Queensland Law Society

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Office of the President

8 August 2025

Our ref: [MC:CLC]

Mr Peter Hastie KC
GPO Box 1054
Brisbane QLD 4001

By email: [redacted]

Dear Mr Hastie KC

Independent Review Parole Board Queensland – Terms of Reference

Thank you for the opportunity to provide comments on the review of the parole system in Queensland. The Queensland Law Society (**the Society**) appreciates the opportunity to participate in this important review.

This response has been compiled with the assistance of the Society's Criminal Law Committee.

As you are likely aware, the Society is the apolitical peak professional body for the State's 14,000 legal practitioners.

For your information, in relation to parole in Queensland, the Society has advocated for:

- Prisoners' timely access to appropriate programs prior to their parole eligibility date. This has been a serious concern for prisoners, as well as for the community because prisoners may complete their sentence without the benefit of appropriate programs. Further, the community bears the cost of unnecessary extended periods of imprisonment.

- A system of judicial discretion exercised within the bounds of precedent as the most appropriate means by which justice can be attained. The Society does not support standard non-parole periods. In practical terms, this would introduce a mandatory component to sentencing and involve an erosion of judicial discretion.

- Re-incarceration following breaches of parole to be directed at the threshold of substantial conduct affecting community safety rather than low level or technical non-compliance with conditions.

- We also recommend that consideration be given to measures that will provide the Parole Board with greater independence. The Board is an independent statutory authority, however, remains dependent on Queensland Corrective Services in a number of ways, including for preparation of a Parole Board Assessment report. Greater independence

from Corrective Services would ensure that the decisions of the Parole Board are made impartially and in a manner that is separate and independent from other branches of Government, which may have differing policy objectives.

We note that the Terms of Reference (**TOR**) are broad and enable an examination of all facets of the parole system in Queensland, including matters outside the Criminal Law Committee's area of expertise. For this reason, this submission does not address all aspects of the TOR. However, we would welcome the opportunity to provide further comment or feedback on any specific matters you would like the Society to address.

Overarching purpose of parole

The Society respectfully requests any recommendations of this review be considered against the purpose of parole itself, as Walter Sofronoff KC stated in the Final Report of the Queensland Parole System Review 2018 (**the Sofronoff Review**): -

> *'Any consideration of parole must begin by a determination of the purpose of parole. The only purpose of parole is to reintegrate a prisoner into the community before the end of a prison sentence to decrease the chance that prisoner will ever reoffend. Its only rationale is to keep the community safe from crime. If it were safer, in terms of likely reoffending, for prisoners to serve the whole sentence in prison, then there would be no parole. It must be remembered also that parole is just a matter of timing; except for those who are sentenced to life imprisonment, every prisoner will have to be released eventually.'*[1]

Parole is not merely a procedural mechanism for conditional release from prison; it is cross-roads of profound legal and social tensions. The Society acknowledges a divergence of views exist, among policy makers, practitioners, victims and the broader community, regarding the fundamental purpose of parole. The Society acknowledges the legitimate and deeply felt interests of victims in parole determinations. Victims may experience parole as a reactivation of trauma, a perceived erosion of justice, or simply a moment of immense vulnerability. The impact of parole on victims of crime raises important questions about procedural fairness, transparency and balancing of rights.

However, parole is not a monolithic concept; it is shaped by competing and often conflicting views about its purpose and execution of that purpose. In our view, this divergence reflects broader tensions in criminal justice policy and public discourse. The Society urges the Review to acknowledge and account for these complexities and avoid reductive framings that obscure the nuanced objectives of parole.

The Society also respectfully cautions against changes that instrumentalise victim involvement in the process in ways that risk undermining the impartiality and evidence-based nature of parole decisions. Accordingly, the Society urges the Review to consider models of victim engagement that are trauma-informed, procedurally fair and aligned with the broader objectives of justice and reintegration.

[1] See Walter Sofronoff KC, Queensland Parole System Review Final Report (November 2016). https://parolereview.premiers.qld.gov.au/assets/queensland-parole-system-review-final-report.pdf.

Submissions of Prisoners' Legal Service

The Society has had the opportunity to consider the submission provided to this review by the Prisoners' Legal Service (**PLS**). The Society endorses the submissions made by PLS to this review, in addition to past reviews concerning the parole system in Queensland. For context, in May 2024 the prison population in Queensland reached an all-time high of 10,964. It is understood from PLS' Annual Report for the 2023-24 Financial Year that for each call for assistance from prison that PLS answered, 35 calls went unanswered. In that financial year, PLS missed over 34,000 calls. Their organisation is positioned at the coalface of the parole system and are best placed to inform the review and government as to the state of the parole system in Queensland and how to achieve meaningful reform to improve the system.

Rights of victims in the parole process

The Society accepts and supports the roles victims play in the criminal justice process. The rule of law requires justice must not just be done, it must also be seen to be done, and the involvement of victims is a necessary requirement to ensure the achievement of justice as a whole.

However, the Society is concerned the prioritisation of victim's rights within the parole process may result in decisions which place victims' rights and views ahead of the rehabilitation and reintegration of a prisoner back into the community, particularly in circumstances where victims' views are the sole or overarching reason for a refusal to grant a parole order. The practical effect of that refusal being offenders are released closer the fulltime expiry date of their sentence or released at the conclusion of their sentence without the benefit of supervision from a parole order. Such an outcome is inconsistent with the goal of prioritising community safety and the rehabilitation of the offender. The remarks of Holmes JA in *Queensland Parole Board v Moore* [2010] QCA 280 are apt in this instance: -

> *'The objects of the Corrective Services Act 2006 include: "community safety and crime prevention through the humane containment, supervision and rehabilitation of offenders."*
>
> > *Considering the function of parole in that context, it cannot be accepted that the Board is not obliged, in considering risk, to look beyond the time at which it is dealing with a parole application. If community safety is to be achieved by supervision and rehabilitation, it is necessary to consider an applicant's likely progress over the potential parole period, rather than confining considerations to the present or the immediate future.'*

The decision to place an offender on a parole order requires an assessment of the riskthe prisoner poses to the community at the point in time they are permitted to apply for release.[2] Respectfully, a victim of crime cannot provide meaningful evidence as to an offender's rehabilitation whilst incarcerated, their overall progression whilst in custody, or their risk to the community generally.

A victim's views are taken into consideration at the time of sentence as required by s. 9 of the *Penalties and Sentences Act 1992* and victims are provided the opportunity to address the Court by way of a victim impact statement. That statement is considered by the sentencing Court when structuring the sentence to be imposed which includes as part of the process (when the

[2] See Ministerial Guidelines to the Parole Board Queensland, s 2.1: the primary consideration for the Parole Board is a prisoner's risk to the community.

law requires) the fixing of the prisoner's parole eligibility date. Therefore, a regime exists in which sentencing courts already consider the effect of the crime on the victim at the time of sentencing and it is the view of the Society that further consideration during the parole decision-making process should not relate to a decision about whether to release a prisoner.

Ultimately, the Society's position is that in nearly all cases it would be wrong to refuse parole solely on the basis of the objection of a victim of crime. However, we accept victim's views are relevant to an assessment as to what conditions may be appropriate to include in a parole order. For example, the imposition of no-contact conditions or restrictions on a prisoner's ability to enter certain areas to avoid contact between victims, their families and the prisoner.

More generally, the Society is concerned that: -

1. a system which makes victim's rights and views a primary consideration may introduce a bias to the decision making processes by not allowing the Parole Board to make an objective decision based on the characteristics and circumstances of the prisoner.

2. a victim's views communicated to the Parole Board may be unclear or unknown to a prisoner and will likely be considered sensitive information which is not in the public interest to disclose under s. 341 of the *Corrective Services Act 2006*. This creates a scheme which has the effect of denying a prisoner natural justice and procedural fairness due their inability to respond to adverse evidence being considered by the Parole Board. As a matter of fairness, where matters adverse to a prisoner arise in the decision-making process a right of reply should always be afforded to the prisoner.

3. the promotion of victim's rights in the parole process may lead to victim dissatisfaction given those rights need to be balanced against those of the prisoner and the community. If how a victim's views will be considered in the decision-making process is unclear to a victim, unrealistic expectations may result. This could cause alienation and re-traumatisation of victims. Victims not only need to be clearly informed as to how their views will be used by the Parole Board, they need to be aware of how their views are positioned more broadly having regard to all the considerations the Board is required to have regard to throughout the decision-making process.

The Queensland Sentencing Advisory Council (**QSAC**) when conducting their review of the Serious Violent Offences Scheme considered victims experiences participating in the parole process and reported that: -

> *'Participants also reflected on the process of providing input into the decision-making of the Parole Board on whether an offender would be released, and if released, under which conditions, difficult and re-traumatising. One participant described it as 'extremely traumatic', while another pointed out that victims feel as they have no rights in the criminal justice system.'*[3]

QSAC also reported that: -

[3] Queensland Sentencing Advisory Council, Final Report - The '80 per cent Rule': The Serious Violent Offences Scheme in the Penalties and Sentences Act 1992 (Qld) (May 2022), pg. 183 - 182.

(a) a victim's knowledge of what information to provide to the Parole Board to inform its decision-making was an area identified as one that requires additional support.[4]

(b) a number of service providers commented on the lack of information victims had access to about parole and parole conditions.[5]

(c) participants reported that the level of case management and rehabilitation undertaken while offenders were on parole was a 'black hole of information where no one really is that well informed about it'. This service provider suggested that changing public perception of parole and the level of case management involved, parole conditions and the work that goes into rehabilitation if done to a good standard, would contribute to greater acceptance of parole release.[6]

The Society encourages the review to consider the role of victims in the parole process across other Australian jurisdictions, how their involvement impacts the process as a whole and whether each of those models strike the appropriate balance between the rights of victims and the rehabilitation and reintegration of an offender into the community.[7]

The practices, procedures, decision-making structures and efficiency of the Board

Oral hearings & funding generally

The Society supports PLS' advocacy for oral hearings. It is agreed oral hearings will not only improve efficiency but also accessibility for prisoners who cannot currently engage with the parole process due to specific barriers such as illiteracy. Presently, the parole process takes place entirely through written correspondence, clearly in 2025 this is extremely inefficient but also fails to acknowledge a large portion of the prison population, especially Indigenous and Torres-Strait Islander persons, struggle to read and write or are completely illiterate as they have no formal education. For context, in 2022, prison entrants were more likely than the general population (aged 15–74) to have had an education level of year 10 or below.[8]

Efficiency would also be improved by additional funding which enables agencies such as PLS to assist more prisoners obtain release on parole. In addition, making grants of Legal Aid Queensland available to prisoners so they can be assisted by legal practitioners with relevant experience in parole matters would expediate the process considerably. It would also ensure individuals who may otherwise be unable to engage with the parole process due to barriers such as illiteracy are assisted to secure release. Legal services to represent prisoners on parole applications can be a cost saving measure as it ensures applications are brought appropriately and are relevant and well prepared, and saves the additional time required of the Parole Board to deal with self-represented litigants.

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[4]

[5] Ibid.

[6] Ibid.

[7] *Victims of Crime Act 1994* (ACT), s. 4 – s. 5 and *Crimes (Sentence Administration) Act 2005* (ACT), s. 123; *Victims Rights and Support Act* 2013 (NSW) s. 6 and *Crimes (Administration of Sentences) Act 1999* (NSW), s. 145, 256A; *Victims of Crime Rights and Services Act* (NT) s. 24 and *Parole Act* (NT) s. 4B; *Victims of Crime Act* 2001 (SA), s. 10 and *Correctional Services Act* 1982 (SA) s. 77(2)(ba); *Corrections Act 1997* (TAS), s. 72; *Victims' Charter Act 2006* (VIC) s. 17(3) and Corrections Act 1986, s. 74A; Victims of Crime Act 1994 (WA), Sch 1 Item 10; Sentence Administration Act 2003 Section (WA) 5A(d).

[8] 'Adults in prison', Australian Institute of Health and Welfare (2023): See, 'Enduction prior to entering prison':https://www.aihw.gov.au/reports/australias-welfare/adults-in prison#:~:text=Education%20prior%20to%20entering%20prison,-Education%20is%20a&text=Lower%20levels%20of%20educational%20attainment%20are%20associated%20with %20poorer%20employment,ABS%202022;%20AIHW%202023).

More broadly, an expediated and more accessible parole process will also assist in ensuring prisoners who are suitable for release are not sitting in correctional centres simply because as they are unable to engage with the parole application process as a result of specific attributes creating barriers for them.

We also note a properly resourced parole system requires adequate resourcing for a range of associated services. Similarly adequate funding of housing, health and social support programs are vital. It is Society's position these services contribute to an effective parole system and should be appropriately resourced and funded. In particular, the Society notes the effect of housing on parole applications. Often, parole is granted subject to the applicant locating suitable accommodation.

The recommendations of past reviews

Importantly any amendments to the parole system should be made only once the government has had the opportunity to properly consider the recommendations of the review conducted by KPMG International Limited (**KPMG**) and the Queensland Parole System II (**QPSR II**) and fully implement those recommendations which were accepted.

In March 2021, Queensland Corrective Services (**QCS**) engaged to undertake an independent review of the Board to identify efficiencies and ensure Parole Board is equipped to deliver its legislative functions. In August 2021, KPMG delivered the Independent Review Parole Board Queensland Final Report. The report made 36 recommendations across the areas of Strategic Ambition, Function, Funding, Service Delivery Model, People, Processes, Technology, Performance Insights and Data, Governance, and Addressing the Backlog. This report was not made publicly available.

The QPSR II was the statutory review conducted by Milton Griffon KC in 2023 which considered the significant reforms made because of the Sofronoff Review and heard from relevant stakeholders as to the state of the parole system in Queensland and the performance of the Parole Board its recommendations and the government's response are important. The final report for the QPSR II which was received by Queensland Corrective Services in September 2023 has not been made public.

The Society notes it is particularly concerning there are two reports, the result of reviews which considered the suitability of the current parole system and the performance of the current Parole Board conducted in the past four (4) years which have not been made publicly available, with KPMG conducting a review because of the significant parole delays experienced during the COVID-19 pandemic in 2020 and 2021. It is the view of the Society that where public funds are being spent to conduct reviews of a critical component of the criminal justice system such as the parole system and Parole Board itself, those findings should be made publicly available and used to drive evidence-based reform.

The alignment of Parole Board operations with legislation and broader criminal justice priorities in promoting community safety

The Society holds serious concerns regarding the number of prisoners are continuing to spend extended periods of time in prison, beyond their parole eligibility date (we are advised that this can be up to a period of 6 months), as they are not being expediently placed on sentence management programmes that are required to be completed prior to their release.

It is not appropriate that individuals are detained simply because there is not the demand or resources available to run intervention programmes. As was acknowledged by Justice Applegarth in the case of *Gough v Southern Queensland Regional Parole Board* [2008] QSC 222, the prison system is "failing" prisoners, through no fault of their own, by not placing them on the relevant programmes prior to their parole eligibility dates.

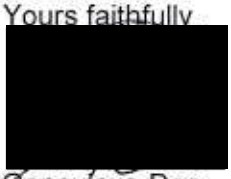
We also wish to note the sentencing implications regarding lack of sentencing management programmes. The limited availability of rehabilitative programs in custody, can constrain the sentencing discretion of the courts. This is so because sentencing courts routinely seek to balance punishment, deterrence, rehabilitation and community protection. While there are expansive factors that must be considered in the sentencing process, the availability of rehabilitative programs in custody is often a material one. Courts are therefore increasingly unable to rely on imprisonment as a pathway to rehabilitation.

Unfortunately, I am advised by several of our members that this situation is an all-too-common occurrence. Rehabilitation of offenders is in the public interest and should be approached seriously and decisively. Additional funding and resources should urgently be allocated to programme delivery within prisons to ensure that all prisoners have access to appropriate rehabilitative programmes and that these programmes are entered into in a timely manner.

Further, our members have reported and the published decision of *Pasnin v Parole Board Queensland* [2024] QSC 280, demonstrate that even where prisoners have the resources to funding appropriate interventions whilst in the community on a parole order, the Parole Board are still inclined to make an adverse decision.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via or by phone on (07) 3842 5930.

Yours faithfully



Genevieve Dee
President