

Parole Commissioners for Northern Ireland  
Annual Report 2008/09



Parole Commissioners  
for Northern Ireland



# PAROLE COMMISSIONERS NORTHERN IRELAND

## Annual Report 2008/09

Report for the year ended 31 March 2009

Presented to Parliament pursuant to Section (6)(2) of Schedule 1  
of the Life Sentences (Northern Ireland) Order 2001

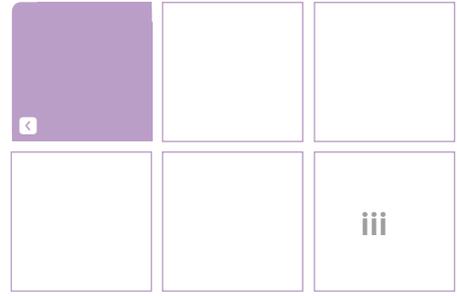
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**The Rt Hon Shaun Woodward MP**  
**Secretary of State for Northern Ireland**  
**Castle Buildings**  
**Stormont Estate**  
**BELFAST**  
**BT4 3SG**



Parole Commissioners for Northern Ireland  
Annual Report 2008/09

## FOREWORD

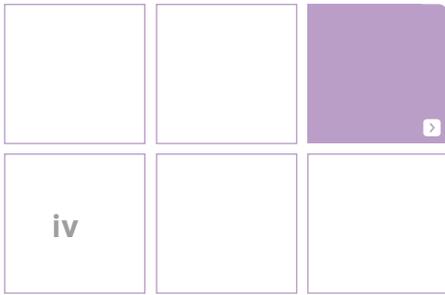
### Dear Secretary of State

Paragraph 7(1) of Schedule 4 of the Criminal Justice (Northern Ireland) Order 2008 requires that, as soon as reasonably practicable after the end of each financial year, the Chief Commissioner of the Parole Commissioners for Northern Ireland shall make a report to the Secretary of State on the performance of the Commissioners' functions during that year. In compliance with that requirement I am pleased to submit to you my report in respect of the financial year 1 April 2008 to 31 March 2009.

My previous annual report to you was as Chairman of the Life Sentence Review Commissioners. Since that report the Commissioners have been renamed and their role greatly expanded by the coming into force of the Criminal Justice Order. Although we continue to deal with the release and recall of life sentence prisoners and perform other functions in relation to them, we will also be required to deal with the release and recall of prisoners sentenced to indeterminate custodial and extended custodial sentences, and perform other functions in relation to them, and to deal with the recall of prisoners sentenced to determinate sentences other than extended custodial sentences.

These additional tasks will involve an enormous increase in the work of the Commissioners necessitating rapid and very significant expansion in the Commissioners' Secretariat and the provision of larger and more suitable accommodation. Furthermore, it has become necessary to increase the number of Commissioners, a process that is still in train at the date of reporting.





During the year a number of judicial decisions have been promulgated that have important implications for the Commissioners in the performance of their statutory functions.

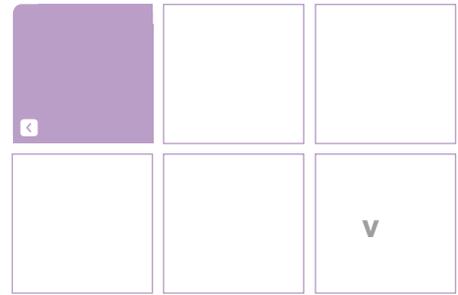
The decision of the Court of Appeal of England and Wales in R (Brooke) and Ors. -v- The Parole Board and Ors [2008] EWCA Civ 29 has reinforced the necessity for the Commissioners not merely to be independent of Government but also that any appearance of lack of independence be strenuously avoided. Although I am satisfied that the Commissioners have and continue to perform their functions without interference or any attempted interference I have written to the head of the Criminal Justice Services Division in your Department, the entity that provides support for the Commissioners, drawing his attention to two issues that, in my view, could give rise to a perception of lack of independence.

The first is the extension of the terms of office of Commissioners reaching the age of seventy years. Heretofore successive Secretaries of State have accepted and acted upon a recommendation from me to this effect. In Brooke (at paragraph 84) the court endorsed the proposition that the Minister should “demonstrably abjure” any significant input into the selection of members of the Parole Board. In the light of this I have proposed that you and your successors should undertake to grant an extension only on the basis of a joint recommendation from the Chief Commissioner and deputy Chief Commissioner (an appointment provided for in the Criminal Justice Order and in the process of being made at by the end of the reporting year).

The second is the exercise of the power vested in you by paragraph 1 (2) (e) of Schedule 4 to the Criminal Justice Order to appoint as a Commissioner “a person appearing to the Secretary of State to have knowledge and experience of working with victims of crime”. This power appears to me to be inconsistent with the Brooke decision in constituting a requirement that a Commissioner should demonstrate a quality that is not relevant to the Commissioners’ functions but which could affect the Commissioners’ decisions. Should you purport to appoint a Commissioner on foot of this power I would consider it necessary to take legal advice as to the lawfulness of my appointing such a person to perform any statutory function of the Commissioners.

In June 2008 the House of Lords gave judgment in the appeal brought by the Commissioners in the case of In re Doherty [2008] UKHL 33. In that case the Court of Appeal had ruled that in considering whether a prisoner had committed sexual abuse





a panel of Commissioners hearing his case ought to have required a more compelling standard of proof than the civil standard. The Life Sentence Review Commissioners appealed and the House of Lords reversed the Court of Appeal's ruling holding that, although in some contexts facts may have to be looked at more critically or more anxiously, the standard of proof itself - the balance of probabilities - is finite and unvarying.

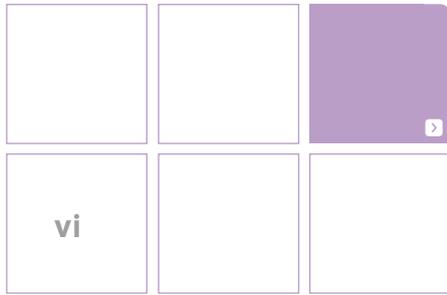
This ruling is very significant as far as public safety is concerned. Had the view of the Court of Appeal been endorsed the situation might well have arisen in which the Commissioners would have been constrained to direct the release of a recalled prisoner notwithstanding the fact that it had been shown that that prisoner had probably committed acts indicating an increase in risk from negligible to significant but not to the more compelling standard established by the Court of Appeal.

In February 2009 the Grand Chamber of the European Court of Human Rights delivered judgment in the case of A -v- The United Kingdom (Application no. 3455/05). In it the Court gives important guidance as to the role of the Commissioners when information coming before a panel is certified by you as confidential, only the gist of it being made available to the prisoner and the prisoner's representative.

In February 2009 I had occasion to write to the appropriate senior official in your Department complaining of a refusal to expand the gist of information supplied to a prisoner notwithstanding that it had become apparent that information certified as confidential under the Life Sentence Review Commissioners' Rules 2001 ought not to have been withheld from him and in spite of my request that the adequacy of the gist be reconsidered.

In his reply on your behalf the official did not attempt to justify the failure to enhance the gist. He asserted that the information in question was very complex and difficult to process, was subject to close legal scrutiny throughout and that great care had been taken to provide the Commissioners with as much information as possible while at the same time paying close attention to the rights of the prisoner. However, the letter gave no indication that the procedure by which decisions as to what information can be disclosed to a prisoner is to be in any manner improved. The Commissioners viewed the response as totally inadequate.





In the light of this correspondence and the A case, the Commissioners have adopted a policy whereby whenever the chairman of a panel of Commissioners appointed to deal with a prisoner's case considers that the gist supplied to the prisoner is inadequate, and this remains the position after a request to review it has been made and that review has been completed, he or she will direct that the gist be supplemented or expanded as appropriate. In the event that such a direction is not complied with it will be a matter for the special advocate (appointed by the Attorney General to represent the interests of the prisoner where confidential information has been served) or the prisoner to initiate judicial review proceedings if it is thought appropriate to do so. In my reply to the letter from the official I informed him that I intended to write to the Attorney General requesting her to ensure that the resources necessary to bring such proceedings are made available to special advocates.

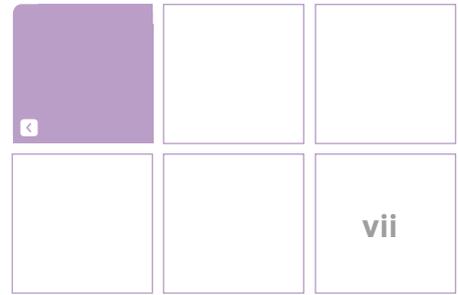
In my letter of February 2009 I also complained about the dilatory manner in which confidential information was proffered to a panel of Commissioners, of which I was chairman, and in which the gist was reviewed after I had requested that this be done. I referred to the prisoner's entitlement under Article 5(4) of the European Convention on Human Rights to a speedy decision on the lawfulness of his detention.

In response the official explained that the work involved took place at the height of the summer leave season and, while accepting that there could possibly have been some marginal improvement in the timescales, sought to set this in the context that the material was very sensitive, complex and difficult to process and included the personal involvement of the Minister of State.

The Commissioners found this response also to be totally inadequate. It is felt that a judge considering such a delay would not be prepared to make allowance for the summer leave season which appeared to extend for a total of eight weeks in 2008.

The enactment of the Criminal Justice Order has necessitated the development of new rules designed to assist the Commissioners in the performance of their major statutory tasks. At the invitation of the head of the Criminal Law Division of your Department I and my colleagues have participated fully in this process. It is anticipated that the new rules will help to streamline the Commissioners' work and reduce the demands on the resources of participants.





In November 2008 an event was staged at Malone House Belfast designed to enhance the knowledge of the work of the Commissioners amongst the public and the press. The event was attended by a selection of people whose work has relevance to that of the Commissioners including the Minister of State, Mr. Paul Goggins MP. The event was generally judged a success and the Commissioners were pleased to note that the press showed a great deal of interest in our work.

In December 2008 the Commissioners conducted a seminar at Hillsborough Castle, attended both by Commissioners and those with whom the Commissioners are in contact in the course of our work, with the objective of increasing understanding among invitees as how the Commissioners set about performing their statutory tasks. Feedback has indicated that the attendees found the seminar extremely valuable.

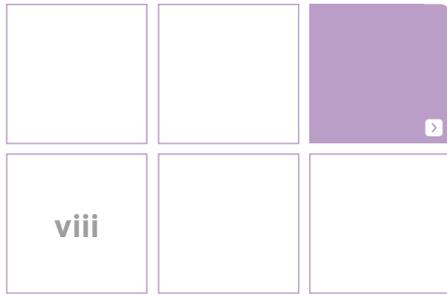
During the year the subject matter of this report, the Commissioners contributed to the review of transition to community arrangements for life sentence prisoners in Northern Ireland conducted by Criminal Justice Inspection Northern Ireland. This is the first such exercise in which the Commissioners have been the subject of inspection. By the end of the reporting year the review had not been completed but the Commissioners welcome it and look forward to implementing recommendations that will improve the quality of the work.

The Commissioners are conscious of the need to secure documents etc. created or coming to our hands in the course of our work. To this end each Commissioner has been supplied with a lockable briefcase and secure storage cabinet. Arrangements have also been made to provide each Commissioner with an encrypted and, therefore, secure laptop computer.

In the course of the year a complaint against a Commissioner was received from a prisoner. The complaint was processed in accordance with the Commissioners' complaints policy and the resulting recommendations have been implemented.

My previous annual reports have all included a copy of the Commissioners' step by step guide for prisoners. The guide is currently undergoing major revision to take account of the changes wrought by the Criminal Justice Order and proposed rule changes. It was felt that inclusion this year of the unrevised guide would be a cause of confusion.





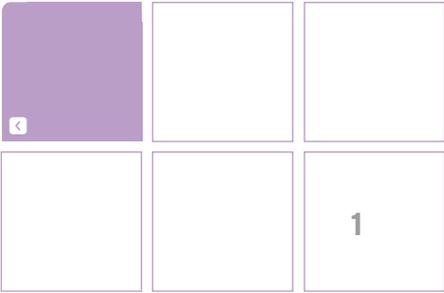
I have already referred, above, to the enormous increase in the work of the Commissioners. This has resulted in exceptional demands being made on the members of the Commissioners' Secretariat. I am glad to report that each member has coped admirably with these demands. The Commissioners are very grateful for the support they have received from the Secretariat throughout the year.

Yours sincerely

**Peter Smith, CBE QC**

**Chief Commissioner**





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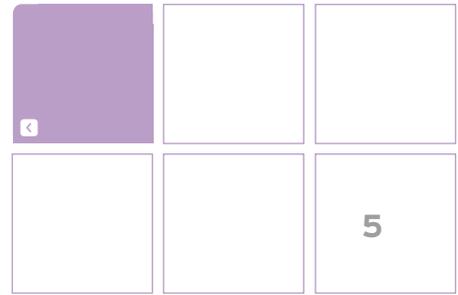


## chapter 1



**BACKGROUND**





## CHAPTER ONE BACKGROUND

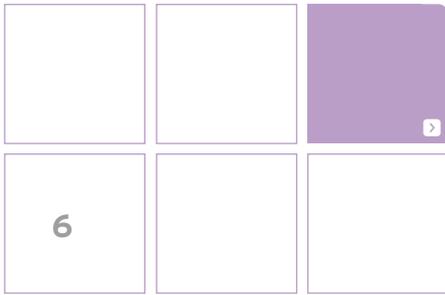
The appointment of the Life Sentence Review Commissioners was the result of a review of Northern Ireland prisons legislation conducted by the Government in anticipation of the coming into effect, in October 2000, of the provisions of the Human Rights Act 1998. An important aspect of that work was to review the arrangements then in place for the consideration of the suitability for release of prisoners who had been sentenced to life imprisonment. The review considered the three types of life sentence: mandatory life sentences (for murder), discretionary life sentences (for other serious violent offences) and juvenile offenders sentenced to detention at the Secretary of State's pleasure in circumstances that would, for an adult, have merited either a mandatory or a discretionary life sentence.

The review concluded that the existing procedures for discretionary life sentence prisoners and those sentenced to detention at the Secretary of State's pleasure could be deemed inconsistent with the requirements of the European Convention on Human Rights. They were based on advice on the suitability of the prisoner for release being given to the Secretary of State by the Life Sentence Review Board, a non-statutory body consisting largely of senior officials of the Northern Ireland Office. It was considered that compliance with the European Convention on Human Rights would require that, once the punitive element of the sentence had been completed, each prisoner should have his or her case reviewed periodically by a judicial body. To have judicial character, the body would need to be independent of the executive (and of the parties concerned); impartial; and able to give a legally binding direction regarding the prisoner's release.

In March 2000, the report of the Review of the Criminal Justice System in Northern Ireland endorsed this conclusion and further recommended that an independent body should make decisions on the release of *all* life sentence prisoners.

The Government accepted this recommendation and brought forward legislation that required all life sentence prisoners to have the punitive element of their sentence judicially determined and their suitability for release independently assessed and directed at the appropriate time by an independent body of judicial character.





## THE ORDER AND RULES

The legislation in question was the Life Sentences (Northern Ireland) Order 2001 (“the Order”) and the Life Sentence Review Commissioners’ Rules 2001 (“the Rules”). The Order was approved by, and the Rules laid before Parliament, in July 2001 and both came into force on 8 October 2001.

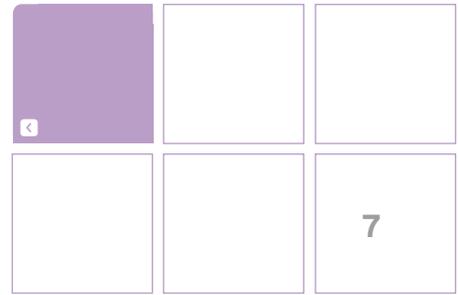
The principal provisions of the Order provide for:

- the appointment of Commissioners, one of whom shall be Chairman;
- the Commissioners to advise the Secretary of State on any matter referred to them by him connected with the release or recall of life sentence prisoners;
- the setting by the court of a relevant period, or ‘tariff’, as the period of the sentence to be served to satisfy retribution and deterrence before review for release;
- the power of the Commissioners to direct a prisoner’s release on licence if continued detention is not required for the protection of the public;
- the attachment by the Secretary of State of conditions to the release licence, in accordance with recommendations of the Commissioners;
- the revocation by the Secretary of State of the licence of a released prisoner and the latter’s recall to prison;
- the consideration by the Commissioners of such recalls and their power to direct the release of recalled prisoners; and
- arrangements for the setting of tariffs for prisoners already serving life sentences.

The Rules set out in detail the procedures that apply where the Secretary of State refers a prisoner’s case to the Commissioners regarding his release or recall. They provide, in particular, for:

- the appointment by the Chairman of a panel of three Commissioners to consider each case (wherever practicable, one panel member should be legally qualified and another a psychiatrist or psychologist);
- the representation of the prisoner and the Secretary of State;
- the submission of information and reports by the Secretary of State and of further evidence by the prisoner;





- the holding of an oral hearing to consider the prisoner's case and the procedure for such hearings (including the attendance of witnesses);
- time limits within which notifications and responses must be made;
- the giving of procedural directions by the panel and the consideration of appeals against such directions; and
- the withholding, in specified circumstances, of particular items of evidence from the prisoner, or the prisoner and his representative and in the latter event, the appointment by the Attorney General of a special advocate to represent the prisoner's interests.

## FURTHER DEVELOPMENTS

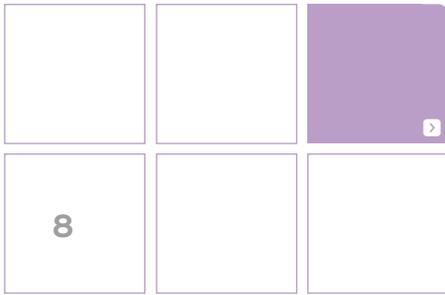
The Criminal Justice Act 2003 made a number of significant changes to the sentencing framework for England and Wales. As a result it was felt that Northern Ireland should have its own review. In March 2005 the Northern Ireland Office published a consultation paper on the sentencing framework in Northern Ireland which considered new measures to enhance public protection. The exercise was largely informed by provisions contained in the Criminal Justice Act 2003, particularly the introduction of indeterminate and extended public protection sentences for dangerous sexual and violent offenders.

Ministers concluded that the sentencing framework should be revised and that legislation should be brought forward to provide for the introduction of indeterminate and extended sentences for dangerous sexual and violent offenders allowing individuals posing a risk of serious harm to be detained indefinitely or to the end of their extended sentences.

The relevant legislative provisions are contained in the Criminal Justice (Northern Ireland) Order 2008. Among other things, it provided that the Life Sentence Review Commissioners be renamed the Parole Commissioners for Northern Ireland and that the responsibilities of the Commissioners be extended to include decisions as to the release and recall of prisoners sentenced to indeterminate and extended custodial sentences and the recall of prisoners who received other determinate sentences.

By the end of the reporting period rules had been drafted governing the procedure to be adopted in relation to the release and recall of prisoners sentenced to life imprisonment and to indeterminate and extended custodial sentences.





Launch of the Parole Commissioners for Northern Ireland -Nov 2008

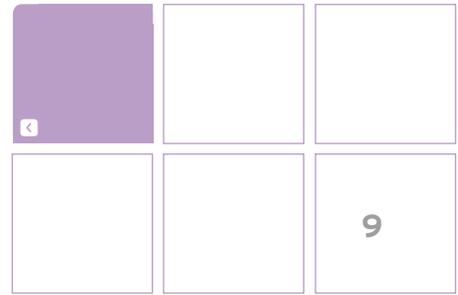
## PAROLE COMMISSIONERS

The Criminal Justice Minister Paul Goggins attended the formal launch of the Parole Commissioners on the 6 November 2008 when he welcomed the important and vital work of the Commissioners in the delivery of the new public protection arrangements in Northern Ireland.

At the launch the Minister said:

**"The extended remit of the new Parole Commissioners will mean that, for the first time, it has a critical role in making a judgment that it is safe to release dangerous offenders back into the community and not just life sentence prisoners. Its role, as an independent body, is critical to enhancing the public protection element of these reforms."**





## THE COMMISSIONERS

The Commissioners appointed by the Secretary of State are:

### Chief Commissioner

**Mr Peter Smith CBE QC** is a QC who retired from practice in 2001 after over 30 years' experience at the Bar of Northern Ireland. He remains a judge of the Courts of Appeal of Jersey and Guernsey and a deputy judge of the High Court of Justice in Northern Ireland. Between 1998 and 1999 he was a member of the Independent Commission on Policing. He was appointed CBE in 2008.

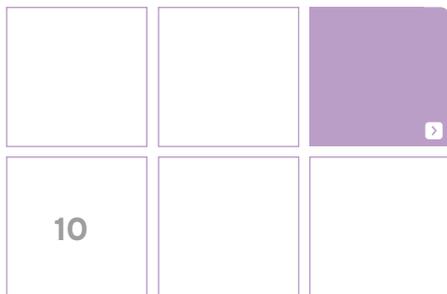
### Commissioners with a Legal Background

**Justice Teresa Doherty CBE** was a barrister. She was formerly a member of the Lord Chancellor's Advisory Committee of JP's, is a part-time Chairperson of the Social Security Appeals Tribunal and also held the positions of Principal Magistrate and Judge of the National and Supreme Court of Papua New Guinea and of the Court of Appeal and High Court of Sierra Leone. In January 2005 she was appointed by the United Nations as a judge of the 2nd trial chamber of the Special Court for Sierra Leone (the international war crimes tribunal for Sierra Leone).

**Mrs Anne Fenton** has been a qualified solicitor since 1978. She was appointed Director of the Institute of Professional Legal Studies at Queen's University, Belfast in 1998. She is currently a part-time legal member of the Mental Health Review Tribunal and has previously held appointments as part-time Chairperson to both the Child Support and Disability Appeal Tribunals.

**Mr Brian Garrett** qualified as a solicitor in 1962 and is a consultant with Elliott Duffy Garrett (Solicitors, Belfast). He is a Deputy County Court Judge and is Chairman of the Northern Ireland Teachers' Salaries and Conditions of Service Committee and a qualified arbitrator. He has previously held appointments as Deputy Chairman of the Northern Ireland Independent Commission for Police Complaints and was a member of the Standing Advisory Commission on Human Rights and the Department of Trade and Industry Arbitration Committee (Chairman Lord Saville).





**Mr John Leckey** qualified as a solicitor in 1974 and is presently the Senior Coroner for Northern Ireland. From 1996 to 2001, he served as a member of the Criminal Cases Review Commission, which considers allegations of miscarriage of justice in England, Wales and Northern Ireland.

**Mr Donal McFerran** is a qualified solicitor who practised as partner in a litigation firm in Belfast. He has served as a Deputy Resident Magistrate, and was appointed a Deputy County Court Judge in 1990 and is a legal member of the Mental Health Tribunal. He has also been a Sentence Review Commissioner since 2001.

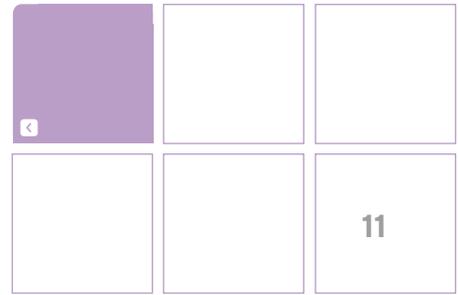
**Ms Clodagh McGroary** practised at the Bar in Northern Ireland from 1990 to 1995 and subsequently worked at the Law Centre (NI). She was a member of the Standing Advisory Commission on Human Rights from 1998 to 1999 and served a term of office on the Irish Human Rights Commission from December 2000 until August 2006. She is currently a part-time Chairperson of Social Security Appeal Tribunals and has been a Sentence Review Commissioner since 1998.

**Judge Derek Rodgers** qualified as a solicitor in 1973 and was appointed as a District Judge in 1989 and a County Court Judge in 1997. He is a member of the Legal Advisory Committee of the Church of Ireland and Chancellor of the Diocese of Connor. He holds positions with a number of voluntary organisations.

**Professor John Jackson** is Dean of the School of Law at University College Dublin and a qualified barrister. He was previously Professor of Law at Queen's University Belfast and has taught at University College Cardiff, the City University, London and the University of Sheffield. He has held visiting professorships at Hastings College of the Law, University of California and the Faculty of Law, University of New South Wales and was a Fernand Braudel Senior Fellow at the European University Institute in 2007 - 2008. From 1998 to 2000 he was an Independent Assessor for the Northern Ireland Criminal Justice Review.

**Professor Herbert Wallace OBE** is a legal academic and Professor Emeritus at the Queen's University of Belfast. He was formerly Vice-Chairman of the Police Authority for Northern Ireland and since 2002 has served as a statutory adjudicator on the Criminal Injuries Compensation Appeals Panel for Northern Ireland.





## Commissioners from a Psychiatry and Psychology Background

**Dr Ruth Elliott** is a retired Consultant Clinical Psychologist. She was Clinical Psychology Services Manager at Belfast City Hospital and served on the Mental Health Commission for over seven years, latterly as Vice-Chairman. She is a Chartered Clinical Psychologist, an associate fellow of the British Psychological Society, and a member of the Northern Ireland Division of Clinical Psychology.

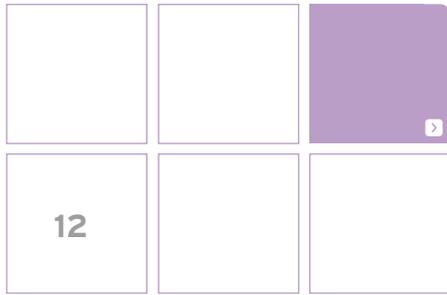
**Dr Ronald Galloway** was a Consultant Psychiatrist at Craigavon Area Hospital, Co. Armagh and until 1998 held the post of Medical Director and Executive Board Member of the Craigavon and Banbridge Community Health and Social Services Trust. He is a fellow of the Royal College of Psychiatrists. He was a member of the Mental Health Commission 1994-2004, serving as its Vice-Chairman in 2000. He has served since 2002 as an adjudicator on the Criminal Injuries Compensation Appeals Panel for Northern Ireland.

**Dr Adrian Grounds** is a University senior lecturer in forensic psychiatry at the Institute of Criminology, University of Cambridge, and an honorary consultant forensic psychiatrist in the Cambridgeshire and Peterborough NHS Foundation Trust. He has also been a Sentence Review Commissioner since 1998.

**Professor Peter Hepper** is a Professor of Psychology, and currently is the Head of the School of Psychology, Queen's University Belfast. He is Chair of the Irish Football Associations Appeal Committee. He is a Chartered Psychologist and a Fellow of the British Psychological Society and has been Visiting Professor at Kyushu University, Japan, and University New South Wales, Australia.

**Dr Damien McCullagh** is a Consultant Clinical and Forensic Psychologist within the Mental Health and Learning Disability Directorate of the Southern Trust (2000-present). He is a Chartered member of the British Psychological Society. He has previously worked as a Principal Psychologist with the Northern Ireland Prison Service where he had primary responsibility for providing psychological risk assessments on Life Sentence Prisoners to the Life Sentence Review Board (1997-2000). He previously held posts in Adult and Child Psychology Services in the Republic of Ireland and with Sperrin Lakeland Health and Social Services in Omagh (1989-1997). Dr McCullagh is an Honorary Lecturer in Forensic Risk Assessment at Queen's University, Belfast.





He is also an Association of Chief Police Officers (ACPO) accredited Behavioural Investigative Advisor. He has previously been the Chairman of the Board of Governors of Drumragh Integrated College in Omagh from 1995-2005.

**Dr Oliver Shanks** is a retired Consultant Psychiatrist in Learning Disability who specialised in forensic psychiatry. He is a member of the Royal College of Physicians, a fellow of the Royal College of Psychiatrists and was a member of The Mental Health Commission from 1996 until 2005. He was an Honorary Clinical Lecturer in Mental Health at Queen's University, Belfast and is currently a member of the Boards of EXTERN and PRAXIS.

### **Commissioners from a Criminological Background**

**Professor Andrew Sanders** is Professor of Criminal Law and Criminology at the University of Manchester having previously held the post of Deputy Director of the Centre for Criminological Research at the University of Oxford. His current research is focused on the role of victims in the criminal justice process and he is the author of several criminal justice publications. He was a member of the Parole Board for England and Wales for several years.

**Mr Nigel Stone** has been Senior Lecturer in Criminology and Criminal Justice at the University of East Anglia since 1979. Until 1997 he also served in the Probation Service for 24 years, holding a joint appointment as Probation Officer and Head of Home Office sponsored training programme for probation students at East Anglia. He was a criminologist member of the Parole Board for England and Wales 1997-2007 and continues to serve as an appraiser for the Board.

### **Commissioners from a Rehabilitative Background**

**Mrs Elsbeth Rea OBE** is a self employed consultant providing independent social work research services and training to social work organisations. She has previously worked as both a Senior Probation Officer with the Probation Board for Northern Ireland and as a lecturer in Social Work at Queen's University Belfast. She is a Lay Magistrate and has held public appointments with the Ulster Community and Hospitals Trust, the Police Authority for Northern Ireland and the Eastern Health and Social Services Council.



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**Mrs Mary Gilpin** is a former member of the Scottish Probation Service and a retired social worker. She was a member of the Board of Visitors for HMP Maze from 1985 to 1997 and served two terms as a Chairperson as well as being Secretary to the Northern Ireland Association of Members of Boards of Visitors. She was closely involved in the establishment of Dismas House, a hostel for use by prisoners and their families. She has also been a Sentence Review Commissioner since 1998.

**Mr Stephen Murphy CBE** is a former Director General of the National Probation Service for England and Wales, prior to which he was Chief Probation Officer first in Hampshire and the Isle of Wight and then in Northumbria. He was a member of the Parole Board for England and Wales from 1995 to 2005, and is a former member of the Local Review Committee at HMP Wandsworth. He was made a CBE in the 2004 New Year's Honours List for services to the probation service. On retiring from the Civil Service in June 2008, he has been working internationally as a consultant in criminal justice and home affairs, and as Chair of the Board of Your Homes Newcastle Ltd, which runs and develops the council housing stock for the city of Newcastle upon Tyne.

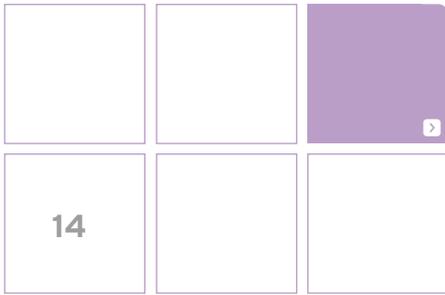
**Mrs Elaine Peel** is a former Assistant Chief Probation Officer with the Probation Board for Northern Ireland and in that capacity acted as Chairperson of the Criminal Justice sub-committee on Domestic Violence and Director of the National Community Justice Training Organisation.

### Commissioners from Other Backgrounds

**Mr Thomas Craig** is a retired Assistant Chief Constable with over 35 years experience of policing experience in Northern Ireland. Latterly he was appointed Regional Commander of South Region in 1998 and has previous experience in a number of headquarter support roles.

**Dr Duncan Morrow** is Chief Executive of the Community Relations Council (CRC). The Council has responsibility for supporting and developing inter-community and inter-cultural engagement in Northern Ireland and also supports work in the rest of Ireland in conjunction with Border Action, the European Union and the International Fund for Ireland. Since 2002 CRC has also taken a lead role to support Victims and Survivors of violence of the troubles. Dr Morrow was previously a lecturer in Politics



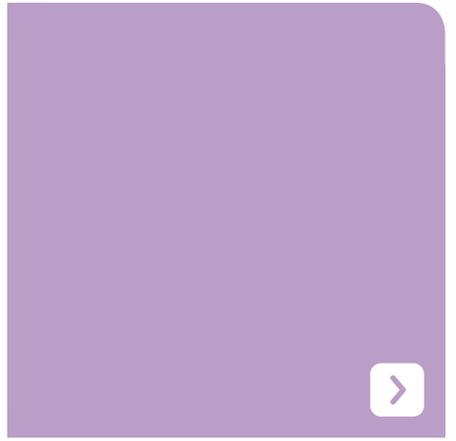


at the University of Ulster, a Director of the Future Ways Programme and is currently a Sentence Review Commissioner. A native of Belfast, he is married with three teenage children.

**Dr Patrick McGrath** retired in 2002 from the NHS after 30 years service as a General Practitioner and now continues in regular clinical practice as a Forensic Physician in Antrim. He teaches Medical Ethics and Law at the University of Ulster as a visiting Professor. In addition, Dr McGrath serves as Chairman of the Northern Ireland Association of Forensic Medical Officers and in 2006 was elected a Foundation Fellow of the Faculty of Forensic and Legal Medicine of the Royal College of Physicians.



## chapter 2



## THE WORK OF THE COMMISSIONERS



## CHAPTER TWO

# THE WORK OF THE COMMISSIONERS

### POLICY AND PROCEDURES

Throughout the year the Commissioners have continued to enhance their understanding of the arrangements for the sentence management and rehabilitation of life sentence prisoners, and of the Human Rights issues affecting the exercise of their statutory responsibilities. They have also continued to hold regular plenary meetings at which they have continued their work of developing policies and refining their procedures.



Training Symposium - Dec 2008

The Commissioners again held a day long seminar, during December, organised by the *ad hoc* Rehabilitation Group of Commissioners. Representatives of the various state agencies and other bodies whose roles are relevant to the work of the Parole Commissioners were invited. The event was highly successful and will be built on further to develop the processes required under the new sentencing arrangements.



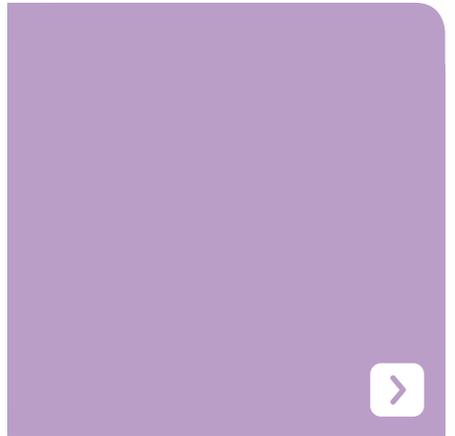


Because of the Commissioners' need to maintain a current knowledge of developments in jurisprudence, the legally qualified Commissioners continue to meet regularly to discuss the implications of relevant judgments delivered in the United Kingdom and by the European Court of Human Rights. Two other groups of Commissioners continue to convene on an ad hoc basis. The Rehabilitation Group and the Psychiatry/Psychology Group both meet as necessary to discuss matters that have arisen or may arise in relation to cases or Commissioners' business.

The Commissioners are currently reviewing their Step-by-Step Guide for Prisoners.



## chapter 3



## CASEWORK



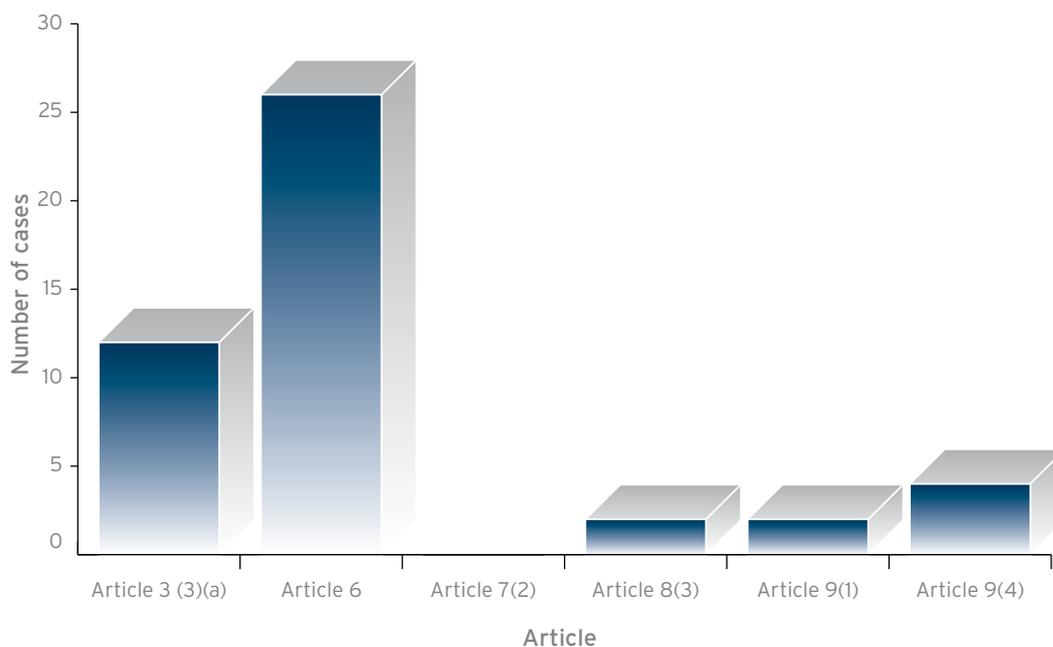
## CHAPTER THREE CASEWORK

During the year the volume of work of the Commissioners was dependent on the number of cases referred to them in accordance with the provisions of the Life Sentences (Northern Ireland) Order 2001. The enactment of the Criminal Justice (Northern Ireland) Order 2008 this year will result in an increase of the number of referrals in the future.

During the period of this report, cases were referred and processed as follows:

- Twelve cases were referred under Article 3(3)(a) of the Order
- Twenty-six cases were referred under Article 6 of the Order
- No cases were referred under Article 7(2) of the Order
- Two cases were referred under Article 8(3) of the Order
- Two cases were referred under Article 9(1) of the Order
- Four cases were referred under Article 9(4) of the Order

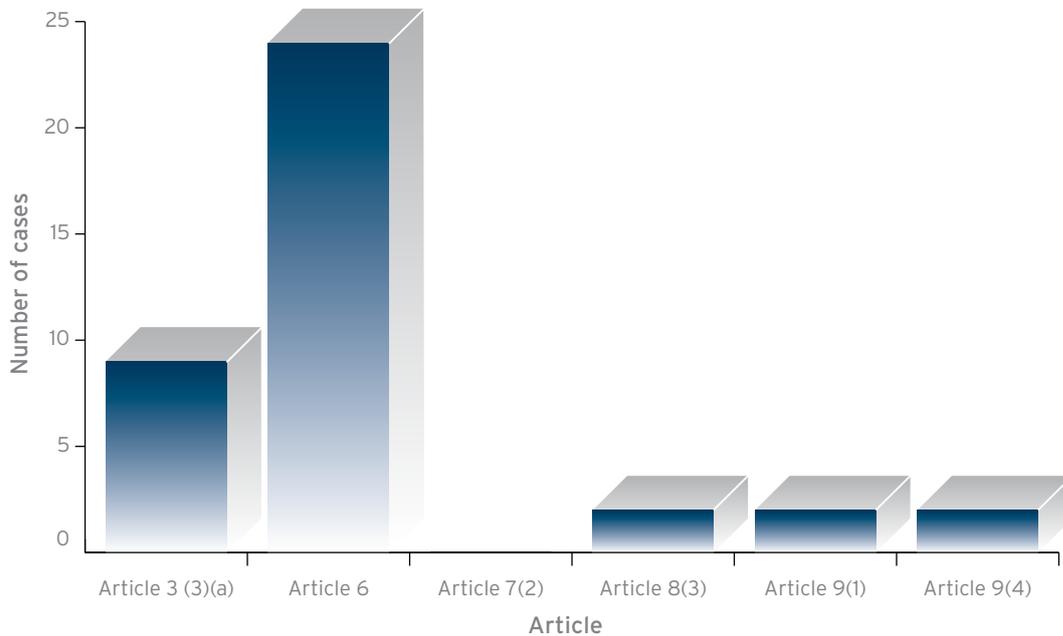
### CASES REFERRED TO PCNI BETWEEN 01.04.2008 AND 31.03.2009



22		

- Nine cases referred under Article 3(3)(a) were completed
- Twenty four cases referred under Article 6 were completed
- No cases referred under Article 7(2) were completed
- Two cases referred under Article 8(3) were completed
- Two cases referred under Article 9(1) were completed
- Two cases referred under Article 9(4) were completed

### CASES PROCESSED BETWEEN 01.04.2008 AND 31.03.2009



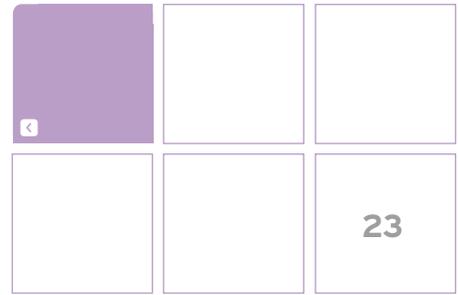
### ORAL HEARINGS

During the period of this report 26 oral hearings were completed. Two further hearings were adjourned and have yet to reconvene. A further twenty cases are still to be heard.

### JUDICIAL REVIEWS

During the year two applicants initiated judicial reviews of Commissioners' decisions, and a further application was carried over from the previous financial year. All of these applications have been heard but one applicant has applied for leave to the Court of Appeal and that case remains outstanding.





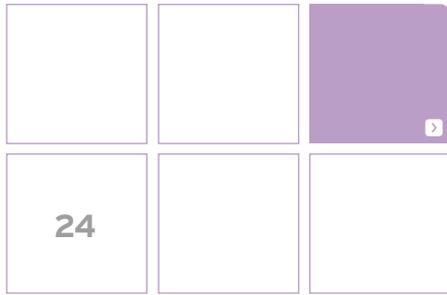
In the first case the Commissioners' decisions had originally been upheld by the High Court but, on appeal, the Court of Appeal reversed that decision and found in favour of the applicant. Their decision was based on their view that the Commissioners had not applied the correct standard of proof in determining whether the facts justifying the revocation of the applicant's licence had been proved. The Commissioners considered this decision to be detrimental to public safety and appealed to the House of Lords. The House of Lords reversed the decision of the Court of Appeal, held that the Commissioner had applied the proper test and that, therefore, their decision was lawful.

In the meantime a new panel had been appointed to take over the functions of the original panel. The prisoner's representative asked the panel to recommend release of the prisoner although all the evidence had not been heard. The panel refused to issue a decision until all the evidence had been laid before it. That decision of the panel was judicially reviewed but the judicial review was dismissed by the High Court. The prisoner has now applied to the Court of Appeal.

In the second case, the applicant made application on 7 April 2008 and sought leave to judicially review a decision of the Commissioners not to release. The grounds upon which the applicant challenged this decision were complex and detailed. The applicant argued that Commissioners failed to take into account the verdict of the jury at trial for an offence that led to the recall of the applicant and that the Commissioners' conduct of the hearing breached the applicant's rights under Article 5(4) of the European Convention on Human Rights and Fundamental Freedoms. The Court concluded on 8 July 2008 that the applicant had not established a proper basis for claiming leave for judicial review. It was not accepted that the Commissioners were bound to take into account the verdict of the jury.

In the third case the applicant applied in January 2009 for leave to apply for Judicial Review on the basis that: Commissioners failed to have due regard to the evidence of work the applicant had undertaken; relied disproportionately upon historical evidence demonstrating high levels of impulsivity and failed properly to address the issue of risk of serious harm. By the end of the reporting period the judge had heard the arguments but had not given judgment.





## CASES PROCESSED IN-YEAR

### Cases Processed In-Year - Article (3)(3)(a)

	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Total
Carried over from previous year					2
Referred for pre-tariff expiration review under <b>Article (3)(3)(a)</b>	2	2	6	2	12
Pre-tariff expiration recommendations given	1	1	3	4	9
<b>Cases Pending</b>					5

### Cases Processed In-Year - Article 6

	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Total
Carried over from previous year					16
Referred for Decision on Release under <b>Article 6</b>	7	4	6	9	26
Releases Directed	1	0	1	1	3
Releases Not Directed	1	3	12	5	21
Not Proceeded with/Withdrawn	0	0	1	0	1
<b>Cases Pending</b>					17

### Cases Processed In-Year - Article 7 (2)

	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Total
Carried over from previous year					0
Referred for consultation on compassionate release under <b>Article 7(2)</b>	0	0	0	0	0
Recommendations Given	0	0	0	0	0
<b>Cases Pending</b>					0



←		
		<b>25</b>

### Cases Processed In-Year - Article 8 (3)

	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Total
Carried over from previous year					<b>0</b>
Referred for consultation on cancellation of Licence Conditions under <b>Article 8(3)</b>	0	0	2	0	<b>2</b>
Recommendations Given	0	0	1	0	<b>1</b>
Recommendations Withdrawn	0	0	1	0	<b>1</b>
<b>Cases Pending</b>					<b>0</b>

### Cases Processed In-Year - Article 9 (1)

	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Total
Carried over from previous year					<b>0</b>
Referred for Advice on Recall under <b>Article 9(1)</b>	1	0	0	1	<b>2</b>
Recall Recommended	1	0	0	1	<b>2</b>
Recall Not Recommended	0	0	0	0	<b>0</b>
<b>Cases Pending</b>					<b>0</b>

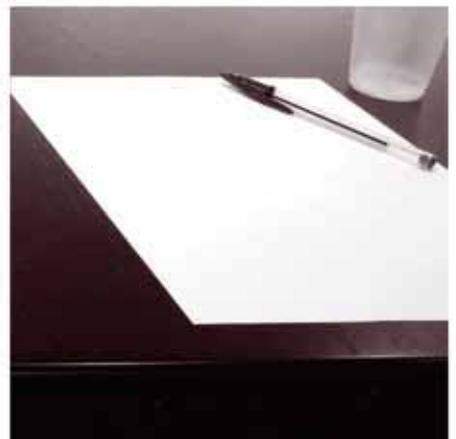
### Cases Processed In-Year - Article 9 (4)

	Apr - Jun	Jul - Sept	Oct - Dec	Jan - Mar	Total
Carried over from previous year					<b>1</b>
Referred for Decision on Revocation of Licence under <b>Article 9(4)</b>	1	1	0	2	<b>4</b>
Licence Confirmed	0	0	2	0	<b>2</b>
Licence Not Confirmed	0	0	0	0	<b>0</b>
<b>Cases Pending</b>					<b>3</b>





## chapter 4



## STAFF AND RESOURCES



## CHAPTER FOUR STAFF AND RESOURCES

For most of the year covered by this report, the Commissioners have been supported and advised by a Secretariat comprising the Secretary to the Commissioners and a team of eight staff.

Throughout the year, the Commissioners have occupied accommodation on the 5th floor of Windsor House, Belfast.

The Secretariat also support the work of the Sentence Review Commissioners appointed under the Northern Ireland (Sentences) Act 1998, who occupy the same accommodation.

Expenditure incurred by the Secretary of State in providing for the work of the Commissioners in the year ended 31 March 2009 was:

Programme Expenditure	2007/08 (£000)	2008/09 (£000)
Commissioners' Remuneration	114	190
Commissioners' Travel, Accommodation and Expenses	18	26
Legal Costs <sup>1</sup>	158	184
Premises	52	58
General Administration	51	56
Staff Salaries etc	135	207
<b>Total Expenditure</b>	<b>528</b>	<b>721</b>

1 Mainly costs incurred in responding to challenges by way of judicial review

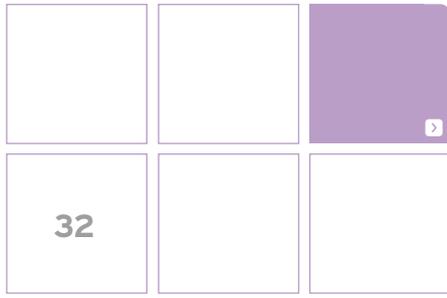


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