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Open Prisons:

A Policy-maker's Perspective

Chris Potter is ROTL Policy Developer for the Ministry of Justice (MoJ); he was interviewed on 12 November 2014 by Chris Gundersen Head of Casework and Operational Support to the Deputy Director for Public Sector Prisons.

CG: Can you describe your career to date?

CP: I joined the Home Office in 1989 and have worked on immigration and mentally disordered offender casework, firearms licensing, police cautioning and court bail and procedure policy, as well as on the policy for Multi-agency public protection arrangements (MAPPA). Since 2010, I have been the lead MoJ policy developer on ROTL (release on temporary licence)

CG What is ROTL?

CP: ROTL is the mechanism by which prisoners towards the end of their custodial sentence are authorised to undertake activities outside the establishment that have a clear resettlement or rehabilitative purpose. Examples may include day release to attend a place of employment or overnight release to build family ties. It can also allow compassionate release, for example to attend a funeral.

CG: I understand NOMS is currently implementing actions from a review of ROTL policy, what prompted this?

CP: In July 2013 a series of serious offences were committed in the community by offenders on ROTL from open prisons. Chris Grayling, the Secretary of State for Justice, commissioned an internal investigation of each case by the National Offender Management Service (NOMS) and an independent review of each case by the Chief Inspector of Prisons (HMCIP). He also commissioned a full review of ROTL policy and practice. The Secretary of State decided that an immediate review was required to ensure that current practice was fit for purpose and could hold public confidence.

CG: What form did the review take?

CP: It was an internal review which started with an analysis of the existing data and included structured interviews with key stakeholders and practitioners across a number of prisons, Open prisons, in the main, because that is where most ROTL takes place. Recommendations from the NOMS internal investigations and HMCIP reviews were also taken into consideration to produce proposals for reform for the Secretary of State to consider. Implementation of the ROTL review recommendations has been overseen by a steering group chaired by the Deputy Director of Public Sector Prisons and comprising senior civil servants from NOMS and MoJ plus senior practitioners.

CG: What did the review conclude?

CP: Chris Grayling announced the review findings in a written ministerial statement to Parliament on 10 March 2014. The review concluded there remained a strong case for operating ROTL despite high profile incidents. Compliance with ROTL remains extremely high at over 99 per cent.. Mr Grayling stated 'It (ROTL) will continue to play an important role in public protection by ensuring that offenders are tested in the community under strict conditions before being released. It also provides a valuable means of helping prisoners prepare for resettlement...for example by finding work or rebuilding links with families which helps...reduce reoffending'.

The review found three main areas of weakness. There was concern that a uniform approach to managing all prisoners meant risk management was no more robust for the highest risk cohort. There was confusion about the purpose of ROTL leading the reviewers to conclude that granting ROTL had become 'a presumption in the open estate'. Finally the team found inconsistencies in the way ROTL was operating across the estate.

Mr Grayling announced his action plan for addressing these weaknesses which involved a new Restricted ROTL regime for serious offenders, a new approach removing the presumption to ROTL and plans to electronically monitor prisoners on ROTL when the technology became available.

CG: How was the review received and what happened next?

CP: The review was well received as despite the challenging timescale for completion and media and public scrutiny it had been robust and did not attempt to hide procedural weaknesses. Unfortunately any confidence the review instilled risk being undermined by further high profile offences including the case of Michael Wheatley (dubbed 'skull cracker' in some media reports) who failed to return from ROTL and committed a bank robbery.

In May Mr Grayling acted to bring forward elements of ROTL Review actions. Measures taken then included early introduction of restricted ROTL and a ban on progression to open conditions for any prisoners with a history of abscond, escape or failure during the current offence.

CG: What has happened since May?

CP: Consolidated interim guidance was issued to prisons on 11 August 2014. The interim guidance introduced Restricted ROTL. Such prisoners could not be released until they are in open conditions and had a psychologist-led case file review. Both board recommendation and decision have to be at a more senior level (governor or deputy for the actual decision) and monitoring checks are stepped up in Restricted ROTL cases.

In addition, the purpose of ROTL was clarified and guidance expressly stated arrival into open conditions would not automatically confer an immediate entitlement to ROTL. ROTL events must have a clear resettlement purpose and the onus will be on prisoners to initiate the process by applying rather than it being automatically triggered at a predefined point in sentence. Prisoners will be required to demonstrate the resettlement value as part of their application.

CG: What are the next steps and what are we now seeking to achieve?

CP: The changes implemented in May and consolidated in August form the basis of a new ROTL

policy due to be issued as a Prison Service Instruction (PSI) in early 2015. The aim of the new PSI is to ensure a focus on public safety in all ROTL decisions and to improve the quality of ROTL by ensuring every release has a clear rehabilitative focus. Through removing inconsistency and the presumption to granting ROTL, the system will better balance the need to support the prisoner to reduce their risk of reoffending with the need to protect the public.

CG: What does this mean for prisoners and their families?

CP: We accept that as a result of the changes there will be less ROTL, some prisoners will have to wait longer to take it, and a very small number with an abscond history will not be able to take ROTL at all. We appreciate that this will be unwelcome for many prisoners and their families but specific consideration has been given to ensure that the impact is not disproportionate. Throughout the whole process of the review and implementation, we have never lost sight of the contribution that ROTL may make to successful resettlement provided it is properly focussed and an informed approach to risk assessment is taken.



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