



Northern Ireland  
Assembly

Committee for Justice

# OFFICIAL REPORT (Hansard)

Parole Commissioners for Northern Ireland:  
Role and Responsibilities

21 November 2013

# NORTHERN IRELAND ASSEMBLY

## Committee for Justice

### Parole Commissioners for Northern Ireland: Role and Responsibilities

21 November 2013

**Members present for all or part of the proceedings:**

Mr Paul Givan (Chairperson)  
Mr Raymond McCartney (Deputy Chairperson)  
Mr Sydney Anderson  
Mr Stewart Dickson  
Mr Tom Elliott  
Mr William Humphrey  
Mr Seán Lynch  
Mr Alban Maginness  
Ms Rosaleen McCorley  
Mr Jim Wells

**Witnesses:**

Mrs Moya Cushley	Parole Commissioners for Northern Ireland
Mr Brian Garrett	Parole Commissioners for Northern Ireland
Ms Christine Glenn	Parole Commissioners for Northern Ireland

**The Chairperson:** I formally welcome Christine Glenn, chief commissioner; Moya Cushley, secretary to the Parole Commissioners; and Brian Garrett, who is a former parole commissioner. You are very welcome, and we appreciate you taking the time to come to us. Normal protocol is that the session will be recorded by Hansard and published in due course. Christine, I invite you to brief the Committee initially and then members will ask some questions.

**Ms Christine Glenn (Parole Commissioners for Northern Ireland):** Thank you very much. I will start by saying how grateful I am to have the opportunity to speak to the Committee. Parole is so misunderstood or not understood, so I think it is really important that we try to improve transparency. It is particularly important that this session is happening during Prisons Week. I do not think that an awful lot is being done to mark Prisons Week, so it is good that this is happening now.

As you said, Moya is head of the secretariat. Brian Garrett has recently retired as a commissioner, very sadly, but many of you will know him. He has been a solicitor since 1962 and a County Court judge and arbitrator. He is much better known.

I ought to say a bit about my background before I take you through the issues. I was the chief executive of the Parole Board in England and Wales for seven years until 2009. Before that, I was a lawyer who worked in the courts. Since then, I have done a lot of work internationally, setting up parole boards across the world, speaking at the United Nations and working as a visiting expert in Japan and Brazil. So, I have a lot of experience across the world in parole.

On the back of that experience — and I do not want to sound awfully big-headed — I spoke at a conference in London on Saturday. I said that I found, and still find, Northern Ireland a revelation. We get our dossiers on time. When we ask for information, we get it. We deal with our cases on time. Court cases are lower here than in England and Wales. The fact that we were able to manage a huge rise in case work despite no further resources, and keep up standards, was particularly impressive and a lot of it is due to the fact that we have a really good justice system here. The Probation Board is fantastic, and the prisons give wonderful support, as do the police when they are involved.

I feel lucky that I am working in this environment because, frankly, I would not want to be involved in the Parole Board across the water any more. Last year, it wasted almost £800,000 on compensation and cost payments to prisoners when it was not able to deal with cases on time. That is on page 14 of the briefing paper. I have only got the figures for ongoing compensation for the first five months, but it is very costly. It does not take account of people who are in prison for longer than they should be and the resources that are eaten up by that. So, I think that we are giving a good service at the moment.

The workload went up by 734% over the past three years since the Criminal Justice Order came in, and we are up 32% on that this year.

We have just appointed three more commissioners. We have a very rigorous selection and training programme, and I can tell you about that later if you want any information. They have a mixture of backgrounds, but they all have a lot of experience and expertise in criminal justice.

What are our priorities? The first is public protection; that is top of the game. We also have a statutory duty to have regard to rehabilitation. However, where things are fairly evenly balanced, there is no choice to be made. When I train commissioners, I tell them that if they are in doubt, do not let them out. That has to be the case. Most cases are dealt with on paper by a single commissioner first. I have brought a dossier so that you can see the size of it. That is fairly typical. The commissioner has to wade through that. It contains reports, statements about previous offences, reports on probation, psychiatric reports etc and on what happened in prison. We have to make a decision based on that information.

Many times, a prisoner will ask for an oral hearing. We have a panel of three to deal with that. We question witnesses and make a decision. There was a case in the Supreme Court in October involving Osborne and Co and one Northern Irish prisoner, Mr Reilly. On the basis of that case, it is almost certain that we will have more oral hearings. Basically, the Supreme Court said that it is going to be pretty hard to avoid them. The Lord Chief Justice here gave an inaugural lecture a couple of nights ago to the commissioners in which he made it very clear that it would be pretty hard to turn one down. We have been given a very clear steer. Those are likely to go up.

We have to make a risk assessment. It is very much the sort of thing that an insurance company does. We start with the risky or bad factors, and we do that on the basis that most research shows that past behaviour is the best predictor of what is going to happen in the future. After we have tried to ascertain the negative part, we look to see whether there are protective factors, and we try to weigh those up. We then have to balance whether somebody should be released, recalled or not recalled. I have a little four-stage process. It is this: what he did; why he did it — and I am saying "he" because the majority of prisoners are men — whether anything has changed, and, if so, whether that change can be sustained.

I have shown you a dossier. On the final page is the case study of Peter. I have tried to summarise it, as it is the sort of case that we get not infrequently. The first part is the negative stuff. What did he do? He did a vicious robbery on a small store with only one young woman in it. Maybe he targeted it because it was vulnerable. He used a weapon, and he injured her. He was prepared to do that. He has previous convictions for violence and dishonesty. He started when he was 13. So, we know what he did, and we know the risk factors.

The next page looks at whether there are any protective factors. You learn a bit more about Peter here. He has a terrible family background. He has drugs and alcohol problems. Is that the reason why he did what he did? Who knows? He never worked. However, he has been drug-free since he has been in prison. He has learnt some skills. He has the offer of a job. He has the offer of somewhere to live, in a hostel. He seems to have developed some sort of victim empathy, but you have to think about whether that is genuine. You have to make a decision on whether he is safe to be released on the basis that he would have some supervision in the community — he would not be cut adrift — or whether it is still too soon. That is the balanced decision and sort of decision that we have to make. I will not ask you what you would do with Peter. If I asked the commissioners, it would be a

50:50 choice. I just wanted to give you something to illustrate the process and the sort of things that we have to deal with. Do you want me to finish by talking about why I am not able to talk about the cases that, I suspect, we would all like to talk about?

**The Chairperson:** Yes. I assume that it is due to rule 22 —

**Ms Glenn:** It is, indeed.

**The Chairperson:** — which I note that you want to keep.

**Ms Glenn:** When I was chief executive of the English Parole Board, we had the case of Tony Martin. If you remember, he was the man who shot the burglars. I was frustrated by the stuff that was written in the press, and I was desperate to be able to put the record straight and give the Parole Board's view. In Scotland, and in England and Wales, there is a similar provision to rule 22, so I was not able to do that. I look to Canada and to some of the states in America that have a much more open process. Things are published, and, in fact, some states have public hearings for parole.

I cannot talk to you about cases because, legally, I cannot do so. However, I would like to see a better debate about what the position should be going forward. I do not think that the way is just to change the parole rules, because that does not affect just us, it affects witnesses also. We would probably have to see whether it would have an impact on the sort of evidence that we receive. Our processes are drawn from mental health review tribunals. Only one of those, the Ian Brady case, was held in public, and that was because he wanted it to happen. It is a broad debate, but it may be time to have it.

**The Chairperson:** OK. Thank you very much for that. I want to ask a couple of general questions and then I will bring in other members. I want to start with the role of the Parole Commissioners in recommending the revocation of a licence. The reason I mention that is because of some high profile cases. Talk me through the process when you recommend to the Secretary of State that a licence should be revoked.

**Ms Glenn:** We get an application on paper. The decision made is based on the papers that come from the Department of Justice. The application is normally from the Probation Board or from the offender recall unit. The decision is based on the information available to the commissioner at that time as to whether the risk of harm, or serious harm depending on what sort of sentence it is, has increased more than minimally — that is the legal test — and whether that risk can be safely managed in the community. The commissioner has to make a decision based on fairly limited evidence at that time and based on that moment in time.

Do you want me to go to the next stage in the process?

**The Chairperson:** Yes, please.

**Ms Glenn:** The next stage of the process is that we make a recommendation. If that recommendation is for a licence to be revoked, then the person, if they can be found, will go back to prison. We are then in a position where we get much more information. We will get information from the prison about how he has done. We will get stuff from the prisoner. We might get additional reports depending on the sort of case; psychology reports, for example. We will certainly get something from his lawyers. Sometimes, the Probation Board will also have had time to look at whether more conditions or structures could be put in place to manage the risk. We will also have more information about the prisoner himself. We are making a different decision at that stage. The test is still the same, but we are making a decision based on more information.

**The Chairperson:** You can see the problem about how that is perceived —

**Ms Glenn:** Absolutely; yes.

**The Chairperson:** — that you have taken the decision to revoke a licence — of a convicted terrorist in a number of cases — they go back to prison, and then they are let out.

**Ms Glenn:** Absolutely.

**The Chairperson:** Why not have all of that information at the start of the process? You may then not have revoked the licence.

**Ms Glenn:** Perhaps not. When you are looking to get somebody back into custody, you sometimes do not want them to be put on notice because you might not then get them back into custody. I think of this as a being bit like how committal proceedings used to be in the courts, when you would really have only the prosecution case to start with. After that, when you had the full case, you would then have more information to enable a jury or the court to make a full decision. I think it is a bit like that.

However, I can see absolutely where the confusion lies. In England and Wales, the Parole Board, which is the same as the Parole Commission here, does not deal with such cases. They are actually dealt with by an executive recall. They are dealt with through officials. So, it is that sort of process. The Parole Commissioners then only deal with the proper decision on whether that person should be re-released.

**The Chairperson:** Is the executive recall a quasi-judicial body?

**Ms Glenn:** No, it is not. I am not sure whether that is the answer here. I am just saying that that is the way in which it is done. I never like too much to be done by the executive. I would much prefer a judicial body to do things. However, the advantage is that it makes the Parole Commissioners' role much clearer. I can see how it must look to the public; that the body makes one decision on the case and then, a few weeks later, changes its mind. That could look odd.

**The Chairperson:** With regard to gathering up all of the more detailed information that you need, obviously, you will have input from the prisoner and the prisoner's legal team, and you will also take input from health professionals. That has been one of the discussions. Who do you depend on as being the authoritative source on being able to treat someone and provide them with healthcare in a prison setting?

**Ms Glenn:** The health trusts now have the responsibility to provide healthcare to prisoners.

**The Chairperson:** It is the South Eastern Trust.

**Ms Glenn:** I think that it is down that line. We look for information on health risk. We do not look at ongoing care.

**The Chairperson:** One argument put forward for a number of releases was that the prison was unable to provide appropriate healthcare and that, therefore, the prisoner needed to be released.

**Ms Glenn:** I cannot comment on that.

**The Chairperson:** So, that is not something that the commissioners take into account —

**Ms Glenn:** I am sorry: what is not?

**The Chairperson:** Perhaps someone makes the case and says, "Here is an individual whose health is deteriorating. As the prison is unable to meet their appropriate care needs, they need to be released." Is that not something that the commissioners consider?

**Ms Glenn:** You would have to look at the case in the round. I can talk only about generalities, which is part of the difficulty. If a person's health, as documented by medical professionals, means that he or she is unable to perform certain functions that would, obviously, be considered with regard to whether that person is safe to be released and the risk is manageable —

**The Chairperson:** You have said that you would consider it in the round. I am still not clear as to whether it is something that you would consider if the South Eastern Health and Social Care Trust, as the provider of healthcare in all prisons, said that it could meet the health needs of a prisoner.

**Ms Glenn:** That is not what we look at. We look at whether a prisoner is safe to be released. If the argument is that the risk is too great for release, but that the health risk, because it cannot be

managed in prison, is the only reason why a prisoner should be released: is that the position you are looking at?

**The Chairperson:** Yes.

**Ms Glenn:** You would have to take that into account. Certainly, if I were sitting on that sort of case, I would want to have a range of medical reports. I would not just want a single report: I would want reports from a number of professionals.

**The Chairperson:** Who would you depend on then? We know that, in some cases, outside doctors have been brought in and have given a report. One then asks, if it is from the prisoner's perspective, "If you commission that individual, they will say that, won't they?". As regards the integrity of the advice you get from medical professionals, is that the advice given by the South Eastern Trust, or is advice from a doctor brought in by whatever organisation on the prisoner's behalf given equal status to the advice of the South Eastern Trust?

**Ms Glenn:** I cannot comment on equal status. It is always the case that the commissioner who deals with that will either be a psychology or psychiatry professional. I would submit that they will be very well aware of the level of expertise of the doctors who are reporting. In those cases, it may be that the Parole Commissioners would call for additional reports if it was not clear from the evidence provided. That is something that we can do. We certainly would not take a random doctor's report on trust if we had no idea of their status or competence.

**The Chairperson:** What weight do the commissioners give to politicians who make representations on behalf of prisoners who want to be released?

**Ms Glenn:** They would be witnesses, and their evidence would be assessed as part of the general risk assessment.

**The Chairperson:** What evidence could they ever bring that would be of any benefit?

**Ms Glenn:** I do not know. It would depend on an individual case. It may be that a person was well known. We have cases in which people appear as character witnesses. One listens to their evidence and weighs it in the light of everything else.

**The Chairperson:** Do you think that it is helpful or counterproductive for politicians to be able to make representations?

**Ms Glenn:** I do not have any view. It would depend on whether they are able to give the commissioners information that helps them to make that risk assessment.

**Mr Brian Garrett (Parole Commissioners for Northern Ireland):** I had a lot of that sort of experience. I do regard it as helpful, but of course, there is "help" and there is "help". In some cases, it is more relevant than others. As our chairman said, it has to be tested. Overall, the more information the commissioners have the better.

**The Chairperson:** Outline a circumstance in which you would find political intervention helpful.

**Mr Garrett:** Somebody may be trying to make their way in the community by doing social work or whatever and are connecting with others in the community. It may well be that a politician or local councillor has had a hand in that. If that is so, it is helpful to know whether it is a bona fide application and whether the person has genuinely worked in that sort of way. Perhaps the politician can also say something about the person's family or their social background. It is hard to make a single case, but all that I would say is that the evidence of any person that can lead us to an informed decision is helpful. There are times when it is more central than others.

**The Chairperson:** Under rule 22, we can never know what any political representatives or medical professionals say in the cases they put forward. That is the case.

**Ms Glenn:** That is the case, yes.

**The Chairperson:** Therefore, it is left to people's perceptions. That is why I asked whether you saw it as counterproductive that representations can be made and nobody can see what those are. In a court, everyone can hear what is said about someone else. However, when it comes to the Parole Commissioners, nobody can ever find out unless someone willingly tells them, then it is up to you whether you believe their account.

**Ms Glenn:** As I said before, I think that rule 22 is a fairly blunt instrument. I am not sure that it is helpful in the long term with transparency and the public understanding of what we do. That said, parole hearings are not like court hearings. People are asked very private, difficult questions and give replies that can be incredibly intrusive. I do not know whether they would be prepared to give as much information, sometimes quite candid information, if the public were there. As I said, that is part of the wider debate that we will possibly have at some stage.

**The Chairperson:** Have you ever got it wrong?

**Ms Glenn:** As far as people reoffending is concerned, no lifers, thank God, have been returned to prison over the last 18 months. We must have got it wrong. We will have got it wrong both ways. We will probably have kept people in who may not have reoffended. We have certainly let people out who went on to commit minor offences on determinate sentences, so far, and I am touching wood. There is no guarantee. As I state in the paper, the only guarantee that nobody will reoffend is to not let anybody out at all.

We just did a shared piece of work with the Probation Board, which did an audit of recall cases. The majority who are recalled to prison are recalled within four weeks of being released. You wonder whether things might go more smoothly if a bit more support was given at that time. Almost half of recalls were for new offences, which, again, begs that question.

I am keen to have a bit more of an evidence base and research on these matters. When I was in England and Wales, we set up a lifer database. We started to keep statistical information on every life sentence prisoner who was released and recalled. We got Oxford University involved, which did a study that pulled out three main factors that, taken together, 80% to 85% of those recalled had in common. That fed into our decision-making, which meant that it got sharper.

I would love to see a lot more research done here. Frankly, overall, the system does it well. It is not just our decision to release. When we release, we put people on conditions. Those conditions have to be managed. Overall, those conditions are incredibly well managed by probation and by the police through the multiagency arrangements. Although we are independent and proud of it, we are interdependent and very much rely on the other agencies.

**Mr A Maginness:** Thank you very much for coming. A most interesting submission. I concur with the Chair about rule 22. It offends contemporary standards of transparency and needs to be reviewed. That brings me to this point: what are you? Are you a court? I am not quite sure. Maybe you are not sure either.

**Mr Garrett:** We are sure.

**Ms Glenn:** We are very sure that we are not anything.

**Mr A Maginness:** Right.

**Ms Glenn:** Each commissioner, according to the legal term, is corporation sole. We act as a body and agree policies and so on together, but it is a very uncomfortable position not to be a formal body. I had asked the Lord Chief Justice to give an inaugural lecture for the Parole Commissioners, and I was so delighted two nights ago when he said that he was very clear that he thought that we should be under schedule 1 as part of a judicial family. He made pointed remarks that suggested that he thought that we should be that sooner rather than later. That would increase our transparency. All decisions in the High Court and European Court for the past 15 years started by saying that parole boards or commissioners are court-like bodies. They have gone on to say, "You are a court". Well, if it looks like a court and walks like a court and all that, you know. That is what we are, effectively.

**Mr A Maginness:** So, you would say that you are a court.

**Ms Glenn:** I would.

**Mr A Maginness:** If you are a court, the point that the Chair made about transparency, openness and public hearings is —

**Mr Garrett:** It is a bit more complex than that. We are exercising a judicial function that is recognised under the European convention as a judicial function. It is a very special judicial function. The question of rule 22 has come up, and you are absolutely right to highlight it. I am sure that it is a matter of great frustration for you and some anxiety for us. On the one hand, you do not know exactly what has happened if you are asked, and we cannot answer many criticisms that are made of us. This has been tested on the European convention, and it is compliant with convention rights. Transparency is, of course, a great goal. I am sure that Christine will agree when I say that we would welcome a review of rule 22 on an informed basis because it creates your frustrations and our anxieties. I do not know whether there is an easy answer to this, because the other side of rule 22 is the protection of people giving evidence and the protection of the anonymity of the prisoner, so it is not exactly all duck and no dinner here. It is a balance.

**Mr A Maginness:** There are courts to which public access is restricted.

**Mr Garrett:** Yes, there are.

**Mr A Maginness:** For example, when there is a big —

**Ms Glenn:** As I said earlier, I would welcome a review but not just a tinkering with the rules. I think that a proper investigation and a proper consultation paper might be a good model.

**Mr A Maginness:** I will move to more general points, and I know that you cannot comment on individual cases, but there were prisoners who were released as a result of the Good Friday Agreement or, indeed, before that who were tried and convicted under Diplock and received sentences, particularly life sentences. My understanding is that they were released on no specific conditions. There is then a problem for you, as the Parole Commissioners, in adjudicating any recalls in such cases because no specific conditions have been breached as there are no specific conditions. What is the standard that you use in such cases? Is it purely the point of public safety, which would be your general standard in any event? Is it that alone that is considered?

**Ms Glenn:** It is that alone, together with the rehabilitation point, which I made earlier. The main thing is —

**Mr A Maginness:** Can I just interrupt you on the rehabilitation point? If the person has been released without any conditions, surely rehabilitation is not a consideration?

**Ms Glenn:** It might be because you might get somebody who has been released in those circumstances and has gone on to reoffend through a different sort of offence. So, you might be looking at rehabilitation in that sense. That is why I wanted to say it; it was to make it complete. Sorry, now that we have gone off-piste, I have forgotten where we got to.

**Mr A Maginness:** They are a specific class of case.

**Ms Glenn:** They are.

**Mr A Maginness:** They are separate. It is not an ordinary case, if I can term it as that, where somebody commits a murder in the course of a robbery or something like that, and he is released on specific conditions and has to do certain things. These are entirely different cases, so there must be some different approach to those cases. Is that correct?

**Ms Glenn:** The fundamental thing is the public protection. In those cases, we will sometimes impose post-release conditions to manage what we see as particular risks in that individual case. The difference is that the Probation Board was not willing to supervise people whose index offences were seen as sectarian. That was the only difference for those cases.



**Mr A Maginness:** OK. There are cases that involve intelligence reports. I regard intelligence reports as not being admissible evidence to a court of law. You have styled yourself as a court of law, yet you are in receipt of that information, which is intelligence-based, and various sources and so forth are perhaps not disclosed. How does the commission deal with such cases? It must be extremely difficult to deal with intelligence reports alone if there is no evidence as such.

**Ms Glenn:** We follow the guidance and case law. Our objective is to have an open hearing; that is what we want. We want all the evidence to be open; that is the starting point. With the A and AF cases, that is the starting point. We go through a very lengthy process of gisting, which I think is a strange word. It goes backwards and forwards. We appoint a special advocate, as you understand, and we try to work with them. It is normally the Northern Ireland Office lawyers in those cases. Our commissioners have a number of processes in which they go backwards and forwards looking at that evidence. They have to do it up here on the estate. If they take notes, they have to be kept in a closed room and they cannot take them away. They are as constrained by that as possible.

**Mr A Maginness:** You used the word "evidence". I suggest that it is not admissible evidence in a court of law.

**Ms Glenn:** I ought to call it "protected information"; forgive me.

**Mr A Maginness:** I just wanted to get that point across. You hear from the special advocate who is appointed to represent the appellant. Is that a separate hearing where he presents points to you?

**Ms Glenn:** Yes.

**Mr Garrett:** Yes. It is not a separate hearing; it is a separate part of the overall hearing. Let me put it in context. You are absolutely right: of course the intelligence issues, which are not out in an open court, run against the drift of broad justice. That has now been tested in the A case. It is admissible and it is proper evidence in that sense, but only in very limited situations and with conditions around it. I suppose that I can say with some justification that, at all times, the prisoner must be given as much information as possible on what case he is dealing with. We have to go the extra mile in doing that, special advocate or not. The fact that we have gone that extra mile was dealt with by the Lord Chief Justice two nights ago, and so we should. People should know what case they are facing, as best we can. Of course, there will be times when giving enough information would endanger possible sources. That could be the case. These are fine judgements; I do not deny that.

**Ms Glenn:** We had only one such case in the seven years that I worked in England and Wales, and it was not about national security information. It related to Harry Roberts, the guy who killed three policemen. The evidence is now in the public domain, so I can talk about the case. It was about protecting two witnesses who would have been at serious risk had their evidence been known to him at that time, or that was thought to have been the case at least. It was agonising for the panel that dealt with that case, because, as a lawyer, it strikes against all my instincts for somebody to be imprisoned or kept in prison on evidence that they do not know about. It feels like something from Kafka.

**Mr A Maginness:** That would be my point, but I am not asking you to agree with my point.

**Ms Glenn:** I will if I do.

**Mr A Maginness:** It is Kafkaesque; there is absolutely no doubt about that. With all due respect to the Parole Commissioners, I am not certain that that is the right forum for such a decision to be made. I say so respectfully to you. That is my viewpoint.

**Ms Glenn:** If the Parole Board in England was the only body that could deal with the release of that person, it had to consider that. It feels very uncomfortable, but the buck had to stop somewhere and somebody had to make that decision. It was appealed: it went to the House of Lords as it then was and, by the narrowest of margins — three to two — the decision went in favour of what the Parole Board did, but it felt as uncomfortable as we all did. Fortunately, those cases are very few and far between. Nevertheless, they are horrendous, because it is almost impossible to get balance in those cases.

**Mr A Maginness:** Who initiates recalls? Is it the Probation Board or the police?

**Ms Glenn:** The Probation Board.

**Mr A Maginness:** It is the Probation Board.

**Ms Glenn:** It is usually the Probation Board.

**Mr A Maginness:** There was reference in our notes to difficulties with solicitors or legal representation at Magilligan. Has that been resolved?

**Ms Glenn:** The legal aid rates changed not very long ago, and there were mutterings that they would not be able to get to Magilligan, which is why I put that in there. So far, it is not a huge problem. I am concerned that, if more pressure is put on legal aid, it might mean that people have not got access to justice.

I spoke at a conference last weekend in England. They have just changed the legal aid provisions for people. They have taken away virtually all the advice and guidance. They cut the scope by 80%. The hourly rate was about £44, which it had been for 17 years, and it has now been slashed by 17.5%. So, it is hard to see how people will be represented. It will end up costing the public purse more because people will be kept in prison for longer.

**Mr Garrett:** I want to go back to Mr Maginness's point, because it relates to the special advocates. The Parole Commissioners have been handed the legislation with rule 22 in it. It is not our job to defend that. We have to work it as best we can. I think that we welcome it, indeed, I know that we welcome it when others say that it is time to look again at this. That is a decision for legislators. It is not for us to come to defend what is there but to come to tell you that we are trying to work it as best we can. I believe that we are trying to work it with the best legal principles that we can apply, but that is for others to judge. That is why we try to go the extra mile to make sure that people know what cases they have to meet and to be able to conduct a fair hearing in those cases. That is all that I can say. What is happening today is part of what we should welcome; namely, that we are here telling you how we are going about this job. Maybe, in your position, you can help us by explaining to the general public what we are doing and why we are doing it. Maybe we have not been all that great at communicating it.

**Ms Glenn:** I do not think that we have.

Yesterday, we agreed a written protocol on how we will deal with this sort of information, and we will put it on our website now that we have signed it off. Any help that we can get in assisting would be great.

**Mr Garrett:** I agree.

**Mr McCartney:** Thank you very much for your presentation. I am struck by your comment that you are not here to defend it, and we do not expect you to defend it. However, we have to tease out the issues.

There is a distinct distinction between what people call conflict-related and non-conflict-related cases, and those are the broad terms that they use. The Probation Board has no role in a person being released on licence. Therefore, it has no role in the revocation of a licence. In the main, the revocation of a licence comes from the British Secretary of State, and they will cite the British national security interest to revoke a licence. So, you would agree.

**Ms Glenn:** I am not sure that I know, technically, whether that is the case in all of them, because I am thinking of cases where somebody in that position has gone on to be charged with some non-related offences. I am not sure where that recall comes from.

**Mr McCartney:** That would come from the Department of Justice.

**Ms Glenn:** Possibly. Just so —

**Mr McCartney:** But there would be a charge running parallel. We are talking about a case where a person does not face a charge, but their licence is revoked and they find themselves in prison. My understanding is that the process for doing that comes from the British Secretary of State.

**Ms Glenn:** Yes, I think that probably is right.

**Mr McCartney:** Your briefing states that the Court of Appeal judgement — I accept that it was in England — stated that there should be:

*"a clear distinction between the executive role of the sponsoring department and the judicial role of the Board."*

If you translate that here, it is difficult to see how it can work in practice, because the "sponsoring executive department" is the British Secretary of State who revokes the licence, so the separation becomes difficult to see. It seems a bit strange that we can sit here today and say that the process feels like Kafka. If it feels like it, then it is it. We have a judicial process in place that deprives people of their liberty, which, we accept, is Kafkaesque. Therefore, it is difficult to see how you can say that it is a proper judicial process.

**Ms Glenn:** I do not think I am saying that, Mr McCartney. I am saying that it is the process that we have got.

**Mr McCartney:** I cannot lay the blame on you, nor will I, but —

**Ms Glenn:** I am not trying to shrug it either.

**Mr McCartney:** I am not suggesting that you are, but if someone describes a setting where someone is deprived of their liberty as Kafkaesque, most people looking on would say that there is something improper there.

**Ms Glenn:** We are not the only people either. It is not even just the United Kingdom. Some of the European cases are for other countries. It is something that people are struggling with. I just wish that we had a better solution.

**Mr McCartney:** I agree, but the role of a particular commissioner means they are confronted with a set of circumstances from the British Secretary of State, which is based on intelligence and intelligence only. I note that the Parole Commissioners say that it is based on evidence, which Mr Maginness outlined. I do not think that anybody can call intelligence evidence, because evidence is something that will be —

**Ms Glenn:** It depends on how you define evidence. I was speaking to one of my commissioners about that, because I was critiquing how he had put something in a decision, and I said that he should not use the word "evidence". He said that the Oxford definition is information before a court or tribunal. I suppose, at that low level, it might be.

**Mr McCartney:** The Collins definition, under the interpretation of law — this is a judicial process — is:

*"matter produced before a court of law in an attempt to prove or disprove a point in issue".*

In this particular instance, the person accused never has the opportunity to prove or disprove what is placed in front of them.

**Ms Glenn:** You have heard my views on that.

**Mr McCartney:** I come back to the role of the commissioner. When something is put in front of the commissioner, do they have any role in questioning the intelligence, its legitimacy and its source?

**Ms Glenn:** Oh yes.

**Mr McCartney:** What way does that happen?

**Ms Glenn:** Part of that is the gisting process, because you would be going through it and saying, "It says here in this report X. Why on earth can't he know that?" You would be going through it in that sort of detail.

**Mr McCartney:** I do not mean that particular thing. If, for instance, it states, "We believe this person to be involved in ...", would you ask, "How do you know that?"?

**Ms Glenn:** Yes.

**Mr McCartney:** And would you ask to speak to the person who perhaps provided that intelligence to a source? We all know how, in recent times, the intelligence services across the world have come under scrutiny and some of their practices have been held up by their own states and Governments as below best par, at best. We can go back to the Iraq war. It is now accepted that the intelligence services concocted a document to convince a Government to go to war. If they are prepared to do it in that instance, what would they do in the case of an individual?

**Ms Glenn:** When we get to those cases, you will have a panel of three, and —

**Mr McCartney:** But the first recall is one.

**Ms Glenn:** The first recall will be one, and —

**Mr McCartney:** And a person can be held until they face the three-person panel for a long time.

**Ms Glenn:** That is true.

**Mr McCartney:** For a period that can stretch to two or three years. So that is the first sighting of information by the commissioner, which is where the weight of responsibility lies, and I accept that it is a heavy weight. However, if no rigour is applied to the intelligence source, a person will, rightly feel that, in essence, he or she is being held without trial.

**Ms Glenn:** I have to say that I agree with you. That has to be right. As much rigour as is possible at single commissioner stage is applied. Sometimes, we have two single commissioners to deal with those sorts of cases. As I said, we have had very few. One will deal with and challenge the protected information, and the other commissioner, who makes the final decision, will deal with the rest.

**Mr McCartney:** I want to explore this scenario: would it be strange for the British Secretary of State to present that a person's licence be revoked if he or she had never been arrested and questioned by the PSNI?

**Ms Glenn:** I do not know. I cannot think of any such cases.

**Mr Garrett:** It would be strange enough, I think.

**Ms Glenn:** It would be very strange, yes.

**Mr McCartney:** Would a commissioner ask that question? Say, for example —

**Mr Garrett:** Absolutely. We are talking about generalities, but do not forget that we have a special advocate sitting there.

**Mr McCartney:** With respect, the advocate does not come until a long time after —

**Mr Garrett:** You say "a long time", but it does not have to be a long time. There are many —

**Mr McCartney:** It can be a long time.

**Ms Glenn:** It can be a long time.

**Mr Garrett:** It might be, but there is also the power for a prisoner to go to the court if it is an unreasonably long time.

**Mr McCartney:** Yes, but we have had situations in which, without going into particular cases, a person has applied for bail —

**Mr Garrett:** I agree, but normally the applications come from the prisoners' side.

**Mr McCartney:** I accept that, but what I am saying is that I find it strange that you have a system, about which we now accept the description "Kafka-like", in which a person can be liberty deprived on the basis of an intelligence report. He or she has not even been questioned under caution, never mind charged, yet a commissioner is put into the position of being able to say that the report is enough to put a person in prison. The PSNI did not even think it fit to arrest and put the charges to him. That adds to the feeling of —

**Ms Glenn:** I can see that, and certainly —

**Mr McCartney:** But —

**Ms Glenn:** Sorry, if I may just finish.

**Mr McCartney:** Sorry.

**Ms Glenn:** If a single commissioner was in that position and the information given was so nebulous, he or she may well not recommend a recall.

**Mr Garrett:** That is right.

**Ms Glenn:** There is also a parallel process whereby people do not have to come to the commissioners for a recall; there is an emergency recall that can go direct. I cannot instruct the commissioners, but I cannot imagine any of my colleagues not wanting much more hard and fast evidence than this sort of rumour mongering or tittle-tattle to recall a licence. If somebody had been charged by police, I think that you get into a different realm, even if they have not been convicted at that stage.

**Mr McCartney:** I know that you might not answer this, and I can understand that, but are there many instances in which the commission has been asked to recall or revoke a licence in conflict-related cases and has, at first, refused?

**Ms Glenn:** I do not know the answer to that, one way or the other.

**Mr McCartney:** When you say that, is it —

**Ms Glenn:** I honestly do not know. I know the numbers of cases in which we have said no to a recall, but I do not know the reasons, one way or the other. I just know the numbers, and those are not necessarily conflict-related cases across the piece.

**Mr McCartney:** Would it be possible to find out?

**Ms Glenn:** Provided it does not conflict with rule 22 — I will try to be as open as I can, as I hope that you can see I am trying to be today — I will do a paper on that. I do not think that there have been, but I do not want to mislead you.

**Mr McCartney:** That is my point. I understand the weight of responsibility placed on a commissioner when someone comes along and says that, in their opinion, this person is a threat to British national security. That is a big responsibility for someone —

**Ms Glenn:** Absolutely.

**Mr Garrett:** I agree.

**Mr McCartney:** However, when that person is later released because the "evidence" does not stack up or we find ourselves in a situation in which we agree that the process is not open and not transparent, rule 22 adds to that. If a person has not been arrested and questioned, logically, I find it difficult to see how they can be deprived of their liberty on the strength of your intelligence report when the charge has not been put under caution. I think that it would be wrong to deprive someone of their liberty in those circumstances. I am not saying that, if they were then questioned under caution, I

would agree. I have a position, and it goes back a long time. I do not think that a person should be recalled. I think that, when people have served their sentence, they should be released, and that should be the end of the matter. It is a matter for the commissioners to decide on their release.

**Ms Glenn:** Clearly, we operate according to the law as it is.

**Mr McCartney:** I accept that.

**The Chairperson:** Mr McCartney covered the matter of someone who has been released on licence and is then recalled. What is the commissioners' response when people who have been released on licence are then charged with an offence?

**Ms Glenn:** We consider it. Very often, solicitors will say that someone has only been charged with an offence, not convicted, and so we cannot take that into account. Our reply is that we do not treat the matter as a criminal prosecution. What we deal with is what he or she did and whether that behaviour, on the balance of probabilities — a lower standard of proof — raised the risk. So, sometimes, even if someone is acquitted of a new charge, by going to a place that they knew was risky; taking drink where they knew it would be a problem associating with certain people; or being with someone who has weapons, might raise the risk so that we think that they are not safe to release.

**The Chairperson:** If then found not guilty, would you automatically release them?

**Ms Glenn:** If they are found not guilty, it does not matter. No.

**Mr Garrett:** It would depend on what they were charged with, of course. If someone were released who had had a lifetime of violent crime and was charged with taking a car somewhere, without damaging it and without being under the influence etc, you would have to weigh whether the risk to the public had significantly changed.

**Ms Glenn:** If we decided to keep him in custody and he was subsequently acquitted, he would not necessarily get out because of that. However, he could come back and ask us to reconsider on the basis that he had been acquitted. I have dealt with such cases, and we would reconsider, although we might still not let him out.

**Mr Wells:** Has anything happened since 12.30 pm today that leads you to believe that you made a dreadful mistake?

**Ms Glenn:** Sorry?

**Mr Wells:** Has anything happened since 12.30 pm today that might have led you to believe, "We have made a terrible mistake"?

**Ms Glenn:** I am not aware of anything.

**Mr Wells:** You are not aware of anything happening today —

**Ms Glenn:** No.

**Mr Wells:** — regarding a very high-profile case that you dealt with.

**Ms Glenn:** No, I am not.

**Mr Wells:** Right. May I suggest that you check your BlackBerry pretty quickly? There has been a very high-profile case.

**Ms Glenn:** Right. Please tell me about it.

**Mr Wells:** Under rule 22, am I allowed to?

**Ms Glenn:** Right.

**Mr Wells:** It concerns a certain lady. I think that, under rule 22, that is all that I can say. Mind you, it surprises me that, as three high-profile commissioners, you are not aware of what happened today.

**Ms Glenn:** As I said, I was travelling up here from 12.30 pm, and I switched my phone off.

**Mr Wells:** You do not listen to the radio.

**Ms Glenn:** I have not listened to the radio since because I have been in the Building.

**Mr Wells:** That is interesting. Rule 22, of course, is fundamental: there are many cases, including today's very high-profile case, which you are unaware of, that we would like to quiz you on but cannot. I want to tease that out. Does that rule prevent you from talking about these cases, or does it mean that you cannot be compelled to talk about them?

**Ms Glenn:** If you read the rule, you will see that it prevents me.

**Mr Wells:** So you cannot even mention the existence of any case today in front of the Committee. You cannot refer to any individual name.

**Ms Glenn:** No, I do not think that I can.

**Mr Wells:** So that is the price that we have to pay, unfortunately.

**Ms Glenn:** I do not think that I can.

**Mr Wells:** It is a high price.

**Ms Glenn:** It is a high price, I agree, because I feel as though I am giving evidence with a hand tied behind my back.

**Mr Wells:** Not naming anyone, but, in that case, a political party said that it gave evidence before the parole commissioners. Is it possible to physically appear before the parole commissioners, or is that just a mistake and we are, in fact, talking about a written submission?

**Ms Glenn:** I have no idea.

**Mr Wells:** If a political party wished to give evidence on someone's behalf, how would it do that? What is the mechanism?

**Ms Glenn:** I can tell you only what the process is for calling witnesses. A prisoner can ask for certain people to be allowed to come to give evidence, as can the Department. The panel will decide whether to agree to that.

**Mr Wells:** So there have been occasions when political parties have appeared before the commission to give evidence on behalf of a criminal.

**Ms Glenn:** There are bound to be.

**Mr Garrett:** I have certainly dealt with them.

**Mr Wells:** So that statement could be true.

**Mr Garrett:** It has to be relevant evidence, of course. If it helps, it should be there.

**Mr Wells:** You say that you are open-minded about rule 22, yet you also say that you wish to retain it.

**Mr Garrett:** No, we did not say that. We said that it is not for us to defend or attack it. It is there, and we are trying to work it. We welcome a review because rule 22 causes great frustration for you, which I understand, and problems for us.

**Mr Wells:** Yes, it causes huge frustration. If it were not for that rule, this session would be an awful lot longer; you would probably be out by about 6.00 pm tonight.

**Mr Garrett:** It is not a simple toss of the coin whereby one is good and one is bad. Privacy in parole hearings is a very complex issue.

**Mr Wells:** If, by 6.00 pm today, you were convinced that you had made a truly horrendous error of judgement, would you apologise to the public for that?

**Mr Garrett:** We would have to be bound by the rules that are there.

**Mr Wells:** Is there provision for you to make a public apology if you get it terribly wrong?

**Ms Glenn:** In England, we had two cases of the Parole Board releasing people who went on to kill. I made a press statement at that time.

**Mr Wells:** So, if you review what has happened today, there is a possibility tomorrow that, when we turn on our radios, there will be an apology to the people of Northern Ireland?

**Ms Glenn:** It is very difficult for me to comment without knowing more. It is something that I would clearly consider.

**Mr Wells:** Finally, you said that one of the defences for having rule 22 is that, without it, those who appear before the Parole Board would be reluctant to be open and honest. That happens in court, and some evidence can be taken in private — in camera, as it were. Is that not the solution to your difficulty?

**Ms Glenn:** I agree that that may well be a way forward, provided that we have a mature investigation of the best way forward. You need to start with a clean piece of paper and ask, "What is the best way to have a good parole hearing in order to build a system that the community will have trust in?". That is what I did in the Virgin Islands, Anguilla, and so on, when we went out to explain it to the communities. We went to church services, and we had town hall meetings with local people. We went out to explain and publicise it. It might be possible to implement that sort of model in Northern Ireland through legislation. It is about community support and backing. In Anguilla, when people asked, "Why can the public not know the conditions of a person's licence?", I thought, "Well, why not? It is a small place, and that would help to police it". So, if you devise your system by working with the wisdom of the community, I think that you might have a better system. However, we are probably a long way from that.

**Mr Wells:** Unfortunately, the price that we pay for having rule 22 is that I cannot take this any further this afternoon.

**The Chairperson:** Chief commissioner, Marian Price pleaded guilty in court today. You obviously were not aware of that.

**Ms Glenn:** No, I was not.

**The Chairperson:** She has pleaded guilty to the two counts that she was charged with.

**Mr Elliott:** Thanks very much. Apologies for missing the start of your presentation. If I ask about something that you have already dealt with, please —

**Ms Glenn:** Not at all.

**Mr Elliott:** My question is on victims. I appreciate that we are getting back to the same rule again, but is there any mechanism for giving information to victims or victims' families?

**Ms Glenn:** I have to say that this is the area of parole here that I found most surprising. You probably know that the victim support aspect and the information about victims come to the commissioners from the Probation Board. In England, we had a lot of pressure from the victims' groups for information. We



also discovered that victims were getting very poor information from the agencies there. I have had no contact from any victims' group or, indeed, any victim about any case in parole.

I am thinking about the statement that was made yesterday as well. Victims are at the heart of the whole justice process, and we are trying to make good risk assessments so that we protect old victims and try not to have new victims going forward. Sometimes, having the victim's view can be really helpful. It allows you to frame conditions, if you are looking to release someone, that will protect. Some victims, in my experience, used to have much more information about the prisoner than the Department had, and they could tell you things that you would not have known. We have very little information for victims here.

We have had a project with prisons recently about what should go in the dossier. We are asking for a positive piece of information that victims either want to say this or do not want to be involved. In so many cases that we get, the dossier just says that there are no victim issues in the case. Sometimes, you find it hard to think that that really is so.

**Mr Elliott:** Who provides that information?

**Ms Glenn:** That is provided by the Probation Board.

**Mr Elliott:** If the Probation Board highlighted to you that there may be information from victims, how do you go about ascertaining that?

**Ms Glenn:** The only thing that will come will be a written victim impact statement, which comes through the Probation Board.

**Mr Elliott:** You have no idea how the Probation Board makes an assessment of that or comes to that conclusion?

**Ms Glenn:** No. It will be written by the victim with a specialised probation team.

**Mr Elliott:** Will the victim be aware that there is a parole hearing?

**Ms Glenn:** I do not know. I was surprised that that was not an issue here. We changed our processes in England so that we made sure that the victim knew that there was a hearing. I remember being at my desk one day and taking a phone call from a victim whom I had met. She was horrified because she had discovered that the person who had killed her son was driving a bus. She had not known that he had been released — nobody had told her.

As I said, nothing has ever been raised with me that it is a problem. We have had enough other issues. It is not something that I have asked a lot of questions about.

**Mrs Moya Cushley (Parole Commissioners for Northern Ireland):** The Prison Service has a victims' scheme, to which victims can opt in or out. Maybe through that scheme they can be kept informed about the progression of a prisoner through to parole. That would be a matter for the Prison Service to confirm. That is one route, however, and the probation victim impact statement is another.

**Mr Elliott:** Do you have any discussions with Victim Support?

**Ms Glenn:** I do not, but I would be happy to.

**Mr Elliott:** It might be useful. I have a record of a victim meeting a perpetrator at an event in their own area, and the victim did not know that the person had been released. It proved extremely difficult for the victim. That is why I am surprised. You sound surprised as well, actually, about the lack of knowledge and acknowledgement.

**Ms Glenn:** I was surprised. I keep asking Moya, "Are you sure?"

**Mr Garrett:** I will return to Mr Elliott's question. I rather suspect that victims do not automatically know about a hearing. I am pretty sure that that is the case. I also know that a good probation report will, at

least, have regard to whether it is relevant to include something about the victim's situation. Without that, we are really groping in the dark on this issue.

Some years ago, it was proposed that there should be a special status for victims at the hearing. That was generally regarded as the way that it was going to go, but it stopped. I cannot tell you the precise reason, but it has stopped. That debate is not concluded. Sometimes, we insert a licence condition that, on release, the prisoner will not live in a particular area, which might be where the family lives. And so we should. We should be sensitive to the hurt in the community.

**Ms Glenn:** The other aspect is that I would not want victims' expectations of the hearing to be raised beyond what we can provide. In the United States, almost all the hearings are open to victims, and they come along. Indeed, some of them are televised. When I have been speaking at conferences in America, I have heard stories about victims having felt re-victimised because the cameras are there filming the other event but go away because their case is not as interesting. I would also hate a victim to think that they have some sort of veto power on parole, because that cannot be the case. It is a complex issue, but I am surprised that victims are not more involved in the process here, and I think that our information and our decisions might sometimes be better if they were.

**Mr Humphrey:** Thank you very much for your presentation. I, too, share the frustration of Mr Wells and perhaps your own frustration about rule 22 because, to be quite honest, as a citizen of this kingdom and as a representative of the people of North Belfast, I would have liked to have read the evidence that was presented to you and your commission by those who campaigned, gave evidence and petitioned to have Marian McGlinchey released. Did you get it wrong?

**Ms Glenn:** I do not know enough about it. I was not involved in the case, so I do not know. The Chairman asked me whether we get cases wrong, and I said that we must do sometimes. I am not trying to defend it; I am just saying that I do not know. I do not know enough about it.

**Mr Humphrey:** Mr Garrett said that you have to be sensitive to the hurt of the community, but many people, tonight, will feel that hurt acutely.

As chief commissioner, do you believe that the parole commission is representative or reflective of Northern Ireland society?

**Ms Glenn:** The appointments to the commission, if I can call it that, are made by the Department. They are made through the usual public appointments process. People have to fill in the questionnaire about the usual things that they collect, and, from then on, there is an interview process. I am one of the panel of interviewers. The Minister then makes the decision. It is not for me to look at whether it is representative or not.

**Mr Humphrey:** I appreciate that you are perhaps hamstrung in answering the question, but I am not sure that that answers it. It certainly does not provide me with confidence.

**Ms Glenn:** I do not think that it does answer it, but I am saying that I am not sure that I am the person who can answer it.

**Mr Humphrey:** Given that you cannot answer questions like that, given that there is rule 22 and given the news today, there will be an undermining of the confidence in the parole commission. That is not necessarily good for justice in Northern Ireland.

**The Chairperson:** Once we are finished, the Department is coming to discuss changes to some of the rules. It is telling us that it consulted extensively with you on rule 22 and that, in response, the consensus among commissioners was that rule 22 should not be amended and proceedings should not be disclosed publicly.

**Ms Glenn:** Yes. As I say, I do not think that tinkering with the rule is the way to change this process. It should be done by having a proper process of full consultation, looking at the pros and cons of the outcomes of rule 22. You have to look at it in the light of the rest of the United Kingdom, because it is the same law there. You have to look at international examples. You also have to look at the views of professionals who regularly give evidence to us — prison staff, probation staff and so on. So, all we are saying is, for God's sake do not just tinker with rule 22, do it properly. That is what we meant by saying that.

**The Chairperson:** I think that it is fair comment to say that we should look at the rest of the United Kingdom. However, I suspect that in England, Scotland and Wales, you would not have the same extensive political pressure being exerted on the Parole Commissioners to have individuals released. Therefore, is there not a public interest?

**Ms Glenn:** I do not agree with that.

**The Chairperson:** Fine, OK. I will be interested to see what politicians campaign for in England. Certainly, here, they campaign for individuals to be released. Marian Price was one and Brendan Lillis another; both were released by you, and today we had one of them pleading guilty. Again, in that case, do you not think that you got it wrong?

**Ms Glenn:** I cannot answer a question about an individual case.

**The Chairperson:** And I think that you are constrained by rule 22.

**Ms Glenn:** Yes.

**The Chairperson:** The public will then make up their own opinion —

**Ms Glenn:** Of course they will.

**The Chairperson:** — in respect of that individual case, and the political pressure —

**Ms Glenn:** Where there is a vacuum, you fill it, do you not?

**The Chairperson:** — that was put on the Parole Commissioners at the time will allow the public to draw their own conclusions. That is why I think that the abolition of rule 22 is so important; it is because we need transparency.

**Mr Anderson:** Thank you for coming along to the Committee today. To touch briefly on what has happened today, Christine, you say that you cannot answer. But surely you have an opinion or can make a comment in relation to what has happened.

**Ms Glenn:** I have only heard, as you very clearly see —

**Mr Anderson:** But we can all make comments. We are all in different jobs and we do think, but you surely must have an opinion on what is a big issue for those people out there, especially the victims.

**Ms Glenn:** I do even fully know what has happened today. You have told me that she has pleaded guilty to something. I really am not going to give an opinion.

**Mr Anderson:** It has been well broadcast.

**Ms Glenn:** Well, I did not hear it, so —

**Mr Anderson:** I am disappointed that you have not heard it, and I am more disappointed —

**Ms Glenn:** So am I.

**Mr Anderson:** — that you cannot comment on it, but we will leave that one there. I just thought that I would mention it.

I will pick up on your responses to Mr Elliott in relation to victims. Do you agree that victims are the least thought of in this whole process when it comes to early release or parole?

**Ms Glenn:** Yes, I probably do.

**Mr Anderson:** Is that fair comment?

**Ms Glenn:** Yes, probably. I do not know whether it is right that that is the case. The victim is always the last person to be thought of. The fact that there is not a sort of separate, parallel victim justice line and that they are part of the criminal justice process always feels a bit uncomfortable. Victims that I have spoken to — in England we certainly had a lot of contact with victims — said that they always felt like second-class citizens all the way through the process, from the moment of the crime to the end of the sentence. I would want a victim's view, particularly in terms of further risk. I would want victims to be very clear that the Parole Board may still release, even though they may heartily wish that not to be the case. In England, what we eventually did was to allow victims to attend the hearing and read a victim impact statement. That was quite unpopular with some of our Parole Board members, but I thought that it was really important. It increased confidence enormously among the victim community, because they felt that they were being listened to. You still have one or two who do not appreciate that, however heart-rending what they said was, the person still got out. There was sometimes a sense of double disappointment. It is incredibly complex, but I do think that the victim could have more information.

**Mr Anderson:** You said that you may have taken evidence in various ways and means that should have been written or otherwise. Did I pick up that you have taken written evidence on behalf of victims in the past?

**Ms Glenn:** We will have had victim impact statements from them, yes.

**Mr Anderson:** From the victim?

**Ms Glenn:** From the victim, through probation.

**Mr Anderson:** Through probation. Have any victims been given opportunities, or would they have wished to have been given an opportunity, to personally give —

**Ms Glenn:** No.

**Mr Anderson:** Is that not allowed?

**Ms Glenn:** Not at the moment.

**Mr Anderson:** Is that something that you would want to see?

**Mr Garrett:** Mr Anderson, that is exactly the debate. Four years ago, it was suggested that there should be victim representation at the hearings. I do not know why that debate ended.

**Mr Anderson:** Would you like to see it being opened up again?

**Mr Garrett:** It is bound to be taken up again. There are problems. Of course, not all victims will want to be there anyway, but some will.

**Mr Anderson:** How much weight is given to victim statements?

**Mr Garrett:** Considerable, in terms of the nature of the crime and what the person is likely to do based on the evidence. Is it sufficient? Who knows? All that I can say is that commissioners I have worked with are alert to the fact that it is a very sensitive issue for people who have been hurt.

**Mr Anderson:** The term "sufficient" can be wide. I do not know how you score someone, but what percentage of the overall decision —

**Mr Garrett:** The question would not admit to an answer of that kind.

**Mr Anderson:** I am trying to get as much information as possible.

**Mr Garrett:** I understand. I am not unsympathetic.

**Mr Anderson:** Victims are a big issue here.

**Mr Garrett:** You are absolutely right.

**Mr Anderson:** I am sure that we all know that someone can be released on parole or given early release, and the victim can meet them down the street. Is there a failing between you people and the Probation Board or the police or whoever that allows that to happen? Never mind the little input that they have to the present situation. Surely that is the ultimate slap in the face for the victim when they see that happening. Is there not some way in which that can change?

**Ms Glenn:** I had a meeting a couple of weeks ago with the director general of the Prison Service. She told me that she had a number of letters from victims who said precisely that. Those were cases in which home leave was allowed by the Prison Service. It was not actually part of our decision. When it is part of the Parole Commissioners' decision, we will look specifically at whether there should be a no-contact arrangement with the victim and whether there should be an exclusion from a particular area. Unfortunately, however, an awful lot is done before it comes to us. They may go back to their own communities. Equally, you might get someone who is told not to go to a particular area and does not, for whatever reason.

**Mr Dickson:** Most of the questions have already been asked around the table. I want to pursue the question of making a decision based on all the information that you have been given. If the decision is to release somebody, and then, at some stage in the future, there is reoffending or cause to return that individual to prison, does that imply that the original decision was wrong?

**Ms Glenn:** It could do — of course it could. Equally, catastrophic changes could have taken place. Every decision will be different. I am not going to try to say that we never make the wrong balance in the judgement. Some decisions are finely balanced. Sometimes, you think that a person is going to be coming out of prison eventually — it is a determinate sentence; it has an end date. And sometimes, you make quite a hard decision. You think, well, OK, it is only quite a short period on licence and the risk is small. However, it might well be better for them to have some support in the community and be able to be whipped back into prison if something goes wrong. Maybe the Probation Board could put him in a hostel or we could have a curfew for a while, or some sort of — not to go to a particular area.

**Mr Dickson:** Is it possible for you to impose those conditions?

**Ms Glenn:** Oh, yes. And we do.

**Mr Dickson:** You have sort of complained that people can reoffend because there is insufficient support for them, and perhaps someone who is or was supported might have made a better job of it and stayed out of prison or stayed away from reoffending.

**Ms Glenn:** No, I have not complained. I —

**Mr Dickson:** I thought I heard you say earlier that the probation service or other services could do more?

**Ms Glenn:** No, I did not. I said that I am really impressed with probation here. I am so glad that this has come up so that I can clarify it. Here, we are very reliant on the Probation Board to manage a lot of the licences. And it does a really good job.

**Mr Dickson:** However, you said that the risky period is the first four weeks.

**Ms Glenn:** Yes.

**Mr Dickson:** And I think you said that that is when the prisoner needs the most support.

**Ms Glenn:** Maybe they could get more support, yes.

**Mr Dickson:** Why do you not rule, or condition, that support?

**Ms Glenn:** Because a lot of those licenses are the ones where we do not have any input until after they are recalled. They are determinate conditional releases, so they get out automatically.

**Mr Garrett:** Mr Dickson, you are touching on the biggest subject internationally, which is recidivism. That is a big issue, well beyond parole. The question that is now central is: does prison lead to more recidivism, or does less prison lead to less? It is a big issue.

**Ms Glenn:** At the meeting I was at this morning with Paul Doran, the deputy director of probation, he told me — and I think someone else has told me this — that the reoffending rate, both on community licence and supervision, is about a third less in Northern Ireland than in the rest of the United Kingdom. That, again, is something which shows that they are doing things well here.

**Ms McCorley:** : Go raibh maith agat, a Cathaoirleach. I have just a short question, back to the point of rule 22. Would you say, then, that it is time that rule 22 was abolished, so that the process can be open and transparent?

**Ms Glenn:** It is time that it was reviewed; not necessarily abolished, because I think we need to look at what the potential solutions may be. I certainly agree that it should be reviewed. As a part of the consultation, I would certainly want the senior judges to be involved. Your suggestion, Mr Maginness, was that we could have a certain sort of court to hear private evidence. We need the richness of their experience to contribute. However, I would certainly not be against a full review of rule 22. However, I reiterate that it should not be done just by tinkering with the rule. Let us do it properly.

**The Chairperson:** Mr Elliott, are you looking back in?

**Mr Elliott:** I am just seeking clarification on the point that Ms McCorley and Mr Wells raised earlier, and that the commissioners' position on rule 22. You said that you want it reviewed, you are content with a review and you do not have any firm opinion on it. However, in the briefing document that we got, it said that, when the Department consulted the commissioners, the consensus among them was that rule 22 should not be amended.

**Ms Glenn:** Yes. It is what I am saying: do not do it by amending the rules. The suggestion was that I would be given some sort of power to decide whether or not some information should be released. That was the alternative that was put. That is why we said that the status quo is better. We said that you either let everything out and have full transparency, or you have rule 22 as it is, but you do not have that halfway house, because, frankly, all I would be doing would be appearing in the High Court to say why my decision was right or wrong. That is the reason why we took that line.

**Mr Elliott:** You would support getting rid of the rule altogether.

**Ms Glenn:** I might do, provided there was a sensible way of having the process. When I was in England, I would have supported getting rid of the whole thing and being able to speak freely about our decisions.

**The Chairperson:** Some final points of clarity for Mr Maginness and Mr Wells. If there is no one else, we will wrap it up after that.

**Mr A Maginness:** I am grateful for your indulgence. You are so good.

**Mr Elliott:** Just hurry up. *[Laughter.]*

**Ms Glenn:** You can say that.

**Mr A Maginness:** Maybe we should have a rule 22.

You say in your documentation that in the first six months of this year there were 102 recall requests, up 19% on the same period last year. I tried to work it out, but I could not because there are so many different types of recalls. Can you give any explanation of that, or do the figures just vary so much from year to year that there is no explanation?

**Ms Glenn:** When the Criminal Justice (Northern Ireland) Order 2008 came in, the new sentences started. There were some estimates made, and it was always going to be going up at this time, as the sentences started coming through the courts. The old custody probation order sentences stopped then, so the number of recalls was always going to be going up. The bit that we were surprised about

was the bit that is in the end of the last paragraph: it is so much higher than the estimates, even though we were only resourced on the basis of the median estimates rather than the high point ones. An awful lot of the ones that are recalled are the persistent petty offenders who live fairly chaotic lives.

**Mr Wells:** I am encouraged that you said that, whilst you are not aware of the issue that Mr Givan raised, you will go back and study the news. I hope that your procurement procedures allow the purchase of sackcloth and ashes.

**Ms Glenn:** I suspect that there are not the funds.

**Mr Wells:** I suspect that you may need them. I urge you to go back and study it, and if you feel that what you have done is inappropriate, a press release should be issued to that effect.

**Mr A Maginness:** We are not in Lent; we are approaching Advent.

**Mr McCartney:** They were offered to us one time and we never used them, so we can pass them on.

**Ms Glenn:** I have not had to do this here in my role as chief commissioner.

**Mr Wells:** There is always a first time.

**Ms Glenn:** No, let me say what I was going to say, please. When I was chief executive in England, we set up a review procedure where, if someone we let out went on to commit another offence, we would review the decision. Another commissioner would look at the case hard and fast, and we would be honest about whether we thought we had got it wrong. That is absolutely what I intend to do.

**Mr Wells:** And in Northern Ireland, if you believe you got it wrong, you will admit it, hold your hands up and tell the public.

**Ms Glenn:** There is no other way you can be as a public official.

**Mr Wells:** Good. We look forward to —

**Ms Glenn:** What I was saying to you before was that I cannot apologise yet because I do not know enough about the case.

**Mr Wells:** Well, we look forward to your apology and the apology from Mr Maginness's party on the issue.

**Mr A Maginness:** We have absolutely no apology to make.

**Mr Humphrey:** There is a shock.

**The Chairperson:** We are going to draw a line under that. Chief commissioner and your team, thank you very much. You have taken a lot of time with the Committee, and we are appreciative of that.

**Ms Glenn:** I have appeared in front of a number of Committees at Westminster, and it was really nice to appear in front of a Committee that actually knew something about the subject. *[Laughter.]* It was such a bore before, because people really were not very interested. So, that was great.