

Justice Committee

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

Written submission from Positive Prison? Positive Futures

We are very pleased to respond to the call for written evidence and trust that you will find it of use and interest.

1.00 Positive Prison? Positive Futures

1.01 We are a charitable organisation made up of and representing people who have been through the criminal justice system and found it possible to change their lives in positive ways and avoid re-offending. We work to help and support others still within the system by offering opportunities to change their lives for themselves, their families, friends and communities.

1.02 We became a Scottish Charitable Incorporated Organisation in September 2012. We work with, and receive funding and logistical support from, the Community Justice Division of the Scottish Government, the Scottish Prison Service Headquarters, the Violence Reduction Unit of Police Scotland, The Robertson Trust and The Monument Trust. We are actively engaged with academic researchers in the field of Criminology.

1.03 The majority of our trustees are practitioners working in a variety of roles within the criminal justice system and the members of our group are widespread across Scotland, some of them serving prisoners.

2.00 Automatic Early Release of Prisoners – the wider picture

2.01 The Scottish Government have stated their aim to end the system of automatic early release of prisoners once the conditions of the McLeish Commission are met.

2.02 We are of the opinion that it would not be reasonable, practical or viable to end or change the system of automatic early release of prisoners (of any category or description) without making extensive changes across the entire criminal and community justice system in Scotland. The origins of automatic early release are to be found in an effort to reduce the prison population without seeking to change sentencing practices within the judicial system. The size of the prison population in Scotland can be seen as a symptom of sentencing practices whereas the cause is not, according to Scottish Government figures, a rise in the crime rate.

2.03 If the aim of automatic early release was to reduce or limit the prison population then it appears to have missed the target. Please refer to: http://www.ejprob.ro/uploads_ro/757/Scotland.pdf

2.04 A fundamental change in sentencing practice has a key part to play in the state and size of our prison population as, according to elsewhere in the McLeish Commission:

The Commission recommends that imprisonment should be reserved for people whose offences are so serious that no other form of punishment will do and for those who pose a threat of serious harm to the public;

These are the right and proper uses of imprisonment. Scotland's problems with violence signal the need not to use prison more, but to use it better and more effectively in pursuit of these purposes;

If we are to use prisons properly we need to break with the idea that the only real punishment is prison. Imprisonment is a relatively recent invention - one that made sense at a time when society needed something to replace transportation to the colonies. In many respects it is a 19th century strategy that has difficulties tackling 21st century problems.

2.05 We seek a comprehensive review of the way in which people progress from arrest through to release, including how sentences are considered, handed down and managed through release and back into the community. This must be done if Scotland is to make significant progress towards becoming a safer and happier place within the terms of the Reducing Reoffending Policy and much more besides. The existing process for the automatic early release of prisoners is not founded on evidence but on political expediency.

2.06 There is also the opportunity to align the judicial sentencing process with aims, direction and intent of the Scottish Prison Service Organisational Review entitled – “Unlocking Potential Transforming Lives” as published in November 2013.

3.00 Response to the letter from the Cabinet Secretary for Justice to the Convenor of the Justice Committee dated 3 September 2013

3.01 Public safety

We agree that there is a need to focus on the consideration of risks to public safety and public harm when serious fixed length and other prisoners are being considered for early release. However, the ways in which the risks are considered cannot be taken in isolation but should be incorporated within a ‘whole systems approach’ that starts on Day One of a sentence for any prisoner. This whole systems approach must include and incorporate all aspects of the process from being charged through an entire sentence through to release from and, in some cases, beyond prison.

3.02 Rehabilitation from day one

The SPS Organisational Review includes within its general terms that the first day of a prisoner’s sentence, of whatever length, is the first day of his or her rehabilitation process. We support this approach to imprisonment only when the sentence has been applied after all other reasonable non-custodial options have been given due and fair consideration. We recognise that the SPS and the agencies they work with have a substantial responsibility to recognise and fulfil in terms of actively supporting each prisoner as an individual throughout their sentence to maximise their potential to resume their in place the wider community as a citizen. It remains to be seen if the

appropriate understanding of what is required to achieve this can be accepted across the board and resourced accordingly.

3.03 Opportunities for personal development and learning in prisons

Part of the risk management process available to prisoners is access to education and other courses as one progresses through the system. The content, delivery and frequency of courses should be reviewed and restructured as appropriate to better fit the needs of the individual prisoner and their specific sentence. We have been made aware of a number of people who have been unable to apply for parole for considerable lengths of time on the basis that courses intended to promote self-reliance (such as 'Constructs') have not been available at a time to fit with the parole board timetables. We would call for a full and independent evaluation of the personal development, behavioural and other similar courses provided within all Scottish prisons to determine, amongst other things, their relevance, effectiveness and availability.

3.04 Good behaviour

We recognise that any decision by any prisoner to avoid further offending cannot be predicted or predetermined but we do believe that the conditions under which any individual is imprisoned can have an effect upon their decision making process in that respect. We support the principle of recognising the value of 'good behaviour' and the like but only within well established and durable guidelines not left to the interpretation of a prison system that has yet to achieve its full potential within the terms of the SPS Organisational Review. There is an unfortunate and apparently stubborn legacy to overcome arising from a minority of prison officers not willing to see the potential for change within the prisoners under their care.

3.05 Need for changes in public attitudes

It is also the case that there is a significant lack of appreciation within society at large of the potential for prisoners to re-join their community without reoffending and also a lack of belief in the SPS for their capacity to make this possible. This lack of trust in the criminal justice system must be recognised, addressed and informed to better enable the process of the reformed offender to return to the community.

3.06 Sentencing practices

It is a matter of regret that there is no mention within the Justice Secretary's letter of the opportunity and pressing need to review, redesign, restructure and reinvent the sentencing procedures, practices and options available to the judiciary for use in Scottish courts. A comprehensive introduction of new guidelines and options available to the judiciary could remove the need for automatic early release whilst acknowledging the potential of community based sentences and the new and improved SPS approach to transforming the lives and unlocking the potential of the people in their custody.

3.07 Pre-release planning

It should come as no surprise to the SPS in general or any prison when a prisoner is likely to be released. There is considerable potential to be unlocked in tailoring the courses available within any prison to match the planned dates for release for individual prisoners. If the courses are well planned and matched to the needs of the individual their effectiveness should be evident by the reduced rate of return to custody.

3.08 Breaches of licence and recall

We are seriously concerned at the rate of recall to custody of people released on licence. It could be said that the conditions attached to some licences are based on progressively restrictive and numerous conditions within a risk averse approach by social workers alongside a perceived change in thresholds of tolerance towards non-compliance leading to what might have been seen as an avoidable return to custody.

3.09 Resources in the community outwith prison

Any changes to the automatic early release of prisoners must be linked to a coherent and effective application of viable and achievable licence conditions on a person centred basis matched with appropriate resources from statutory and non-statutory agencies.

3.10 Empowering the parole board

It would be a key part of any of the proposed changes to the automatic early release of prisoners for the Parole Board to be resourced adequately and appropriately to fit with the possible release dates of any prisoners that might be eligible for early release.

3.11 Timing

We are pleased and relieved to note that any changes to the system of automatic early release will not be retrospective but this does not imply our support the proposed changes in their current form. We do not consider it appropriate to dismantle the automatic early release of prisoners in a piecemeal fashion.

3.12 Impact of proposed changes

From our perspective the changes proposed in the Cabinet Secretary's letter of 3rd September should not be implemented in isolation. As set out in the points above we believe that these changes, and others for different categories of prisoner, can only be brought into effect as part of a complete overhaul of the entire criminal justice process from arrest to release.

4.00 **Summary**

4.01 We can see the value in changes to the automatic early release of prisoners but only as part of a comprehensive review and restructuring of the criminal justice system from arrest through to release and rejoining the community.

Pete White
National Co-ordinator
Positive Prison? Positive Futures...
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