

The Senate

Legal and Constitutional Affairs
Legislation Committee

Commonwealth Parole Board Bill 2025 and
the Commonwealth Parole Board
(Consequential and Transitional
Provisions) Bill 2025

November 2025

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Abbreviations

AGD	Attorney-General's Department
ALA	Australian Lawyers Alliance
AVL	Audio-visual link
the Bills	<i>Commonwealth Parole Board Bill 2025 and Commonwealth Parole Board (Consequential and Transitional Provisions) Bill 2025</i>
the Board	Commonwealth Parole Board
Consequential Amendments Bill	<i>Commonwealth Parole Board (Consequential and Transitional Provisions) Bill 2025</i>
Crimes Act	<i>Crimes Act 1914</i>
EM	Explanatory Memorandum
Law Council	The Law Council of Australia
NLA	National Legal Aid
Parole Board Bill	<i>Commonwealth Parole Board Bill 2025</i>
PJCHR	Parliamentary Joint Committee on Human Rights
Scrutiny Committee	Senate Standing Committee for the Scrutiny of Bills

List of recommendations

Recommendation 1

1.89 The committee recommends that the Senate passes the Bills.

Chapter 1

Introduction and key issues

- 1.1 On 30 October 2025, the Senate referred the provisions of the Commonwealth Parole Board Bill 2025 (Parole Board Bill) and the Commonwealth Parole Board (Consequential and Transitional Provisions) Bill 2025 (Consequential Amendments Bill) (together, the Bills) to the Legal and Constitutional Affairs Legislation Committee (the committee) for inquiry and report by 19 November 2025.¹
- 1.2 The referral of the Bills followed a recommendation of the Senate Standing Committee for the Selection of Bills. That committee's report stated that the following issues should be considered during the inquiry:
- the constitution of the board;
 - access to justice; and
 - checks and balances.²

Conduct of the inquiry and acknowledgement

- 1.3 The committee advertised the inquiry on its website and invited organisations and individuals to make submissions by 7 November 2025. The committee received six submissions, which are listed at Appendix 1. The committee agreed to conduct the inquiry 'on the papers' with reference to the Bills, the Explanatory Memorandum (EM), and submissions. The committee thanks those who made a submission.

Structure of the report

- 1.4 The report comprises one chapter that outlines the background to the inquiry, provides an overview of the Bills, discusses the key issues raised by submitters, and sets out the committee's views and recommendations.

Purpose of the Bills

- 1.5 The Parole Board Bill would establish a statutory independent Commonwealth Parole Board (the Board) to make effective and risk-informed decisions about the conditional release and management of federal offenders and other detained persons. The Consequential Amendments Bill would make amendments to Part IB of the *Crimes Act 1914* (Crimes Act) to transition federal parole decision-making from the Attorney-General to the Board.

¹ *Journals of the Senate*, No. 19, 30 October 2025, pp. 616–619.

² Senate Standing Committee for the Selection of Bills, *Report No. 7 of 2025*, 30 October 2025, [p. 6].

Introduction of the Bills

1.6 In her second reading speech, the Hon Michelle Rowland MP, the Attorney-General, stated 'it is well documented that the supervision of offenders in the community under strict controls minimises reoffending'. She also argued 'Australians rightly expect that the release of offenders from custody into the community will be managed as safely as possible'.³

1.7 Decisions about whether to release federal offenders on parole are currently made by the Attorney-General and delegates within the Attorney-General's Department (AGD):

Historically, this arrangement has been fit for purpose, due to the small numbers of federal offenders and nature of the cohort, which has traditionally comprised offences against the Commonwealth, such as social services fraud.⁴

1.8 Over time, the federal offender cohort has changed. It 'now includes increasing numbers of offenders who pose a direct risk to community safety, such as terrorists and child sex offenders'.⁵

1.9 The AGD pointed out that more than 530 parole related decisions were made in 2024–25 and that the number of decisions are increasing by about 10 per cent each year.⁶

1.10 The Attorney-General stated it would be more appropriate for parole determinations to be made by people with the 'skills and experience to make decisions about an offender's prospects of rehabilitation and reintegration into the community, and ultimately the risks they pose to community safety'.⁷

1.11 For that reason, the government seeks to establish an independent Commonwealth Parole Board:

...decisions about whether convicted federal offenders are released into the community on parole and the conditions under which they are released should be made by law enforcement and other community safety experts, not by politicians.⁸

³ The Hon Michelle Rowland MP, Attorney-General, *House of Representatives Hansard*, 8 October 2025, pp. 14 and 16. Note: the Attorney-General's Department referred to research from the Australian Institute of Criminology and the New South Wales Bureau of Crime Statistics and Research, which 'found that offenders having a period of parole under appropriate supervision reduces the risk of reoffending and promotes community safety', see: *Submission 3*, p. 3.

⁴ Ms Rowland MP, Attorney-General, *House of Representatives Hansard*, 8 October 2025, p. 14.

⁵ Ms Rowland MP, Attorney-General, *House of Representatives Hansard*, 8 October 2025, p. 14.

⁶ Attorney-General's Department (AGD), *Submission 3*, p. 4.

⁷ Ms Rowland MP, Attorney-General, *House of Representatives Hansard*, 8 October 2025, p. 15.

⁸ Ms Rowland MP, Attorney-General, *House of Representatives Hansard*, 8 October 2025, p. 14.

1.12 While the proposed amendments 'would generally apply to the Board in the way they currently apply to the Attorney-General' they would:

...however, make some key changes to parole decision-making to align with best-practice approaches in states and territories and internationally. These amendments provide the board with flexibility to ensure that decisions are made effectively and efficiently, while still retaining statutory protections and timeframes for people to be considered for parole.⁹

1.13 The Attorney-General highlighted that the Parole Board Bill would prioritise community safety:

The highest priority for the Commonwealth Parole Board will be community safety. This important reform will strengthen the Australian public's trust and confidence in the federal parole system by ensuring that parole decisions are made by experts who are best placed to make robust assessments of risk when considering the protection of the community.¹⁰

1.14 In her concluding remarks, Ms Rowland articulated how the Parole Board Bill fits into the government's broader legislative reform framework:

The bill reflects the Australian government's commitment to strengthening standards of integrity across all public institutions and will support greater public confidence within the broader criminal justice system. It delivers on a commitment made prior to the 2025 election by the former attorney-general, the Hon. Mark Dreyfus KC MP, and I would like to acknowledge his work in bringing this important reform forward.¹¹

Key provisions of the Bills

1.15 The key provisions of the Parole Board Bill and the Consequential Amendments Bill are set out below.

The Commonwealth Parole Board Bill 2025

1.16 The Parole Board Bill contains the following six parts related to: preliminary provisions, the establishment of the Board, its decision-making processes, how it would share information, its administration, and miscellaneous provisions.

1.17 The Parole Board Bill would establish the Board, which would consist of the Chair, the Deputy Chair, and at least three other sessional members.¹²

1.18 The Board would have the 'power to do all things necessary or convenient to be done for or in connection with the performance of [its] functions'.¹³

⁹ Ms Rowland MP, Attorney-General, *House of Representatives Hansard*, 8 October 2025, p. 17.

¹⁰ Ms Rowland MP, Attorney-General, *House of Representatives Hansard*, 8 October 2025, p. 14.

¹¹ Ms Rowland MP, Attorney-General, *House of Representatives Hansard*, 8 October 2025, p. 16.

¹² Item 8 in Part 2 of the Commonwealth Parole Board Bill 2025 (Parole Board Bill); cl. 8 of the Parole Board Bill.

¹³ Item 10 in Part 2 of the Parole Board Bill; cl. 10 of the Parole Board Bill.

Members of the Commonwealth Parole Board

- 1.19 The Attorney-General would recommend to the Governor-General at least five appropriately qualified, experienced, or knowledgeable people to be members of the Board, who would then be appointed by written instrument.¹⁴
- 1.20 The qualifications, experience, or knowledge of a person appointed to the Board may include, but are not limited to:
- law;
 - law enforcement;
 - matters relating to victims of crime;
 - corrections (including, but not limited to, community corrections);
 - medicine (including, but not limited to, psychiatry);
 - psychology, social work, counselling or mental health (including, but not limited to, forensic psychology); and
 - criminology, sociology, or another relevant field.¹⁵
- 1.21 The Attorney-General would need to ensure that at least either the Chair or the Deputy Chair is enrolled as a legal practitioner of a federal court or the Supreme Court of a state or territory. That person would also need to have been enrolled as a legal practitioner for a minimum of five years.¹⁶
- 1.22 The Chair would lead the Board, participate as a member, make guidelines relating to its procedures, and perform other functions as stipulated in legislation.¹⁷
- 1.23 The guidelines that would be made by the Chair may relate to the following inexhaustive list of matters:
- (a) how the Commonwealth Parole Board is to be constituted when considering particular matters or classes of matters;
 - (b) the arrangements for meetings including, but not limited to:
 - (i) the timing, frequency and location of meetings;
 - (ii) the conduct of meetings; and
 - (iii) records to be kept of meetings;
 - (c) procedures to be followed in the performance of the functions of the Chair or Deputy Chair;
 - (d) the arrangements for managing conflicts of interest; and

¹⁴ Item 29 in Part 5 of the Parole Board Bill; cl. 29 of the Parole Board Bill.

¹⁵ Item 29 in Part 5 of the Parole Board Bill; subcl. 29(5) of the Parole Board Bill.

¹⁶ Item 29 in Part 5 of the Parole Board Bill; subcl. 29(3) of the Parole Board Bill.

¹⁷ Item 11 in Part 2 of the Parole Board Bill; cl. 11 of the Parole Board Bill.

- (e) any other matter that is required or permitted by this Act to be specified in the guidelines.¹⁸

- 1.24 The Chair would be permitted to publish the guidelines if they 'consider[ed] it appropriate to do so'.¹⁹
- 1.25 According to the EM, the development of the guidelines 'would allow the Chair to determine efficient and effective independent, risk-informed decision-making practices'.²⁰
- 1.26 The Deputy Chair would assist the Chair in performing their functions, participate as a member of the Board, and carry out any other functions stipulated in legislation.²¹
- 1.27 Members of the Board would need to:
- possess an appropriate mix of qualifications, experience, and knowledge related to the functions of the Board; and
 - reflect as closely as possible the composition of the Australian community.²²

Decision-making by the Commonwealth Parole Board

- 1.28 The Chair would determine the decision-making procedure that the Board follows.²³
- 1.29 The Board would meet as frequently as the Chair considers 'necessary for the efficient performance of its functions'. The Chair must preside at all meetings they attend. If the Chair is not present at the meeting, the Deputy Chair would preside.²⁴
- 1.30 To form quorum at a meeting at least three members of the Board, including either the Chair or the Deputy Chair, would need to be present.²⁵
- 1.31 A decision of the Board at a meeting must be made by a majority of the members present and voting. At least one of those votes must be cast by the Chair or Deputy Chair.²⁶

¹⁸ Item 13 in Part 2 of the Parole Board Bill; subcl. 13(1) of the Parole Board Bill.

¹⁹ Item 13 in Part 2 of the Parole Board Bill; subcl. 13(4) of the Parole Board Bill.

²⁰ Explanatory Memorandum to the Bills (EM), p. 19.

²¹ Item 12 in Part 2 of the Parole Board Bill; cl. 12 of the Parole Board Bill.

²² Item 29 in Part 5 of the Parole Board Bill; subcl. 29(4) of the Parole Board Bill.

²³ Item 17 in Part 3 of the Parole Board Bill; cl. 17 of the Parole Board Bill.

²⁴ Item 18 in Part 3 of the Parole Board Bill; cl. 18 of the Parole Board Bill.

²⁵ Item 19 in Part 3 of the Parole Board Bill; cl. 19 of the Parole Board Bill.

²⁶ Item 20 in Part 3 of the Parole Board Bill; cl. 20 of the Parole Board Bill.

- 1.32 When making a decision about a federal offender, the Board would be able to conduct interviews in accordance with the guidelines developed by the Chair.²⁷

The Commonwealth Parole Board (Consequential and Transitional Provisions) Bill 2025

- 1.33 The Consequential Amendments Bill contains a schedule of amendments to the Crimes Act and transitional provisions, which would give effect to the Board and transition decision-making powers from the Attorney-General to the Board.

Parole order decision-making framework

- 1.34 The Consequential Amendments Bill would repeal section 19AL of the Crimes Act, which sets out how the Attorney-General makes a parole order, and replace it with a new parole order decision-making framework.
- 1.35 A key provision of that decision-making framework would require the Board to make, refuse, or defer a parole order prior to the conclusion of a non-parole period fixed for a person.²⁸
- 1.36 If the Board decides to defer its decision, it would be required to make a further decision within three months of the conclusion of the reconsideration period.²⁹
- 1.37 If the Board does not make a decision during the non-parole period, it would be required to make a decision 'as soon as practicable after the end of that period'.³⁰

The reconsideration period

- 1.38 If the Board refuses to make a parole order for a person, it would be required to make, refuse, or defer a parole order before the conclusion of the reconsideration period.³¹
- 1.39 The reconsideration period would be:
- (a) the period of 12 months beginning on the day of the refusal; or

²⁷ Item 23 in Part 3 of the Parole Board Bill; cl. 23 of the Parole Board Bill.

²⁸ Item 6 in Schedule 1 of the Commonwealth Parole Board (Consequential and Transitional Provisions) Bill 2025 (Consequential Amendments Bill); proposed subsection 19AKB(1) of the Consequential Amendments Bill. Note: if the Commonwealth Parole Board decides to defer its decision, it would be required to make its decision within three months of the conclusion of the non-parole period.

²⁹ Item 6 in Schedule 1 of the Consequential Amendments Bill; proposed subsection 19AKC(3) of the Consequential Amendments Bill.

³⁰ Item 6 in Schedule 1 of the Consequential Amendments Bill; proposed subsection 19AKB(2) of the Consequential Amendments Bill.

³¹ Item 6 in Schedule 1 of the Consequential Amendments Bill; proposed subsection 19AKC(1) of the Consequential Amendments Bill.

(b) if the [Board] considers it appropriate, a period of more than 12 months, but not more than 24 months, beginning on the day of refusal.³²

- 1.40 If the person does not have more than 30 days remaining on any of the sentences that the parole order would relate to at the end of the 12 months beginning on the day of the refusal, the Board would not be required to reconsider its decision.³³
- 1.41 If the Board decides to refuse to make a parole order or to defer its decision it would be required within 14 days to provide the person with a written notice:
- that informs the person of its decision;
 - that includes the reasons for that decision;
 - if the Board refuses to make a parole order, that sets out the effect of the reconsideration process; and
 - if the Board defers its decision, that sets out the date by which Board will make its decision.³⁴

Financial impact

- 1.42 The EM states that the government 'committed \$28.3 million over 4 years from 2025–26, and \$7.3 million per year ongoing, for the establishment and operation of the Board'.³⁵

Examination by other parliamentary committees

- 1.43 When examining a bill or bills, the committee takes into account any relevant comments published by the Senate Standing Committee for the Scrutiny of Bills (Scrutiny Committee) and the Parliamentary Joint Committee on Human Rights (PJCHR).

Senate Scrutiny of Bills Committee

- 1.44 The Scrutiny Committee questioned whether an immunity from civil liability contained in clause 16 of the Parole Board Bill would extend to the Commonwealth as a whole.³⁶

³² Item 6 in Schedule 1 of the Consequential Amendments Bill; proposed subsection 19AKC(4) of the Consequential Amendments Bill.

³³ Item 6 in Schedule 1 of the Consequential Amendments Bill; proposed subsection 19AKC(2) of the Consequential Amendments Bill.

³⁴ Item 6 in Schedule 1 of the Consequential Amendments Bill; proposed section 19AKF of the Consequential Amendments Bill.

³⁵ EM, p. 4.

³⁶ Senate Standing Committee for the Scrutiny of Bills (Scrutiny Committee), *Scrutiny Digest 6/25*, 29 October 2025, p. 45. Note: clause 16 would provide Board members and persons made available to assist the Board with immunity from civil proceedings related to their functions, powers, duties, or assistance, see: item 16 in Part 2 of the Parole Board Bill; cl. 16 of the Parole Board Bill.

1.45 The AGD clarified:

The Parole Board Bill recognises that expert and independent decision-making for parole decisions needs to be protected by affording immunity from civil proceedings to members of the Board, persons made available to assist the Board, and persons who provide information to authorised officers (section 16). This will ensure that the Board can make risk-informed decisions in an efficient and effective manner without fear of personal liability for any action performed in good faith.

These immunities are proportionate to achieving this objective by only applying to specific individuals, and not the Commonwealth more broadly. Importantly, this means affected people could still seek an effective remedy against the Commonwealth for any alleged loss or damage suffered in the purported exercise of the Board's functions.³⁷

1.46 The Scrutiny Committee also raised concerns related to the Chair's power to determine the procedures that the Board would follow. It sought the Attorney-General's advice in relation to this matter, and clause 16, which has not yet been published.³⁸

Parliamentary Joint Committee on Human Rights

1.47 The PJCHR considered the Bills may engage and limit children's rights as well as the rights to personal liberty and privacy.³⁹

1.48 To address those concerns, the PJCHR recommended the following amendments to the Bills:

- amend the Consequential Amendments Bill to enable a person to initiate a reconsideration of the decision to refuse parole and provide submissions to the Board regarding reconsideration or deferral of a decision for parole;⁴⁰
- amend the Parole Board Bill to restrict information sharing to parole related purposes;⁴¹
- that the government consider undertaking a foundational review of the Crimes Act for human rights compatibility in accordance with the terms of the *Human Rights (Parliamentary Scrutiny) Act 2011*;⁴² and

³⁷ AGD, *Submission 3*, p. 7.

³⁸ Scrutiny Committee, *Scrutiny Digest 6/25*, 29 October 2025, pp. 46–47.

³⁹ Parliamentary Joint Committee on Human Rights (PJCHR), *Report 6 of 2025*, 29 October 2025, pp. 26–39.

⁴⁰ PJCHR, *Report 6 of 2025*, 29 October 2025, p. 33.

⁴¹ PJCHR, *Report 6 of 2025*, 29 October 2025, p. 36.

⁴² PJCHR, *Report 6 of 2025*, 29 October 2025, p. 39.

- update the statement of compatibility with human rights to include an assessment of the compatibility of the measures with the right to liberty, the rights of the child and rights of people with disability.⁴³

1.49 The PJCHR sought advice from the Attorney-General on these matters.⁴⁴ A response has not yet been published.

Key issues

1.50 Except for Justice Action, all submitters broadly supported the Bills.

1.51 The Law Council of Australia (Law Council) welcomed the establishment of the Board as it would address 'the risk of perceived political pressure or interference in parole decisions and brings the federal process in line with state and territory jurisdictions'.⁴⁵

1.52 National Legal Aid (NLA) also supported the Bills and argued they 'will strengthen community safety by establishing an independent Board with relevant expertise to make decisions regarding parole'. In its view, the Bills would be 'consistent with principles of open justice and accountability'.⁴⁶

1.53 One of the reasons NLA supported the Bills related to the role parole plays in supporting community safety and reducing reoffending:

The key purpose of parole is to promote community safety by supervising and supporting the conditional release and re-entry of prisoners into the community, thereby reducing their risk of reoffending. Research demonstrates that parolees are substantively less likely to reoffend than prisoners released unconditionally, and that it is particularly effective in reducing serious reoffending among high-risk prisoners and Aboriginal offenders.

Further, it has been repeatedly shown that the cost of supervision in the community is low compared to the cost of incarceration.⁴⁷

1.54 While Justice Action supported the introduction of the proposed independent and risk-informed decision-making processes in the Bills, from its perspective their provisions would 'lessen access to fair hearings, create practical disadvantages, and disregard the effective systems already managed by State parole boards'.⁴⁸

1.55 Some submitters proposed modest amendments in relation to:

⁴³ PJCHR, *Report 6 of 2025*, 29 October 2025, p. 39.

⁴⁴ PJCHR, *Report 6 of 2025*, pp. 27–28.

⁴⁵ Law Council of Australia (Law Council), *Submission 6*, p. 5.

⁴⁶ National Legal Aid (NLA), *Submission 1*, pp. 3–4.

⁴⁷ NLA, *Submission 1*, p. 4.

⁴⁸ Justice Action, *Submission 2*, p. 2.

- the membership of the Board;
- in-person hearings;
- the reconsideration of parole orders; and
- the transparency of the Board's decision making.

Board members

1.56 Justice Action suggested an amendment to the Bills to better ensure that the Board takes local conditions into account when making its decisions:

To accommodate the varying needs, sentencing practices, and community values of different states, the Board should mandate the inclusion of the State parole board representatives to assist in decision-making and ensure local context, 'colour and culture' are properly considered.⁴⁹

1.57 The Australian Lawyers Alliance (ALA) argued that the establishment of the Board would depoliticise parole decisions:

A single national board will take parole decision-making out of the political sphere and promote evidence-based risk management, tailored parole conditions, and better linkage to rehabilitation and reintegration supports. This is critical for reducing recidivism amongst first time offenders.⁵⁰

1.58 Furthermore, a single decision-making body would 'improve information-sharing and consistency across jurisdictions, complementing the supervisory roles of state and territory corrections while bringing clear accountability for Commonwealth matters'.⁵¹

1.59 NLA welcomed the establishment of a Board composed of 'statutorily appointed members with a broad range of expertise and qualifications'. Drawing members from a broad cross section of society would support open justice and accountability by bringing in a range of 'different perspectives and better reflecting the diversity of our community'.⁵²

1.60 In the Law Council's view, as the Chair and Deputy Chair would both be 'empowered to make significant decisions relating to the Parole Board, and the Deputy can assume Chair's responsibilities in a number of circumstances', both officeholders should have legal qualifications.⁵³

1.61 The AGD explained the Parole Board Bill would:

...protect the Board's independence by requiring the Minister to ensure the membership of the Board, taken as a whole, possesses an appropriate mix of qualifications, experience and knowledge, having regard to the functions

⁴⁹ Justice Action, *Submission 2*, p. 4.

⁵⁰ Australian Lawyers Alliance (ALA), *Submission 4*, p. 5.

⁵¹ ALA, *Submission 4*, p. 5.

⁵² NLA, *Submission 1*, p. 4.

⁵³ Law Council, *Submission 6*, pp. 8–9.

of the Board (paragraph 29(4)(a)). This reflects a multi-disciplinary approach, where balanced board composition enhances both independence and quality decision-making.⁵⁴

Hearings

1.62 Justice Action argued the Board would be 'a clear step backwards from existing state-level protections' mainly due to its centralisation. It argued:

A remote Board in Canberra, conducting hearings via video link, is inherently less fair than the in-person hearings common in State systems. This new structure fails to mandate a right to in-person hearings, fails to guarantee legal representation, and even fails to ensure prisoners have access to essential legal research tools like AUSTLII to prepare their own case.⁵⁵

1.63 In Justice Action's opinion, in-person parole hearings should be mandatory. It suggested that giving the Chair of the Board the discretion to choose when an interview is required would be 'insufficient and implies a default to remote [audio-visual link (AVL)] hearings, which undermines procedural fairness'.⁵⁶

1.64 The ALA highlighted the Parole Board Bill would allow:

...the Board to conduct interviews under guidelines but does not require an interview in any given matter. Nor does it embed a right, even by leave, for an offender to appear with a legal representative or support person. Consequently, obligations to procedural fairness are left for determination by the Board, rather than secured through the requisite provisions in the Bill.⁵⁷

1.65 In the ALA's view, this would disadvantage 'vulnerable cohorts'. It argued an offender should always have the right 'to be heard with the support they need (lawyer or support person) by leave of the Board, including by [AVL], with appropriate controls to protect safety and privacy'. For that reason, the ALA recommended that the Parole Board Bill be amended to include a provision 'to permit representation/support by leave, with the Board empowered to set conditions and to use AVL'.⁵⁸

1.66 The Law Council agreed that hearings should be available to offenders as 'they represent a critical opportunity to test material prior to forming decisions and mitigate the risk of conclusions being reached on the basis of misunderstanding or error'.⁵⁹

⁵⁴ AGD, *Submission 3*, p. 7.

⁵⁵ Justice Action, *Submission 2*, pp. 2–3.

⁵⁶ Justice Action, *Submission 2*, p. 4.

⁵⁷ ALA, *Submission 4*, p. 6.

⁵⁸ ALA, *Submission 4*, pp. 6–7.

⁵⁹ Law Council, *Submission 6*, p. 6.

1.67 In the Law Council's view, hearings are 'an important component of procedural fairness...[that] should be included in the primary legislation rather than deferred to guidelines'. It recommended that the Parole Board Bill:

- ...be amended to include an opportunity for offenders to appear at a hearing before the Board where the authority is of the opinion that the information currently before it does not justify releasing the person on parole; or
- ...section 23 should be amended to list considerations that must be taken into account when determining whether an interview should be conducted with a person being considered for parole.⁶⁰

1.68 NLA pointed out that currently 'there is no prescribed procedure that must be followed in considering and determining parole'. That means 'there is no requirement for a hearing, and no express requirement that the person be given legal assistance or the opportunity to make submissions'. Allowing the Board 'to hear from an offender by way of interview' would enable potential parolees to be more active participants in the Board's decision-making and support procedural fairness.⁶¹

1.69 NLA recommended that during hearings the offender be granted the right to legal representation and to make oral or written submissions where parole is intended to be refused.⁶²

1.70 The AGD assured the committee there is no need to explicitly refer to procedural fairness in the Bills as it is 'embedded in the administrative law processes of parole decision-making based on common law principles'. The AGD also stated:

Procedural fairness is embedded within the design of the Bills through multiple provisions that safeguard the rights and interests of affected parties, without compromising the independence or transparency of the Board.⁶³

1.71 The AGD further outlined some of the specific measures included in the Bills to ensure procedural fairness:

An offender will continue to be notified of, and have sufficient opportunity to respond to, any adverse matters which might weigh against their release on parole, and they may engage legal representation, or other relevant supports throughout the parole process.

The Chair will be empowered to create guidelines to support the Board in the performance of its functions, including ensuring that decision-making is undertaken in accordance with natural justice and procedural fairness.

⁶⁰ Law Council, *Submission 6*, p. 7.

⁶¹ NLA, *Submission 1*, pp. 3–4.

⁶² NLA, *Submission 1*, p. 6.

⁶³ AGD, *Submission 3*, p. 9.

While not explicitly referenced in the Bills, parole decisions are subject to judicial review under the *Administrative Decisions (Judicial Review) Act 1977* (Cth) and section 39B of the *Judiciary Act 1903* (Cth).⁶⁴

Reconsideration of parole orders

- 1.72 NLA observed that the Board would have the 'power to delay reconsideration beyond 12 months to up to 24 months'. It agreed with the purposes of this power as outlined in the EM, which are 'examples of pragmatic reasons to defer reconsideration'.⁶⁵
- 1.73 NLA suggested there is a lack of clarity between the EM and proposed subsection 19AKC(4) of the Consequential Amendments Bill. According to the EM, the Board may reconsider making a parole order for a person 'earlier than the reconsideration periods set out in this provision'.⁶⁶ In NLA's opinion, the proposed subsection 'does not make this plain, as it does not expressly provide that the Board may reconsider parole at any time'.⁶⁷
- 1.74 NLA recommended the Consequential Amendments Bill be amended:
- ...to expressly provide this and an application process for early reconsideration in relevant circumstances, such as where a decision to refuse was based on false, misleading or irrelevant information, or there has been a significant change in circumstances relevant to the parole decision. Provisions of this kind operate in NSW under the 'manifest injustice' provisions.⁶⁸
- 1.75 NLA was also uncertain about the drafting of proposed subsections 19AKC(1) and (3). It explained proposed subsection (1) would require the Board to 'reconsider whether to make a parole order for the person before the end of the reconsideration period and either grant, refuse or defer the decision for not more than 3 months'. Subsection (3) meanwhile 'contemplates the Board not making a decision under (1) before the end of the reconsideration period, providing only

⁶⁴ AGD, *Submission 3*, p. 9.

⁶⁵ NLA, *Submission 1*, p. 8. Note: the EM provides the following example of when the Board may consider extending the reconsideration period: 'if the Board refuses to make a parole order for a person who has just commenced a sex offender treatment program and that treatment takes 18 months to complete, they will not have completed the program if the Board is required to reconsider them again in 12 months. Setting a longer reconsideration period will provide the person with the opportunity to complete the sex offender treatment program, treatment reports to be made available to the Board, and further post-release plans made. Other examples of where the Board may consider it appropriate to set a longer reconsideration period include where the Board consider it necessary for a person to progress through the custodial classification system or to participate in external leave programs before the Board would consider them read for conditional release into the community', see: EM, p. 39.

⁶⁶ EM, p. 39.

⁶⁷ NLA, *Submission 1*, p. 8.

⁶⁸ NLA, *Submission 1*, p. 8.

that it must make a decision "as soon as practicable" after the reconsideration period'.⁶⁹

1.76 NLA suggested proposed subsections 19AKC(1) and (3) are contradictory as:

It is not clear how (1) and (3) work together given the mandatory terms of (1), or what circumstances (3) is attempting to address except perhaps an intervening sentence. The [EM] does not address this. It provides only that "...19AKC(3) requires the Board to make a decision under new subsection 19AKC(1) 'as soon as practicable' after the end of the reconsideration period if a decision has not been made in accordance with that subsection".⁷⁰

1.77 NLA suggested two recommendations to clarify proposed section 19AKC:

- that 19AKC includes the express provision that the Board may reconsider parole at any time within the reconsideration period; and
- that clarification regarding 19AKC(3) is provided about the circumstances in which it may be relied upon.⁷¹

1.78 The AGD explained the provisions of the Consequential Amendments Bill:

...are intended to enhance the existing parole decision-making powers under Part IB of the Crimes Act, which require the Attorney-General to consider making a parole order for a person before the end of the non-parole period set by the court, and reconsider making a parole order for a person within 12 months after any refusal of parole. The Attorney-General does not have any discretion to defer the initial consideration or reconsideration of offenders for parole for any reasons.⁷²

Transparency of decision-making

1.79 Justice Action suggested that the decisions made by the Board would not be transparent, as there is 'no requirement to make parole decisions or subsequent legal challenges publicly available'.⁷³

1.80 To improve public visibility of the Board's operations, Justice Action suggested:

A new provision must be added to mandate the regular publication of the Board's decisions and the outcomes of any judicial reviews, in an anonymised format, to ensure transparency and accountability.⁷⁴

1.81 The Law Council and NLA similarly recommended the guidelines that would determine the operation of the Board be developed in consultation with stakeholders and be made available to the public. The Law Council recognised

⁶⁹ NLA, *Submission 1*, pp. 8–9.

⁷⁰ NLA, *Submission 1*, p. 9.

⁷¹ NLA, *Submission 1*, p. 9.

⁷² AGD, *Submission 3*, p. 5.

⁷³ Justice Action, *Submission 2*, p. 3.

⁷⁴ Justice Action, *Submission 2*, p. 4.

that there may be some 'internal matters or administrative considerations of the Parole Board' that should remain unavailable to the public on the Chair's discretion.⁷⁵

- 1.82 The AGD referred to the consultation process it undertook in the development of the Bills, including with the Law Council and NLA. It assured the committee that it 'will continue to consult with stakeholders, including on future guidelines that will set out the Board's processes and procedures'.⁷⁶
- 1.83 According to the AGD, the Bills were specifically designed with independence from government as 'a key objective'. The ability for 'the Chair to make guidelines as required' is designed to promote 'operational independence, ensuring the Chair can independently determine appropriate processes and procedures to manage the Board'. The AGD maintained these 'guidelines may also be published if the Chair considers it appropriate to do so, contributing to transparency and accountability'.⁷⁷
- 1.84 To address transparency and accountability more broadly, the AGD explained the Chair would be required 'to prepare an annual report on the Board's performance and functions during the financial year, to be tabled in Parliament and published on the Board's website'. Additionally, the Board would 'be directly accountable to the relevant Minister and Parliamentary oversight functions, including the Legal and Constitutional Affairs Senate Committee'.⁷⁸

Committee view

- 1.85 The provisions of the Bills aim to:
- establish an independent Commonwealth Parole Board to make efficient, effective and risk-informed decisions about the conditional release and management of federal offenders and other detained persons; and
 - amend the *Crimes Act 1914* to give effect to the Parole Board Bill and transition decision-making powers from the Attorney-General to the Board.
- 1.86 The committee agrees that maintaining community safety is a key concern for government. It also recognises the prosocial effects that arise from the operation of an efficient and effective parole decision-making process.
- 1.87 The Bills would ensure that decisions about the release of federal offenders on parole are made by an independent board of appropriately qualified people, which would better serve community safety and depoliticise parole decisions.

⁷⁵ NLA, *Submission 1*, pp. 5–6; Law Council, *Submission 6*, p. 6.

⁷⁶ AGD, *Submission 3*, p. 4.

⁷⁷ AGD, *Submission 3*, p. 6.

⁷⁸ AGD, *Submission 3*, p. 8.

1.88 In the committee's view, the Bills would ensure an appropriately qualified and representative Board is established to make parole related decisions in relation to federal offenders. The Bills would also afford people being considered for parole procedural fairness and ensure that the decisions of the Board are sufficiently transparent and flexible.

Recommendation 1

1.89 The committee recommends that the Senate passes the Bills.

Senator Helen Polley
Chair

Dissenting Report - Coalition Senators

- 1.1 The Coalition thanks stakeholders for their submissions and expresses its concern over the implementation of a Commonwealth Parole Board both in principle and as designed by the Bill.

Key comments

- 1.2 The Coalition questions why the Board is required to 'reflect as closely as possible the composition of the Australian community at large'.¹ This clause is poorly conceived and undefined. The government must explain to the Australian people why this should matter over professional legal qualifications, particularly as there is no methodology as to how these demographic indicators would be measured. The membership of the Board should not be dictated by age, ethnicity, place of residence, or any standard other than their ability to perform the function of the Board. The Coalition strongly rejects this requirement as fundamentally at odds with best practice.
- 1.3 The current operation of federal paroles serves the Commonwealth well as both value for money and as a streamlined and effectively managed regime. The Attorney-General already has access to expert advice in order to make parole decisions. A Commonwealth Parole Board will therefore be an unnecessary duplication of effort.
- 1.4 The Attorney-General's Department is responsible for the maintenance of Australia's law and justice framework, and the Attorney-General is accountable directly to the parliament. If we cannot entrust the Attorney-General's Department with something as fundamental to the maintenance of Australian law as parole decisions, how can Australians have any confidence in the Attorney-General's Department?
- 1.5 Creating a Commonwealth Parole Board will only add unnecessary layers of complexity and bureaucracy to a framework that works well, and will shift responsibility from a Minister of the Crown to an unelected panel in an effort to avoid accountability. By implementing this Board, the government is shirking its responsibility to the Australian people and costing them \$7.3 million every year.
- 1.6 The Bill's refusal to mandate in-person hearings represents a regression in civil liberties as it diminishes the right to procedural fairness. Unlike the current regime, the centralised remote Board conducting hearings via video link risks undermining public trust in the system.

¹ Item 29 in Part 5 of the Commonwealth Parole Board Bill 2025 (Parole Board Bill); subcl. 29(4) of the Parole Board Bill.

- 1.7 The report does not outline the efficacy of the current regime, and therefore misrepresents the necessity of the Board. Federal offenders and recidivism rates remain comparatively low compared to state and territory jurisdictions. Federal offenders include terrorists, child sex offenders and transnational criminals. These are cases of supreme importance, and warrant being handled by the chief law officer of the Commonwealth of Australia, the Attorney-General. When hard calls need to be made for public safety, the Government should own that decision rather than delegate it.
- 1.8 The Board gives no guarantee that victims will have stronger rights or that public safety will be protected, and is susceptible to political stacking as the government will appoint its members.

Concluding comments

- 1.9 The proposed Commonwealth Parole Board will weaken ministerial accountability, erode the democratic link between government and the public, and create unnecessary bureaucracy and cost without actually making Australians safer or providing a more efficient service. The Attorney-General must remain responsible for parole decisions that may involve life-and-death consequences for the Australian community. With power must come responsibility, and with responsibility must come accountability.
- 1.10 The Coalition will continue to stand for community safety, democratic accountability and responsible government.

Senator Leah Blyth
Deputy Chair

Additional Comments from Greens Senator David Shoebridge

- 1.1 We support the creation of a Commonwealth Parole Board. It has been a longstanding anomaly that one did not exist and it is positive this is being corrected.
- 1.2 In the submissions received on the Bill, we believe the concerns raised by the Law Council about Board membership are worthy of consideration and possible amendment.
- 1.3 Clause 24 of the Bill permits the Departmental Secretary to act as a Board member when regular members are unavailable. The Law Council raised concerns that this undermines the Board's independence from the Attorney-General and suggested using acting appointments instead to remove any potential compromise of the Board's perceived impartiality.
- 1.4 This simple change would reduce the risks of a future Secretary inappropriately interfering with the operations of the Board and reduce overall impacts of possible politicisation. Such a change would be consistent with the rest of the legislation underpinning the Board's independence and increase public trust in it.
- 1.5 A number of matters of concern were raised by the Parliamentary Joint Committee on Human Rights (PJCHR) that could also be readily addressed by minor drafting changes.
- 1.6 The PJCHR recommends amending the Consequential Amendments Bill to enable 'a person to initiate a reconsideration of the decision to refuse parole and provide submissions to the Board regarding reconsideration or deferral of a decision for parole'.¹ This is a reasonable and practical change that should be made.
- 1.7 The PJCHR also recommends amending the Bill 'to restrict information sharing to parole related purposes'.² Public trust is increased if information is only used for the purposes it is collected for and a minor amendment to clarify this would support confidence in the scheme.
- 1.8 A response to the PJCHR report has not yet been received from the Attorney-General's Department. These and the other recommendations made by the PJCHR should be fully considered before this bill is brought to a vote.

¹ Parliamentary Joint Committee on Human Rights (PJCHR), *Report 6 of 2025*, 29 October 2025, p. 33.

² PJCHR, *Report 6 of 2025*, 29 October 2025, p. 36.

Senator David Shoebridge
Member

Appendix 1

Submissions

- 1 National Legal Aid
- 2 Justice Action
- 3 Attorney-General's Department
- 4 Australian Lawyers Alliance
- 5 Mr Angus Thompson
- 6 Law Council of Australia