

To whom it may concern

Justice Select Committee
7 Millbank
London SW1P 3JA

By E-mail: BUCKLANDG@parliament.uk

Our reference: jsc/dr/14
29 September 2014

Dear Sirs

Further submissions to the Justice Committee's inquiry on prisons: planning & policy

Further to our oral submissions to the Justice Committee on 9 September we wish to expand on one of questions raised by the Committee which we did not have the time to fully address at the time.

The question was the following one:

Resettlement: What are the key factors related to prison policies which are currently impeding effective resettlement in prison?

We touched upon this whilst giving our oral evidence but wish to expand further. We are especially concerned about the new restrictive regime concerning Indeterminate Sentence Prisoners (ISPs) and their eligibility for Release on Temporary Licence (ROTL). In our view the new regime is seriously affecting prisoners' ability to effectively rehabilitate prior to release. ROTL is the programme that enables appropriately security cleared prisoners to be temporarily released for work, volunteering, family reunion and resettlement purposes. It has been reviewed extensively and a new policy is expected this autumn. The review of ROTL follows three high profile serious incidents committed by prisoners on ROTL. We would label this simply as knee jerk reactive policy making on the run, without giving due consideration to the consequences. The vast majority of ROTL is successful, representing an essential tool for resettlement. The chances of effective resettlement are reduced if fewer prisoners receive these opportunities. Further, this will inevitably delay the progression of ISPs towards release, resulting in more long term prisoners in prison for longer, with little or no prospect of release. The effect on the tax payer of more prisoners populating the prison's estate (and possibly more prisons being created as a result) cannot be underestimated.

The new changes to ROTL can be briefly set out as follows:

1. Exclusion from transfer to open conditions and from ROTL for any prisoner with a history of abscond, escape or serious ROTL failure during their current sentence.

2. No exception will be made in relation to any prisoner serving a determinate sentence of any description.
3. There is a very strong presumption that an ISP who has absconded from open conditions as part of their current sentence will not be eligible to return to open conditions.
4. Exceptionally, prisoners might be assessed as to their suitability for open conditions but only if the following apply:
 - the prisoner has made significant progress in reducing their risk of harm and risk of abscond such that a further abscond is judged very unlikely to occur,

AND they meet one or more of the following exceptions:

- there are compelling circumstances beyond their control which make a placement in open conditions necessary; or
- a placement in open conditions is absolutely *necessary*, in that their need to provide evidence of reduced risk for their parole reviews and their need for resettlement work cannot be met in a *progressive regime in closed conditions*; or
- preventing the offender returning to open conditions would in all the circumstances be manifestly unjust/unfair.

In our view the above exceptional circumstances test is incredibly vague. It is hard to see how exceptional progress can be made in closed conditions as the bar is set so highly. Even in cases where open conditions are recommended, they might still be of the view that the exceptional test might not be met given that the progress made in relation to reducing risk of abscond and risk more generally has not been tested in the community. Moreover, the policy as a whole does not sit well within the Parole Board's own guidance that most indeterminate sentence prisoners will need to be tested in open conditions.

Further, we believe that the evidence of risk reduction that ISPs will have to show (with resettlement issues normally being the outstanding need) and a need to be tested more generally because of the abscond, will not be capable of being demonstrated in closed conditions or within the 'progressive' regime above mentioned. The above criteria provide that ROTL will only be granted in exceptional circumstances and yet those circumstances have not been defined. Therefore if the Parole Board were not satisfied that a particular ISP should be released, he or she will be warehoused back to closed conditions with no means of demonstrating by the next hearing that they can be released. This is fundamentally contrary to the basic principles of public law.

The 'progressive' regime outlined above has not so far been detailed and we have therefore been left in the dark as to when it will be implemented (with the rather general indication it will take place sometime in the autumn of this year) and whether if and when it does, there will be sufficient resources to run it. We are especially concerned about women absconders and where they will be located as you will appreciate there will be very few female ISPs who have absconded in their current sentence. At the moment therefore we are uncertain as to how risk reduction will be addressed in order for ISPs to be eventually released from the 'progressive' regime.

We are of the view that the changes to the ROTL regime as outlined above impose serious restrictions on prisoners' ability to rehabilitate effectively (especially in the context of ISPs) and we would invite the Justice Committee to address our concerns in their inquiry into prisons: planning & policies.

Yours faithfully

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Deborah Russo
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For the Prisoners Advice Service