

More carrot, less stick

Proposals for a radical reassessment of the use of release on temporary licence (ROTL) in prisons to support work, training and resettlement

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The Justice Secretary Rt Hon David Gauke MP has indicated a desire to transform the rehabilitative impact of prisons, including the use of release on temporary licence (ROTL) to support resettlement. In his speech on prison reform to the Royal Society of Arts on 6 March 2018, he said:

I want to look at the availability and use of “release on temporary licence”.

Specifically, I want to see how we can use ROTL to allow those prisoners, who have earned it, to have a routine where they, with close monitoring, leave prison each day to go to work nearby.¹

This short briefing analyses the current use of ROTL and suggests ways in which a transformation might be brought about.

What is ROTL?

Release on temporary licence (ROTL) is a means by which people in prison can be released into the community for certain purposes, normally towards the end of their sentence. For many prisoners, particularly those who are serving long or indeterminate sentences, the chance to experience ROTL is a pivotal part of the process of rehabilitation. It allows people to gain knowledge and skills through work, training, education and volunteering, establish contact with families and sort out housing needs; all factors which can contribute to effective resettlement on release. Less than 0.1% of releases on temporary licence fail.² In 2016 there were just 17 failures as a result of alleged further offending—the equivalent of 5 arrests per 100,000 releases.³

Current use of ROTL

The use of ROTL has fallen markedly in recent years, following changes to the policy introduced by the former Justice Secretary Chris Grayling. Between Oct–Dec 2013 and Oct–Dec 2016, incidences of ROTL out of prisons in England and Wales fell by one third.⁴ Since Jan–March 2016, incidences of temporary release have increased slightly and in the period July to September 2017 stood at 90,749 releases.⁵

¹ Gauke, D. (2018) Prisons reform speech to the Royal Society of Arts, 6 March 2018, available at <https://www.gov.uk/government/speeches/prisons-reform-speech>

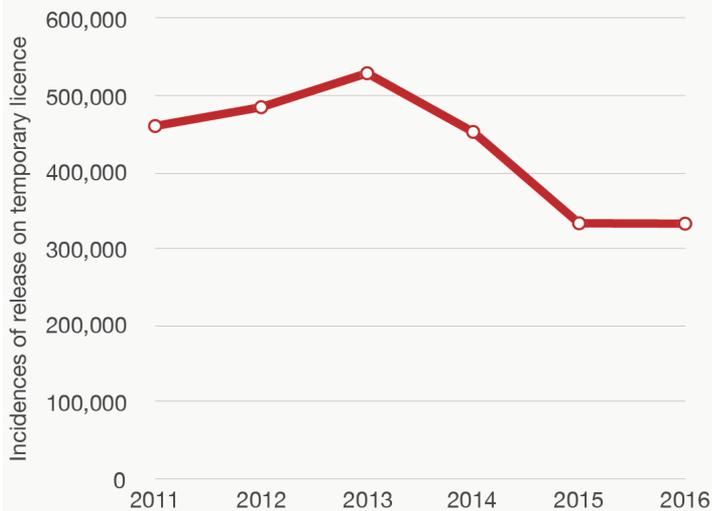
² Table A3.7, Ministry of Justice (2017) Offender management statistics prison releases 2016, London: Ministry of Justice

³ House of Lords written question HL2314, 6 November 2017

⁴ Table 3.5, Ministry of Justice (2018) Offender Management statistics quarterly: July to September 2017, London: Ministry of Justice and Table 3.4, Offender management statistics quarterly: October to December 2014

⁵ Table 3.5, Ministry of Justice (2018) Offender Management statistics quarterly: July to September 2017, London: Ministry of Justice and Table 3.5, Offender Management Statistics Quarterly: January to March 2017

Since 2013, use of release on temporary licence has declined



Source: Offender management statistics annual tables 2016

Use of ROTL varies markedly according to the different types of establishment. In November 2015 PRT trustee Lord Bradley tabled a series of parliamentary questions on the use of ROTL in different prisons.⁶ The government's answer revealed that the majority of resettlement prisons do not use ROTL at all, and where it is used, there are significant disparities. For the majority of resettlement prisons, the data show that ROTL forms no part of the experience of prisoners as they approach their release dates.

At local prisons - the prisons with high turnover populations, but also the prisons to

which prisoners are supposed to return in the crucial three months leading up to release - ROTL is almost completely unused. Even in Category C training prisons classified as resettlement prisons - where the majority of prisoners serving longer sentences will spend the bulk of their sentence, ROTL use is rare. Typically, the ratio is around 2%, suggesting that about 1 in 50 prisoners experience ROTL in any given quarter.⁷

In short, ROTL is reserved very largely to the open estate (category D), in which prisoners have already been judged to pose little or no escape risk. Training prisons, and resettlement prisons other than open prisons, simply do not use this invaluable resettlement tool to any significant degree. Most do not use it at all.

Why is ROTL underused?

The Prison Service Instruction 13/2015 on ROTL is not necessarily to blame.⁸ The eligibility criteria in theory give ample scope for most prisoners to benefit from temporary release for an appropriate range of resettlement activity (including education, work, training and volunteering) from the half way point of their time in custody or for the last two years for sentences of over 8 years.

A key reason for the underuse of ROTL by prisons is the fear of disproportionate criticism in the few cases that go wrong. In addition, a common concern is that prisoners granted ROTL will come under pressure to bring drugs back into the prison.

That pressure has always existed but there is anecdotal evidence that it has worsened in recent years. The answer to the problem lies in creating an alternative peer pressure.

⁶ House of Lords Hansard, available at <http://bit.ly/BradleyROTL>

⁷ Ibid. and Ministry of Justice monthly population data

⁸ Following a small number of high profile ROTL failures in 2013, HM Inspectorate of Prisons was asked to conduct a review of policy. Interim guidance was introduced in 2014, and subsequently consolidated into a new Prison Service Instruction, PSI 13/2015. National Offender Management Service (2015) PSI 13/2015: Release on Temporary Licence, London: NOMS

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ROTL is a huge incentive to good behaviour as well as an aid to resettlement. The Secretary of State recently spoke about the need for incentives – carrot alongside the stick – and the current very restricted access to ROTL misses an opportunity to implement his strategy. To counteract the pressure on drugs, ROTL has to be a real possibility for a much larger number of prisoners, so that the majority understand that they have something to lose if they allow the drug dealers to subvert it. As it stands, ROTL does not feel like a real possibility to most prisoners – there is no incentive to keep clear of drugs in order to get ROTL, and no flow of intelligence about the dealers who put prisoners and their families at risk.

Our proposals to use ROTL in a way that might make a reality of the term resettlement prison therefore go to the heart of the matter, which is to give governors not just permission, but a clear directive that ROTL should become a central part of their prison's operation. We propose:

- a presumption that prisoners in resettlement prisons should benefit from ROTL, subject to first achieving a period of negative drug tests
- an analysis by HM Prisons and Probation Service of the pool of prisoners eligible for ROTL and where they are held
- monthly benchmarking of the extent to which similar prisons use ROTL
- a specific objective for governors of resettlement prisons of all types to work closer with their local community to develop ROTL opportunities in education, training, work and volunteering, and measurement of their success in doing so
- freedom for governors to use the in-prison savings from a much greater use of ROTL (effectively emptying part or whole of a residential unit during the day) to support the costs associated with those prisoners taking up resettlement opportunities where they are not earning (travel and subsistence costs, the processing of ROTL assessments and the risk assessment of ROTL placements)
- where it is justified, central financial support for the transition to ROTL used at scale
- a review of the restricted ROTL regime and its impact on the sentence progression of indeterminate sentenced prisoners
- an end to the current exclusion of all prisoners who have ever absconded from access to ROTL thereafter
- reduce the lie down period for eligibility for ROTL when moving to a new prison from three months to one month
- make full use of ROTL for all resettlement purposes, including childcare resettlement licence.

Governors need a clear and unequivocal message that ROTL should be a normal part of the resettlement plan for most prisoners. It should be normal for prisoners to be undertaking their education in community colleges and sleeping in the prison at night; for prisoners to begin apprenticeships based in the community before release to complete them following release at the same firm; to begin work with an employer during a sentence (contributing to the victims fund and paying tax) before reporting to the same employer on the day of release.

In terms of institutional management, governors of closed prisons currently have little or no incentive to do this, either in terms of how their performance is measured or financially. But the incentive for prisoners to comply - not just with ROTL, but with the whole regime in order to be considered for ROTL in the first place - is very significant. Using ROTL at scale provides:

- a real reason for prisoners to comply and to use their time in custody constructively;
- a monitored re-introduction to the responsibilities they will face after prison; and
- it releases the resource the prison needs to sustain ROTL where it has become an intrinsic part of the prison's regime and resettlement strategy.

Using the existing discretion within prison rules in this radically different way represents the clearest possible example of managing risk in the short term for a long-term gain. Decisions taken in the carefully controlled environment of a custodial sentence, where the prisoner has overwhelmingly powerful reasons to comply, makes sense for the dividend it pays in the far less controlled period following release. In reality, the public will be much better protected by resettlement prisons that deserve that title.