

Temporary Release Transition Leave Scheme

May 2024

Temporary Release for Transition Purposes (DCS/ECS and Adult Sentenced Prisoners) – Transition Leave Scheme

Background

The Pre Release Resettlement and Home Leave Scheme 2005 was suspended in March 2020 at the commencement of the COVID- 19 Global Health Pandemic and an Interim Home and Resettlement Scheme was introduced in August 2020 as an interim arrangement, in response to the Pandemic. It was subject to review and it was always the intention to bring it to an end once the risks presented by COVID- 19 diminished.

The interim scheme was primarily designed to offer Home Leave in a way in which minimized the risk of spreading the Covid-19 virus inside the prison establishments, prior to their Custody End Dates (CED) / Earliest Date of Release (ECR) but it has been recognized that giving a prisoner days on temporary release just immediately prior to their release date was beneficial in their **transition** from prison to community life.

A new **Transition Leave Scheme** was then introduced as a pilot on 1 November, 2022 upon which date the Home Leave Interim Scheme 2020 ceased to be in operation. It was not intended to be a complete replacement of previous Home Leave Schemes, but rather is grounded on the success of the Interim scheme and is designed to continue to facilitate giving those with determinate sentences, an opportunity to apply for a **transitional period** of Temporary Release until their Custody End Date (CED) or Earliest Date of Release (EDR). The Transition Leave Scheme has been screened under section 75 of the Northern Ireland Act 1998.

The Pre Release Resettlement and Home Leave Arrangements 2005 for sentenced prisoners remained suspended. This was because such Arrangements pre date the introduction of the Criminal Justice (NI) Order 2008 and new arrangements for Home Leave temporary release which reference the CJO sentences, were considered.

The pilot Transition Leave Scheme was due to cease on 31 March 2023, but was then

extended until 30 April 2023 to finalise some operational considerations which affect the day to day running of a new permanent Transition Leave Scheme.

On 1 May 2023, the pilot Scheme will cease as will the 2005 Arrangements. Both will be replaced by one Scheme, a permanent Transition Leave scheme.

Under this single Scheme the majority of leave will still be taken in a block period at the end of a prisoner's custody period but significantly, for those prisoners who have to serve more than 1 year, some leave days may be taken within the last few months of their sentence. This approach is intended to assist prisoners with more than 1 year in their transition back into the community, given that they have been in prison custody for lengthier periods of time and may require shorter periods of adjustment initially, before potentially being able to avail of a block leave period prior to release.

1. Aim and Objectives

1.1 The aim of this Scheme is to assist prisoners coming towards the end of their sentence with their transition to the community in a structured manner, in a way which can best assist their resettlement into the community after a period in custody, and can contribute to reducing the risk of reoffending. To this end the prisoner will be expected to provide information when applying for Transition Leave about how they propose to structure their time should their application be successful.

1.2 Transition Leave is not an entitlement. NIPS, in discharging its responsibilities to the safety of the public, must risk assess each application individually on its merits and against the criteria at 4.5 of this scheme.

1.3 If Transition Leave is granted, for those who have under the 1 year's continuous custody, these days will be taken as a block period of leave immediately preceding the prisoner's custody expiry date (CER/EDR). For those whose continuous custody period is 12 months or more, there is the opportunity to apply for shorter periods of transition leave within the last few months of their custody on the basis outlined below. The dual/hybrid approach to the way in which this type of leave will be granted, reflects the primary aim of supporting and assisting individuals with their transition and

reintegration back into family and the community (this will include but is not limited to engagement with statutory, voluntary and community services and others in support of their transition).

1.4 Any reference to prisoners will include students in Hydebank Wood College and Women's Prison.

2. Scope

2.1 The 2022 Transition Leave Scheme applies to those prisoners sentenced for a determinate time in custody. This is because its structure requires a finite end date in custody for its applicability. As a consequence this Scheme does not apply to prisoners on Life and Indeterminate Sentences who can only be released at the direction of the Parole Commissioners for Northern Ireland (PCNI). (Periods of Temporary Release for Life Sentenced and Indeterminate Sentenced Prisoners fall under the provisions for Temporary Release for Testing Purposes).

2.2 For those serving ECS Sentences, the scheme will apply if on referral to the PCNI, on their Parole Eligibility Date (PED), the PCNI do not direct release.

2.3 Those prisoners who are serving sentences under the Counter Terrorism and Sentencing Act 2021 are eligible to apply for Transition Leave towards the end of their custody if they have not already been directed for release by the PCNI at any point after they have served two-thirds of the custodial part of their sentence. Those prisoners subject to the Multi Agency Review Arrangements (MARA) who are serving sentences under Article 17 of the Criminal Justice (NI) Order 2008 may apply for Transition Leave in way set out for all other prisoners serving Article 17 DCS sentences.

2.4 Those prisoners who are also held on warrants of remand, even if Transition Leave was to be granted in respect for those offences for which they are sentenced, will not be able to avail of same without securing bail for same period as Transition Leave is granted. In such cases a conditional offer of Transition Leave will be made to

the prisoner. Receipt of a conditional offer will provide the individual and his/her legal representative with the opportunity to apply for bail.

2.5 All eligible sentenced prisoners need to submit their application for Transition Leave 8 weeks prior to their Transition Leave Eligibility Date (TLED) Their TLED is the first day which a prisoner could potentially be granted Transition Leave and is calculated depending on the length of sentence as outlined in 4.2 and 4.4 below.

2.6 It is not automatically the case that eligibility to be considered for Transition Leave will result in an application being approved and/or the maximum quota of Leave days being granted.

2.7 The Transition Leave Scheme will continue to operate throughout the Christmas Period with full details of its operation over that period being published in sufficient time to complete applications.

3. Legislative Basis

3.1 The legislative basis for this Scheme is Prison Rule 27 of the Prison and Young Offenders Centre Rules (NI) 1995 which provides for periods of temporary release of prisoners from the Prison Establishments.

3.2 Rule 27(1) provides that prisoners may be temporarily released for any period or periods and subject to any conditions.

3.3 Rule 27(2) provides that a prisoner may be temporarily released under this rule for a number of reasons, one of which is to assist in the **transition** from prison to outside life.

3.4 The decision whether to grant Transition Leave or not is discretionary. The Human Rights Act 1998 and in particular Article 8(1) will be engaged.

4. Procedures for Implementation and Criteria

4.1 Leave Quotas

The table set out below specifies transition leave maximum quotas which may be granted to determinate sentenced prisoners.

4.2 The total number of possible leave days will not exceed the applicable quota below and is dependent upon the period of continuous custody.

To ensure that transition to the community is meeting the needs and objectives of the individual, to provide them with support and assistance and to satisfy compliance with conditions of release, appointments with designated probation officers in the community, a coordinator within the Prisoner Development Unit (PDU), or both, may be scheduled.

If applicable, the number and frequency of these appointments will be set on an individual basis and form part of the conditions of temporary release. Prisoners who are required to attend an appointment with a NIPS PDU coordinator may be required to do so in-person at the relevant NIPS establishment.

Time to Serve (Period of Continuous Custody)	Transition leave Quota (maximum but a lesser period may be granted and each application will be considered on individual basis)
3 months but less than 6 months	Up to 3 days (all taken as one block period just prior to CED/ECR)
6 months but less than 12 months	Up to 5 (all taken as one block period just prior to CED/EDR)
12 months but less than 18 months	Up to 9 days (may be split 2,7 – over the last 2 months of their custody period but the block period must be taken as one block just prior to CED/EDR)
18 months but less than 24 months	Up to 10 days (may be split 2,8 – over the last 2 months of their custody period but the block period must be taken as one block just prior to CED/EDR)
24 months but less than 30 months	Up to 14 days (may be split 2,2,10 – over the last 3 months of their

	custody period but the block period must be taken just prior to CED/EDR)
30 months but less than 36 months	Up to 15 days (may be split 2,2,11- over the last 3 months of their custody period but the block period must be taken as one block just prior to CED/EDR)
36 months but less than 42 months	Up to 16 days (may be split 2,2,12 – over the last 3 months of their custody period but the block period must be taken latter as one block just prior to CED/EDR)
42 months but less than 48 months	Up to 17 days (may be split 2,2,13 – over the last 3 months of their custody period but the block period must be taken as one block just prior to CED/EDR)
48 months but less than 54 months	Up to 18 days (may be split 2,2,14 – over the last 3 months of their custody period but the block period must be taken as one block just prior to CED/EDR)
54 months but less than 60 months	Up to 20 days (may be split 2,2,2,14 – over the last 4 months of their custody period but the block period must be taken as one block just prior to CED/EDR)
60 months but less than 66 months	Up to 22 days (may be split 2,3,3,14 – over the last 4 months of their custody period but the block period must be taken as one block just prior to CED/EDR)
66 months but less than 72 months	Up to 24 days (may be split 2,2,3,3,14 – over the last 5 months of their custody period but the block period must be taken as one block just prior to CED/EDR)
Over 72 months	Up to 26 days (may be split 2,3,3,4, 14 – over the last 5 months of their custody period but the block period must be taken as one block just prior to CED/EDR)

All periods of 2 day release will happen normally between a Monday – Thursday.

All periods of 3 or 4 day releases will happen normally between a Monday - Saturday

4.3 Continuous Custody

The maximum number of days' Transition Leave that a determinate sentenced prisoner may qualify for (the quota) will be determined by the actual time served continuously in custody.

Continuous custody is defined as held in custody, without any break, between committal by a court on remand and final discharge. Authorised temporary release during the currency of a sentence does not constitute a break in custody, but high court bail granted prior to sentence for any reason, except on compassionate grounds for more than 2 days, will break continuity. A prisoner who fails to return to prison on time from a period of temporary release will break continuity if s/he does not return on the stipulated day.

4.4 Transition Leave Eligibility Date

The latest date to for all those prisoners who are eligible to apply, will be 8 weeks prior to the prisoner's Transition Leave Eligibility Date (TLED).

The TLED is the earliest day when a prisoner could potentially be granted a period of Transition Leave as per 2.5 above.

If a prisoner is in continuous custody for less than 12 months, then the TLED will be calculated as the 1st day of the block period just prior to their CED. If their continuous custody period is 12 months and over, their TLED will be 2, 3, 4 or 5 months prior to their CED, depending on the length of their period of continuous custody as quoted above.

Successful reintegration into the community places responsibilities on the prisoner to effectively manage their time in custody to reduce the likelihood of reoffending and plan for their eventual release.

It is the responsibility of the individual prisoner therefore, to ensure that their application for Transition Leave be submitted 8 weeks in advance of their TLED to allow for the necessary risk assessments to take place.

4.5 Risk Assessments

All prisoners must undergo a formal risk assessment prior to being granted a period of temporary release. This is regardless of the amount of days granted for Transition Leave and also regardless of their imminent release from custody (CED/EDR). NIPS still carry the responsibility for all prisoners whilst out on Transition Leave until their CED/EDR.

To achieve this outcome NIPS will examine, as part of the decision making process, all identified risks, needs and strengths applicable to the individual prisoner. These may help determine a prisoner's suitability and reliability and whether s/he is likely to abide by the conditions of release. All relevant issues arising from the current and previous sentences will be taken into account.

Risk issues that need to be examined and determined before any decision to release is taken may include:-

- (i) Where would the prisoner reside during the period of release? Is it a suitable environment? Would our duty of care be compromised if the prisoner is released? Will the prisoner's personal safety be at risk on release?
- (ii) Would there be family support? Is it the right kind of support? Is it a stable environment? Are there problems at home that would make further offending likely?
- (iii) Has the prisoner a drugs or alcohol related problem? Has any attempt been made by the prisoner to address these problems? What is their drug testing history?
- (iv) Has the prisoner fully complied with the conditions set for previous periods of temporary release? Has s/he ever absconded or broken bail conditions? Does s/he have a history of absconding?
- (v) Does the individual ACE (Assessment Case Management Evaluation) place

the person in custody in low, medium or high risk of re-offending over the 12 month period post release? If high, can the risk of offending be managed?

- (vi) Has the person in custody taken responsibility to reduce the factors present at the time of the offence? Has their behavior and actions whilst in custody indicated that these risks are still present?
- (vii) Where does the person in custody sit within the PREPS (Progressive Regime Earned Privileges) Scheme? If basic or standard, can risks be managed?
- (viii) Would victims need to be protected or informed, including are there any victims registered with the Prisoner Release Victim Information Scheme (PRVIS)? What representations have they made? Does any particular group, e.g. children, need to be specifically considered or restriction imposed?
- (ix) Have the police, probation, or other MARA partners, supplied any information which indicates some risk element? This could be a risk to the prisoner from the victim or the victim's family. NIPS will also engage with Multi Agency Risk Assessment partners, through DoJ, when considering applications for Transition Leave from DCS prisoners classified as Terrorist Risk Offenders (TROs) under the provisions of the Counter Terrorism and Sentencing Act 2021.
- (x) In submitting the application for Transition Leave, has the person in custody noted on their application form any matters that could be relevant to the outcome of the risk assessment or that could affect the decision as regards the application?
- (xi) In order to ensure that a prisoner on transition leave has adequate support in the community and/or does not present a danger to themselves or others, a prisoner will only be released if NIPS is satisfied that they have immediate

access to suitable accommodation in the community.

- (xii) Any prisoner being supported by a care plan under the Supporting People at Risk (SPAR) Evolution policy may apply for Transition leave. NIPS must ensure that all relevant factors contributing to the care plan form part of the considerations of the application and emphasis is placed on the Article 2 rights of the individual.
- (xiii) For foreign national prisoners, PRISM must be interrogated to confirm no Home Office holding Orders are present. Immigration services must also be consulted and any information relevant to the individual prisoner and their application for Transition Leave factored into the decision making process. The presence of a Holding Order is not sufficient to stop an application but does form part of the risk assessment.

NIPS should not release a prisoner if there are reasonable grounds for believing they would, upon that release, be likely to present as homeless.

Given that the process for the issue of post custody licences will have already commenced, many of these issues will have been already considered in that parallel process.

(N.B. This list is not exhaustive and there may be other issues that warrant consideration before any decision on whether to grant Transition Leave is taken under the Scheme such as remand charges – see above at 1.4)

Failure by a prisoner to participate in a risk assessment could impact adversely on a transition leave application under the Scheme.

4.6 Conditions of Transition Leave

All prisoners released temporarily will be subject to conditions for their period of Transition Leave. These will be set as part of the **Transition Leave application process** when the application is approved and will be based on all relevant

considerations around the risks and needs of the individual prisoner to both support them during their period on temporary release, while at the same time protecting public safety.

As indicated above conditions may include scheduled appointments during the period of Transition Leave. This is to ensure that there has been no material change to the assessment of risk and that the individual prisoner is complying with the requirements of their release.

These appointments may be with either the designated Probation Officer (or the designated Supervising Officer in the case of a TRO) in the community, a coordinator within the Prisoner Development Unit or where appropriate a combination of both. As above, those appointments with a NIPS PDU coordinator will take place in-person at the relevant NIPS establishment. Again this will be considered by Governors as to what's necessary/appropriate at the time of making a decision on the application.

If the prisoner is on a DCS/ECS sentence, once they reach their Custody Expiry Date at the end of their temporary release period on Transition Leave, they will be subject from that date to the conditions set out in their licence issued under Article 17 of the Criminal Justice (NI) Order 2008. From that date, they will no longer be subject to the conditions imposed during their period of Transition Leave as this period of temporary release will have ended on that date. **The individual prisoner must contact the Probation Officer named on their licence on the telephone number shown and/or the relevant location within the stipulated timeframe set out on the licence.**

If the prisoner is on an Adult Sentence, once they reach their Earliest Date of Release at the end of their final temporary release period on Transition Leave, they will be treated as having been discharged from custody at that point and they will no longer be subject to the conditions imposed during their Transition Leave period as this period of temporary release will have ended on that date.

All prisoners who have been granted and are on Transition Leave, **may avail of the services of the Probation Board for Northern Ireland (PBNI) (or their designated Supervising Officer in the case of a TRO) at any time during their period on**

Transition Leave by contacting their PDP co-ordinator within NIPS who will then give them further advice.

N.B. Paperwork for prisoners being released for their period of Transition Leave to be produced on day of release for Transition Leave and not before – this is to ensure that there are no further remand charges following on from Transition Leave approval.

The Central Custody Office will complete the normal final discharge checks at EDR/CED.

4.7 Non Compliance with Conditions of Transition Leave

Where an individual prisoner fails to comply with any of the conditions of release, their period of Transition Leave may be brought to an immediate end and the individual prisoner returned to custody. The NIPS will consider any information from the PSNI and/or PBNI when making a determination about any breach of conditions.

If for any reason the prisoner does not comply with the instruction to return to the prison, then they will be Unlawfully at Large (UAL) and subject to the appropriate processes for all UAL prisoners.

5. **Final Discharge at the End of Transition Leave (for people subject to Article 17 Licence)**

5.1 Because those prisoners who are granted Transition Leave and who are serving Determinate Custodial Sentences will reach their CED/EDR during their period when they are out on Transition Leave (provided they comply with all the conditions of Transition Leave), they will be given a post – dated licence under the terms of Article 17 of the Criminal Justice (NI) Order 2008 at the time they are released on Transition Leave. Each licence will carry the standard conditions agreed already at the Release Panel as prescribed by the Criminal Justice (Sentencing) (Licence Conditions) (Northern Ireland) Rules 2009 and any additional conditions agreed by the said Panel. This does not apply to those serving Adult Sentences.

5.2 The licence will also require each prisoner to make contact by telephone within the stipulated timeframe set out in their licence, with their designated Probation Officer on the date their Article 17 commences in order to discuss how their supervision is to be managed. Finally, the licence will make it clear that additional licence conditions may be added should that be required.

5.3. On the date of actual discharge (CED/EDR), once the Custody Office has completed checks for release, PRISM will update the final status.

6. Review

6.1 This Scheme will be introduced on 1 May 2023. It will replace the Transition Leave Pilot Scheme and the currently suspended Pre Release Home and Resettlement Leave Arrangements 2005. The Scheme will be reviewed in within 3 – 4 years from the date of introduction.