

## **PE1565/B**

Petitioner Letter of 23 September 2015

### [PE1565 – Petitioner response](#)

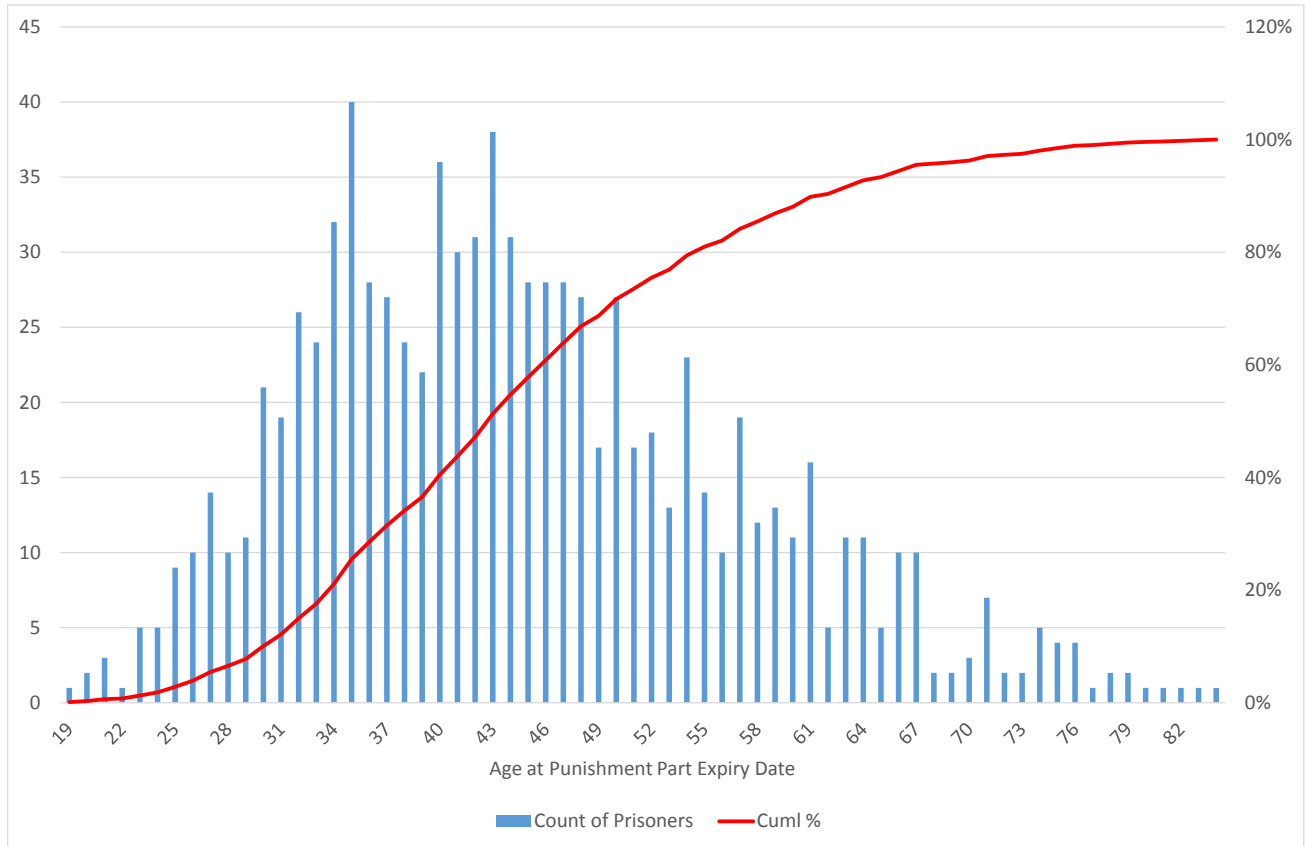
Two fundamental questions were posed by the Public Petitions Committee at the close of the hearing for petition PE1565. These were:

- What was the incidence of the Crown prosecution service exercising a sentencing option manifestly longer than anticipated life expectancy (i.e. whole life sentence) since 2001 (which is when the option was extended in Scotland) and;
- Is whole of life sentencing an appropriate issue for the sentencing council to consider. Particularly since the whole basis for establishing a sentencing council was to take on board the concerns of not just the judiciary but the public.

### **Incidence of sentencing options longer than life expectancy**

The Criminal Law and Sentencing Unit provided data on the expiry date of the punishment part of 914 prisoner's life sentences. This data was also given a reference point of there being 52 prisoners in custody serving whole of life sentences in England and Wales.

Considering the data given shows, that using normal male life expectancy in Scotland, (76.8 years – source: The Scottish Government - Life expectancy in Scotland) that 98.9% of prisoners are eligible for release before this age. To compare to the England and Wales reference point, there are 10 life prisoners currently incarcerated that have been given a sentence manifestly longer than life expectancy. (Note: 6 of these were already in there 60's when the sentence imposed). This represents 1.1% of life prisoner population or 0.44% if those in there 60's at sentencing are discounted. If we further look at the punishment parts imposed that are greater than 30 years in length, then only 2 of these sentences lead to a sentence greater than 76.8 years.



In my opinion, this gives no real indication that the Scottish judiciary are utilising the whole of life option that is available to them.

**Is whole of life Sentencing an appropriate issue for the Sentencing Council to consider?**

The letter from the Criminal Law and Sentencing Unit regarding this matter, in my opinion, largely misses the point of the question asked by the Petitions Committee. The letter, while conceding that the Sentencing Council, once established, “could consider” the issue, gives no commitment to do so. Nor does it highlight any mechanism that would allow the issue to be raised to the Council. Nor does it make any commitment to advise the Council of this matter.

It seems to me to be loaded with the kind of ‘*double speak*’ that members of the public have come to associate with the political system.

At the last Petitions Committee meeting Mr. MacAskill highlighted that “the whole basis for establishing a sentencing council was to take on board the concerns of not just the judiciary but the public”.

**Could the Petitions Committee ask the Scottish Government how the Sentencing Council will gather opinion from the public on what their concerns are? What will the mechanism be to do this?**

At the very least, if this question can be answered then I will understand how to get this issue considered by the Council.

**Alternatively, could the Petitions Committee ask the Scottish Government to confirm that this issue, as a matter of public concern, is brought to the Sentencing Council's attention for their consideration?**

Lastly, I would draw the Committee's attention to the recently released report on Serious Incident Reviews by the Care Inspectorate. The report highlighted that at least 45 serious incidents - including 10 murders and eight sexual offences - have occurred in the last 15 months involving offenders under supervision in the community. "At least" because only 17 out of 32 local authorities provided full information to the inspectorate. The real figure is likely to be higher still.

I would ask the committee to consider how many of these 10 murders could have been prevented if a whole of life sentence had been considered at the original sentencing of those involved. As I stated at the last Petition Committee meeting it is this small percentage of offenders that are likely to repeat offend that whole of life sentencing would target to protect public safety.

James Dougall