

**Case 200502348: Parole Board for Scotland**

**Summary of Investigation**

**Category**

Scottish Executive and Devolved Administration

**Overview**

The complainant (Mr C) felt the behaviour of a member of the Parole Board (Officer 1) was inappropriate as he felt that Officer 1 acted as an advocate for his release, which was not the role to be assumed by Officer 1. Mr C also complained that inaccurate minutes had been provided to the Parole Board (the Board) Review when considering his case and this adversely affected the decision reached by the Board. Furthermore, the complainant felt the Board should have re-convened a new review due to the inaccuracies in the minutes.

**Specific complaints and conclusions**

The complaints which have been investigated are that:

- (a) the manner in which Officer 1 conducted the interview, acting as an advocate for Mr C's release when in fact this was not her role (*not upheld*);
- (b) incorrect information recorded on minutes and the adverse effect this had on the Parole Board's decision on the review of Mr C's case (*not upheld*), and;
- (c) the decision not to re-convene a new review panel given the inaccuracies in the minutes (*not upheld*).

**Redress and recommendation**

The Ombudsman has no recommendations to make.

## **Main Investigation Report**

### **Introduction**

1. The complainant shall be referred to as Mr C in this report. On 24 November 2005 a complaint from Mr C was received by the Ombudsman's office. The complaint had exhausted the complaints process of the Parole Board for Scotland (the Board) and was, therefore, eligible to be reviewed by the Ombudsman.

2. The complaints from Mr C which I have investigated are:

- (a) the manner in which Officer 1 conducted the interview, acting as an advocate for Mr C's release when in fact this was not her role;
- (b) incorrect information recorded on minutes and the adverse effect this had on the Parole Board's decision on the review of Mr C's case; and
- (c) the decision not to re-convene a new review panel given the inaccuracies in the minutes.

### **Investigation**

3. In conducting the investigation I made written requests for evidence of the Board and Mr C's solicitor (Solicitor 1). Mr C had already provided evidence in support of his complaint when submitting his complaint to the Ombudsman's office. As a result, a considerable amount of evidence has been accumulated. The evidence which has helped me to arrive at my decisions on each point of complaint are as follows:

- a written statement from Solicitor 1, who attended the meeting in question, which states:
- 'From my perspective I cannot accept that the Parole Board member's conduct during the interview constituted to [sic] that of an advocate for Mr C's release';
- three separate documents that were provided to Mr C from the Board, each of which clearly stating:
- 'I should also advise you that the interviewing member will not have any input into the consideration of your case when it is presented before the Board'.

Mr C, therefore, was made aware that the interviewing member would have no influence in the decision taken by the Board when reviewing his case;

- both Mr C and Solicitor 1 were given an opportunity to comment on the interview and the report which detailed the main points of the interview within seven days of receiving the report. Evidence provided by the Board shows neither individual raised any concerns over the manner in which Officer 1 conducted the interview;
- I have seen the evidence that was made available to the Board when considering Mr C's case for parole. It is clearly stated in that documentation that Mr C was convicted on four charges. The minutes, which are created after a decision has been reached by the Board, stated that Mr C had been convicted of 12 offences;
- I have seen evidence that the case was acceptably reviewed once the clerical error had been brought to the attention of the Board.

4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Board were given an opportunity to comment on a draft of this report.

**(a) The manner in which Officer 1 conducted the interview, acting as an advocate for Mr C's release when in fact this was not her role**

5. On 30 June 2005, the interview took place with Mr C, Solicitor 1 and Officer 1 present. The report of the interview was received in the Board's offices on 5 July 2005. Mr C was sent a copy of the report on 6 July 2005 and was informed he had seven days to provide comment. Mr C instructed Solicitor 1 to make comment on his behalf. Solicitor 1 provided comment on 13 July 2005, however, no comment was made on the manner in which the interview had been conducted or the manner of Officer 1. Furthermore, Mr C had been made aware on three separate occasions that Officer 1 would have no influence over the decision of the Board. Therefore, by taking into account the points raised at paragraph 3 (a), (b) and (c), I do not uphold this aspect of the complaint.

**(b) Incorrect information recorded on minutes and the adverse effect this had on the Parole Board's decision on the review of Mr C's case**

6. Although it has been shown that the minutes did contain inaccurate information, there is no evidence to suggest that the Board arrived at their decision

based on inaccurate information. The Board have repeatedly stated that the inaccuracy was a result of a typographical error. The error has since been rectified under cover of a Chairman's certificate, which is perfectly acceptable under the provisions of Rule 12(3) of The Parole Board (Scotland) Rules 2001 which state:

'Clerical mistakes in any document recording a decision of the Board or, in a Part IV case, the tribunal, or errors arising in such a document from an accidental slip or omission may be corrected by the chairman of the Board, or as the case may be, the chairman of the tribunal, by certificate under his hand.'

7. Given the inaccuracy in the minute does not match the evidence that was considered by the Board when reviewing Mr C's case, on the balance of probability, it appears to be a genuine typographical error. Moreover, the inaccuracy would have no bearing on the decision reached by the Board as the minutes were created after the decision was reached by the Board. Therefore, I do not uphold this aspect of the complaint.

**(c) The decision not to re-convene a new review panel given the inaccuracies in the minute**

8. Given that the inaccuracy did not have any bearing on the decision reached by the Board, and that the file was subsequently reviewed once the error had been highlighted to ascertain whether or not a re-convened review was necessary, I do not uphold this aspect of the complaint.

*Conclusions*

9. In conclusion, I do not uphold any aspect of this complaint as Officer 1 and the Board have acted appropriately as clearly demonstrated by the evidence provided.

31 October 2006

**Explanation of abbreviations used**

Mr C	The complainant
Solicitor 1	Mr C's Solicitor
Officer 1	The Board member who conducted the interview
The Board	The Parole Board for Scotland

**List of legislation and policies considered**

The Parole Board (Scotland) Rules 2001