

## Lifers

### *What is a life sentence?*

There are various types of life sentence but all lifers are now, for the purposes of their management, classed as indeterminate sentence prisoners (ISPs).

Unlike a prisoner serving a determinate or fixed sentence, and who must be released at the end of that sentence, prisoners subject to life imprisonment have no automatic right to be released. Instead they (unless released on compassionate grounds) must serve at least the minimum period set by the sentencing court (the 'tariff'). However release on expiry of the minimum period is not automatic.

Release only takes place once the Parole Board (who are solely responsible for the decision) are satisfied that the risk of harm a prisoner poses to the public is acceptable.

### *Serving the life sentence*

The key document as regards progress through the life sentence remains PSO 4700 (re-named the Indeterminate Sentence Manual).

A number of recent changes to PSO 4700 have been made:

- Chapter 4 'serving the Life Sentence' has been replaced by PSI 36/2010 'Serving the Indeterminate Sentence'. This states that sentence plans for ISPs must be 'achievable' and not 'aspirational' and should identify the risks to be reduced rather than interventions to be undertaken.
- The fixed 'lifer stages' through which adult lifers were previously required to progress have been removed and initial categorisation of Lifers and IPP prisoners is determined by a revised ICA1 (males) and ICA3 (females)
- PSI 36/2010 makes clear that prisoners who maintain their innocence should be advised about the problems associated with this stance and that risk assessment and offending behaviour work will still take place.
- PSO 6010 'Generic Parole Process' replaces Chapter 5 and 6 of PSO 4700 and sets out a new parole process that applies to all ISPs since 1 April 2009. It includes a new

timetable and mandatory reports to be included in the dossier.

- Chapter 7 'Risk Assessment' is replaced by the Public Protection Manual (PSI 29/2010)
- Life and IPP prisoners in terms of sentence plans and how they operate now come under the Offender Model III Implementation Manual (PSI 29/2010)

### *When am I allowed an escorted absence in closed conditions?*

Once in Category C conditions lifers are eligible to apply for escorted absence or town visits.

Prisoners (including foreign national prisoners) are eligible if they are within 12 months of their first parole review (i.e. within 4 years of their tariff expiry).

In addition PSI 22/2009 now requires lifers to have served 10 years continuously in custody in order to be eligible for town visits.

All escorted absences are subject to a risk assessment board. The police should be consulted and victim enquires made before an escorted absence is approved.

### *When am I allowed to ask to be moved to open conditions?*

In the past all ISPs were referred to the Parole Board for consideration of their suitability for open conditions up to 3 years prior to tariff expiry. PSI 33/2009, which came into force on 1<sup>st</sup> January 2010, has now introduced Pre-Tariff Sift Reviews for ISPs. This means that all lifer cases are now subject to a prison service assessment, as to their suitability for a Parole Board review 2 years before their tariff date expires. The test applied is whether there is a reasonable prospect or 'is there a case for consideration' for open conditions by the Parole Board. This decision can be appealed.

### *How can I get a Guittard application?*

As a consequence of the case of **R (Guittard) v Secretary of State (2009)** the Secretary of State is now required to consider a lifer's suitability for a transfer to open conditions without the need to get a recommendation from the Parole Board first.

The application is made to the Public Protection Casework Section of the Ministry of Justice. They decide whether to grant such an application based on the following;

- Reports must contain evidence that the prisoner has made significant progress in identified risk factors; *and*
- There must be a consensus amongst report writers that the prisoner is suitable and safe to be transferred to open conditions; *and*
- There are no areas of concern identified by report writers which would clearly benefit from further exploration by an oral hearing of the Parole Board; *and*
- The prisoner has demonstrated in his representations that there are clear benefits to being transferred to open conditions immediately rather than following the established process.

***What about temporary release in open conditions?***

Lifers are normally only eligible for release on temporary licence (ROTL) if held in open prison. They can be granted ROTL from Category C conditions if they have been assessed as suitable for open conditions but are in closed conditions for medical reasons (See PSO 6300 para 4.3.1).

The length of time a lifer must spend in open conditions before becoming eligible depends on the length of time before their next parole review from the date of their arrival in open conditions.

- Lifers with more than 12 months until their next parole review – become eligible for supervised activities outside of prison after 2 months in open conditions, resettlement day release (RDR) after 6 months, overnight release (ROR) after 9 months and, paid work and ROR for a 5 day period after 12 months in open
- Lifers with less than 12 months – become eligible for supervised activities within 1 month, RDR after 4 months, overnight release after 5 months and, ROR for paid work and 5 day release after 8 months.

***What happens if I have Mental Health problems in prison?***

Under s47 MHA 1983, the Secretary of State (through the Mental Health Unit at the Ministry

of Justice) may direct the transfer of a sentenced prisoner to a psychiatric hospital.

The Secretary of State will also normally make a 'restriction direction' under s49, which means the patient cannot be moved, sent on leave, transferred or discharged without the Secretary of State's consent.

For transfer to take place two doctors, one of whom is approved under s12 of the 1983 Act must confirm that the prisoner is suffering from a mental illness or disorder, that medical treatment is both available and it is appropriate that the prisoner should be detained in a hospital in order to receive such treatment. Transfer should also have regard to the public interest and all the circumstances of the case. Transfer can in urgent circumstances also take place under s22(2)(b) of the Prison Act 1952.

The prisoner's sentence continues to run despite a transfer to hospital.

Life sentenced prisoners who are in hospital do not have to go back to prison to apply for release from the Parole Board. Instead they can apply for parole whilst still in hospital. However, in exceptional cases, the Secretary of State may authorise discharge under s42(2) of 1983 Act.

***When will compassionate release be considered?***

The Secretary of State retains the discretion to release prisoners serving life sentences on compassionate grounds in the following circumstances:

- The prisoner is suffering from a terminal illness and death is likely to occur (within 3 months) or is bedridden/similarly incapacitated *and*
- The risk of re-offending (particularly of a sexual or violent nature) is minimal *and*
- further imprisonment would reduce the prisoner's life expectancy; *and*
- there are adequate arrangements for the prisoner's care and treatment; *and*
- early release is of some significant benefit to the prisoner or his/her family

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