, held by the Parole Board.

Fourth, it must be recognised that transparency and accountability are mutually inter-dependent. Recent [inspectorate reports](#) reveal a penal system that is overcrowded, under-resourced, and in many cases failing short of basic standards of care. This pervasive operational fatigue has impacted upon parole decision-making. In 2016/17, approximately a quarter of all parole cases were adjourned or deferred. Furthermore, the system [does little to prepare prisoners](#) for their eventual release.

Fifth, the fallout from the Worboys case will have significant resource implications for government who should now implement a standardised system of recall for offenders serving fixed-term prison sentences. In the past three decades the caseload of the Parole Board has been re-orientated towards the most serious offences and the complexity of these cases has necessitated far greater use of automatic release for the majority of prisoners serving fixed-term sentences. In this policy context, the growth of determinate recall cases must be considered anomalous and should be removed from the Parole Board caseload. This would entail a fixed recall period (not exceeding a certain percentage of the overall sentence) with the emphasis upon preparing the individual for release and ensuring robust risk-management systems are in place to actively manage individuals in the community.

Conclusion

A fair, transparent and robust process for the termination of prison sentences is critical to the effective operation of our criminal justice system. The overwhelming majority of men and women sent to prison will return to the community at some point in their lives and the Worboys case has demonstrated why far greater strategic focus is needed on the 'back door' practices of release, recall and resettlement. The changes outlined here represent an important first step in that direction if we are to build a twenty-first century parole system that is fit for purpose in this rapidly changing environment.

Note: the above draws on a recent paper prepared for the [Prison Reform Trust](#).

About the Author



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