



Response to consultation on Release on Temporary Licence (ROTL) Policy Framework

About Nacro

We are a national social justice charity with more than 50 years' experience of changing lives, building stronger communities and reducing crime. We house, we educate, we support, we advise, and we speak out for and with disadvantaged young people and adults. We are passionate about changing lives. We never give up.

Nacro is a strategic partner to Sodexo in the Transforming Rehabilitation (TR) programme, and we are a service delivery partner within the supply chain of four Community Rehabilitation Companies (CRCs): we are a delivery partner for Sodexo in BeNCH, Essex and South Yorkshire; and for Seetec in Kent. In addition, we support people who are supervised by CRCs or the National Probation Service (NPS) through other programmes in London, Durham Tees Valley, Northumbria, Staffordshire and West Midlands, and Cheshire and Greater Manchester. For instance, we run an enhanced through-the-gate service for people with mental health concerns leaving HMP Belmarsh, HMP Thameside and HMP Isis, funded by The Oxleas National Health Service Trust.

The use of ROTL

ROTL is currently used mainly in the open estate, where prisoners have already been assessed as posing little or no escape risk. Training prisons, and resettlement prisons other than open prisons, do not make significant use of ROTL, and many do not use it at all.¹

There appear to be two main reasons why ROTL is underused:

- the fear of criticism when things go wrong
- the risk that ROTL creates an avenue for drugs or other illicit items to be brought into establishments

There are, however, two significant benefits to the wider use of ROTL:

- the benefit to the individual in terms of assisting with their resettlement
- the wider benefit to the prison estate in helping to create a stable prison environment

Benefiting the individual

We believe that resettlement activities need to start at the earliest possible point, but currently this usually only happens in the last 12 weeks of a sentence, leaving little time to stabilise and support the individual. The management of a sentence should be seamless and centred on preparation for a successful release into the community.

¹ Prison Reform Trust More carrot, less stick May 2018

http://www.prisonreformtrust.org.uk/Portals/0/Documents/more_carrot_less_stick.pdf

Resettlement needs to be central to the function of imprisonment, where ROTL presents a window of opportunity to focus on practical, social and welfare needs. Even after a short time in custody, release into the community can be challenging and traumatic, particularly if employment, accommodation or relationships have been affected or lost as a consequence of incarceration. The use of ROTL can help to ease transitions into the community.

The Beyond Youth Custody (BYC) research² clearly highlights the importance of a constructive, strengths-based approach to resettlement support. Some young people may be granted ROTL in order to start working before release. The BYC research found that this is essential in offering a sense of continuity and stability as young people leave custody and allows young people to demonstrate that they have an income to potential landlords. Nacro works in Medway Secure Training Centre where we provide education as well as support and other information, advice and guidance to enable effective resettlement in the community on release. Here we have found the use of ROTL to be an effective tool in helping young people to access employment opportunities. We would recommend that this is used more consistently in the adult estate as a way to enable more effective access to sustainable education, training and employment in the community.

As noted in the draft Policy Framework document, there is evidence that increasing the use of ROTL is associated with reducing re-offending for those to whom it was given prior to release from prison. Reducing re-offending benefits not only the individual, but also his or her family, friends and the wider community.

Friday prison releases

Nacro recently produced a briefing outlining how Friday prison releases can impact upon someone's ability to access the critical services they need. In our experience, as well as that of the partners we work with, releasing someone on a Friday can mean a race against the clock, leaving some people without accommodation or crucial medication over the weekend. For those on short sentences, this may be exacerbated by a lack of time in custody to do any resettlement planning. An expansion in the use of ROTL could assist in the transition to the community by facilitating engagement with community services, communities and family in the period before release and therefore support a smoother transition.

We are pleased to note that the guidance (para 6.3.13 and para 6.4.1) acknowledges that statutory provisions on release mean that Friday is the busiest day of the week for releases and that this will impact upon access to key community services.

Resettlement overnight release (ROR)

It is important that those people who have identified complex resettlement needs (ie likely to be homeless, or have substance abuse or mental health problems) are identified as early as possible, and ideally at the time of reception into prison. This should then be monitored and reviewed in light of any change in circumstances throughout the course of the sentence, and should form an integral part of release planning. This information should be cross-referenced with those conditional release dates which fall on a Friday. We would also

² <http://www.beyondyouthcustody.net/>

suggest that in order to ensure that community services are not overloaded with work on a Thursday (when potentially they would be dealing with two days of referrals if all those who would have been released on a Friday are then released on a Thursday) that the use of ROR for Friday releases be extended so that consideration is given to spreading the load across Monday to Friday in order that community services are better able to cope with demand.

We note that the Policy Framework states that the use of ROR should only be considered where travel time to the release address means that access to key community services will be impossible. We would suggest that the focus should also be on the likely complexity of the issues faced by the person being released because only having the balance of the day after release may be insufficient regardless of travel time. Prison releases do not always happen first thing in the morning for a number of operational reasons, but particularly in busy local prisons where there may be people going out to court appearances who may be prioritised over those people being released. Whilst we recognise that this should not be used for all of those released on a Friday, we believe that for the most vulnerable and in need of access to multiple community services this would be extremely beneficial.

Resettlement day release (RDR)

The use of RDR will be useful for those needing to visit family or friends as well as transitions into work placements etc. We do not think, however, that this would be a useful mechanism for those wishing to access the core foundations of resettlement. Below we have outlined why RDR would not necessarily alleviate critical resettlement needs.

Finances and Universal Credit

As well as the £46 discharge grant, some people leaving prison will need to make a claim for UC. In order to do this, access to the internet is needed to get an online account. For some this will mean going to a JobCentre Plus, or setting this up with a work coach in advance. However, a verification interview may be needed if the person does not have ID, all or forms of it that are required. They would also need to be allowed to take this out with them.

In our experiences, there can often be delays in making claims and that person will need consistent access to their online account, which they will not be able to have once they have gone back inside the prison.

Housing

For those that are released with no accommodation, they will need to present at the local housing authority. The Homelessness Reduction Act places a duty to refer onto prisons and probation where someone is at risk of homelessness, however

Medication

Whilst we are pleased that the race against the clock for those being released from prison on a Friday with multiple needs can be alleviated with the use of RDR and ROR, we are concerned about the limitations of the proposals, as follows:

- ROR and RDR cannot be considered to help with the issues of Friday releases for all prisoners:
 - Those who are subject to restricted ROTL, such as indeterminate sentence prisoners (ISPs) or those with extended determinate sentences, have to be in an open prison (men) or suitable for open conditions (women) in order to be considered for restricted ROTL, and therefore many such prisoners may not be eligible for RDR or ROR;
 - Category B offenders cannot be considered for resettlement day or overnight release. This therefore means that the potential benefit of RDR and ROR in the period immediately before the end of a custodial sentence is limited to those assessed as Category C or D.
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- A positive mandatory drugs test (para 4.5.2) must result in cancellation of ROTL unless there are extremely compelling reasons why the ROTL should go ahead. It may be that the need to sort out resettlement in the week of release would be counted as an 'extremely compelling reason' but it would be helpful to see some specific guidance on this. It is arguable that it is critical for someone who has a positive drugs test to be granted ROR or RDR in order to engage with community substance misuse services, but at the same time you could take the view that they are at heightened risk of using in the community, or bringing drugs back into the prison (only relevant if RDR as won't be returning to prison if ROR).
- We might want to argue that the steps that have to be considered for ROTL to be approved may be too cumbersome for ROTL in the last week of custody? Seeking information from the community OM, police and other agencies. If the victim or the victim's family are participating in the NPS victim contact scheme then they are entitled to make representations about the conditions to be attached to any temporary release – seems OTT when they are to be released that week anyway? Could this all be bundled up with the licence conditions on release rather than doing separate work just for ROTL?
- If Cat C prisoners are held in Cat B prisons their ability to apply for and obtain ROTL may be restricted because the prison would not be set up for it in the same way in terms of disseminating information to prisoners and administering applications etc as a Cat C or D prison might be?

The proposed Policy Framework

We are pleased to note that the policy aims to ensure that prison governors will have greater discretion as to when to use ROTL. We note that a number of changes have been made to allow greater discretion to governors to consider ROTL within a robust risk assessment framework. We do, however, support the Prison Reform Trust's position that governors should not just be given greater discretion, but instead a clear directive that ROTL should

become a central part of their prison's organisation. We support a clear and unequivocal message that ROTL should be a normal part of the resettlement plan for most prisoners.

We welcome the intention to ensure that there is a clear, efficient and easier to administer process for ROTL, and a commitment to applying ROTL consistently. It is particularly important to have efficient systems in place for the granting of a Special Purpose Licence, which may be required at short notice.

We particularly welcome the reference in the Policy Framework to the need to disseminate information to people in prison, and that it should be made clear what ROTL opportunities are available, when and how to apply and how the procedure works (including the funding of travel and subsistence expenses).

The points that we might want to make are:

1. Eligibility periods: For example Resettlement Day Release (RDR) from closed prisons: 24 months before the effective release date or if have served half their custodial period (less half of any time on remand) whichever is the later.
 - a. I don't know if we want to make the point that if someone is serving a short prison sentence then RDR could be very important (because even a short prison sentence can disrupt housing, education, employment and family ties), but could be rendered a bit pointless as they'd only have such a limited time period when they were eligible? I suppose the counter argument would be that the prison would need to assess suitability/risk before agreeing? I don't know how we would suggest the eligibility period is otherwise calculated? I suppose it's a similar point to the argument that the IEP scheme does not provide any real incentive to people on short sentences as it doesn't really matter to them what level of IEP they are on.
 - b. You might also say that there is some disparity in the eligibility periods – eg RDR is 24 months before release but resettlement overnight release is 6 months before release date but then they both have the same method of calculation for shorter sentences (ie once they have served half the custodial period less half the relevant remand time, whichever gives the later date). Sorry, not sure this makes sense!

We might also want to comment on the limited number of occasions that the different types of ROTL can be given. There is discretion to go above the general limit, but I think it's arguable that if there is a generally accepted limit this can be a barrier to going any higher. I am not sure, however, if we have got the relevant evidence to be saying that a certain number of times a month might be better than another?:

1. RDR to maintain family ties should generally be limited to twice a month. We could argue that to maintain family ties weekly RDR would be more appropriate
2. Resettlement Overnight Release (ROR). Should be limited to a maximum of two periods in the 6 months prior to release. Again, you might argue that in order for ROR to be valuable, once per month might be more suitable
3. Childcare resettlement licence (CRL). May be taken no more than twice per month including one period of overnight release. We could suggest that weekly would be a more appropriate standard, if it is for childcare then regular weekly release is much

more likely to be of benefit. Once per month of overnight release not exceeding 4 nights seem reasonable, but I suppose you could argue that one night a week overnight as the general limit would be more helpful?

With CRL you are no longer eligible when the child turns 18. We could suggest older than this and reference the sentencing principles for young adults and the fact that young adults are still developing physically and psychologically until their mid-twenties? You could also link it the fact that having a family member in prison is an adverse childhood experience and therefore providing regular ROTL both up to the age of 18 and beyond is invaluable for the children of people in prison. We might want ignore this as it could be covered by 'maintaining family ties' under RDR and ROR, although CRL can be given at any time during a sentence rather than only after a qualifying period.

You might also argue that something should be included for children with disabilities? Should there be a wider licence to cover primary carers who are not caring for a child? Again it could be covered by RDR and ROR, although CRL can be given any time during a sentence rather than only after a qualifying period.

The headlines (that I haven't mentioned elsewhere) are:

- Changing the threshold for Restricted ROTL so that it is focused on the most serious offenders.
- Removing the current restriction on ROTL in the first three months after transfer to open conditions and allowing governors to determine on a case by case basis when prisoners in the open estate (or women suitable for open conditions) may be considered for unaccompanied day release – subject to progress and risk assessment.
- Encouraging the greater use of workplace ROTL, for example, by allowing paid work to be taken as soon as the offender is eligible for day release and removing the requirement for a prisoner on ROTL to spend at least one 24-hour period per week in prison.
- Allowing primary carers and sole carers to apply for Childcare Resettlement Licence.
- Allowing offenders with a prior abscond history (if it occurred more than two years ago and only once during the current sentence) to be risk assessed for open conditions and ROTL.