

Justice Committee

Proposals to end the automatic early release of certain categories of prisoner

Written submission from Ron Rose

I am grateful for having been afforded this opportunity to have my opinion considered.

My input focuses upon Orders for Lifelong Restriction (OLR).

1. OLR appears to have hitherto been overlooked or ignored by Scottish Ministers debating the issue:

“Conservatives have already warned the revision to the rules still means people sentenced to less than four years qualify to get out after serving half their sentence.”¹

The Conservatives’ concern, obviated in the above quote, takes no cognisance of the availability of OLR where punishment parts of *much less* than four years can be (and have been) handed down to serious offenders.² As we know, the convicted person has to serve the punishment part, *in its entirety*, in custody. Furthermore, the prisoner will not automatically be released, *even* at the end of this period, and could potentially remain in prison, *truly* for life (as the public understands the word). If and when release *is* granted, the order provides for monitoring and safeguards, as the name suggests, for the lifetime of the convict.

2. I submit that the proposed ending of early release is *materially inferior* to this, in that, at the end of a determinate sentence, the convict will be released automatically, *irrespective of any risk still posed*. A shift towards increased use of OLR for most, if not all, serious offenders, is likely to incentivise those prisoners to engage in rehabilitation whilst in custody, knowing that the potential consequence of not so doing, is indefinite incarceration. The cost element for those who are retained longer in custody should be considered against those being released at the end of a determinate sentence, not necessarily rehabilitated, re-offending, and being sentenced back to custody. It is, of course, a question of balance, however, it is public safety, rather than cost, that is ultimately paramount.

3. In view of the foregoing, surely the public interest, in terms both of safety and of confidence, is better served by the OLR option that is *already at our judges’ disposal*, than by the proposed legislation in its present form, which, whilst appearing to partly honour a 2007 Government promise to end automatic early release, will be clearly inferior in its useful effect.

¹ The Courier, “*Bid to end early release questioned*” 4 April online edition, <http://www.thecourier.co.uk/news/scotland/bid-to-end-early-release-questioned-1.301683> accessed 4 April 2014.

² BBC News online, (23 March 2014) “*Ian Ogilvie sentenced over Thai girl abuse*” <http://www.bbc.co.uk/news/uk-scotland-glasgow-west-26520795> accessed 4 April 2014.

4. Our judges already have the necessary tools at their disposal; their willingness to use them will surely serve the public interest much more than the proposed legislation which, inferior in its finite effect, is sure to render any political popularity with the public, short-lived.

5. In the interests of longer term public safety, I call upon the Scottish Government, through the Justice Committee, to amend the Criminal Justice (Scotland) Bill to extend the use of OLR to end automatic release per se for *all* serious offenders rather than the current proposals that risk releasing prisoners, albeit on completion of their full determinate sentence, still not rehabilitated, and still, therefore, a serious threat to public safety. OLR has not been deemed incompatible with human rights, neither should be its increased use as a necessary and proportionate measure.

Ron Duncan Rose LLB (Hons) CIHM
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