

## Justice Committee

### Prisoners (Control of Release) (Scotland) Bill

#### Supplementary written submission from the Scottish Human Rights Commission

1. The Commission welcomes the Scottish Government response following our participation in the evidence session to the Committee on 13 January 2015. The Commission expressed concerns about the potential impact on public safety of the Bill following the end of automatic early releases of prisoners into the community without any adequate supervision. We are pleased to see the Government recognition of the serious consequences of its earlier proposal in terms of an unnecessary risk to the public and the commitment to bring forward proposals to ensure this does not happen.
2. The Commission is, however, concerned about the Scottish Government's intention to bring amendments to extend the Bill's provisions to end the existing system of automatic release for all long-term prisoners. We are particularly concerned about the impact and practical application of this measure.
3. By extending the provisions to a group of prisoners who will no longer be eligible for automatic early release, applications to the Parole Board will increase. There are concerns already about inadequate rehabilitation programmes available to prisoners. If more prisoners apply to the Parole Board and the Parole Board does not grant them early release, this may well lead to prisoners raising appeals on the grounds that they have been denied their right to liberty under Article 5 of the ECHR given insufficient rehabilitation within the prison system. These proposals shall therefore invite more scrutiny of the adequacy of the rehabilitation programmes within the prison system. The Commission recommends that the prison rehabilitation programmes be fit for the purpose of meeting increased demand.
4. In the past we have raised concerns about overcrowding in the prison system.<sup>1</sup> On the face of it, this move would certainly seem to be increasing the number of prisoners in the system. The Commission recommends the Scottish Government fully assess the impact of this proposal on the prison population and explain how it is going to be managed in the current budgetary climate.
5. As a general principle, the Commission recommends that any change on the current policy on automatic early release should be based on robust and up to date evidence. The assumption in the Bill seems to be that public safety is better served by a person being in jail longer. While this proposition may have some limited validity, the length of sentence is not always directly related to public risk. It is usually reflective of gravity of offence. For example, a serious fraudster might get more than 4 years in prison, but realistically present a low risk to public safety. The Commission would be interested to be made aware of any evidence available to the Government

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<sup>1</sup> See for example SHRC policy submission to the United Nations Committee Against Torture, p. 7 available at <http://www.scottishhumanrights.com/resources/policysubmissions/CATreportnews2013>

that indicates that prisoners on automatic early release reoffend at a higher rate than those who serve the full term.

6. While the compulsory supervision will assist with reintegration into the community, the aim of public safety is not necessarily served by the removal of early release. An additional question that arises with the new proposal is over the length of period of supervision. There is a lack of clarity in terms of its application: will this vary depending on the offence or on whether the individual is subject to parole? If it does not take account of the period on parole, will it be potentially disproportionately affecting those who pose less risk if they have to be supervised for a period at the end of their parole licence period. For this proposal to be effective it requires more clarity and precision.

The Commission will offer further evidence on the human rights implications of the new proposal to the Scottish Parliament's Justice Committee on February 24.

Scottish Human Rights Commission  
13 February 2015