

PRIME MINISTER'S MEETING WITH THE LOYALIST POLITICAL PARTIES ANNEX A

PRISONS

Speaking note

- there have already been significant prison changes since the cease-fires;
- over 160 prisoners have been released early as a result of the Northern Ireland (Remission of Sentences) Act 1995 which came into effect in November 1995
- new compassionate leave arrangements were introduced in June 1995 which resulted in a nine-fold increase in the number of successful applications from the Maze

In addition, of the 49 Loyalist lifers seen by the Life Sentence Review Board since August 1994, 29 have been recommended for release.

- since the beginning of August the NIO has been looking at a number of possible regime changes in the "shopping list"
- movement on these has been difficult because of Loyalist indiscipline within prison, the abuse of schemes already in operation and the threats to Billy Wright and his supporters, some of whom are in prison

Nevertheless, in view of the very strong representations that have been made, we consider that the following changes can be made, all of which can be introduced shortly, events on the ground permitting.

A. Pre-Release Leave

It is proposed to increase the pre-release leave allowance of male determinate sentence prisoners to bring it into line with that for females and to increase the allowance of both male and female long term prisoners. ✓

✓ [Currently females have a more generous leave allowance than males].

B. Life sentence prisoners who have been recommended for release

It is proposed that lifers who have been recommended for release should be allowed to commute their visits to fortnightly home leave.

✓ [Currently life prisoners who have been recommended for release by the Life Sentence Review Board are entitled to extended visits within prison during the period that their cases are being considered by the judiciary].

Can go home

C. Christmas Home Leave

It is proposed to increase the Christmas home leave allowance to 10 days for prisoners who have served over 11 years. ✓

✓ [Currently prisoners who are in their last year of sentence or who have served over 11 years may be eligible for 7 days Christmas Home Leave].

D. Medical Leave

Following representations by the Loyalists during the summer, steps have been taken on an ad hoc basis to remove a number of "anomalies" in respect of medical leave. The position will now be regularised. ✓

✓ [During the summer there were complaints about the medical leave scheme. The Loyalists thought it was anomalous that certain prisoners who had been given unescorted compassionate leave were not given unescorted medical leave].

LOYALIST PROPOSALS ON PRISONS ISSUES

1. PHASED RELEASE OF ALL LOYALIST PRISONERS IN THE ABSENCE OF A FULL AMNESTY

Phased release of determinate sentence prisoners would require either the wholesale use of the Royal Prerogative or legislation. Release of life sentence prisoners is by the executive decision of the Secretary of State but the arbitrary use of this power in favour of a paramilitary faction would compromise our life sentence release procedures.

2(A). PRISONERS WHO HAVE SERVED 10 YEARS TO BE CONSIDERED FOR IMMEDIATE RELEASE

The immediate release of determinate prisoners would require either the wholesale use of the Royal Prerogative or legislation.

Life sentence prisoners are already reviewed no later than the 10 year point by the LSRB which may recommend release in particular cases. However, the average period served by terrorist lifers is 15 years. This is already considerably less than the minimum of 20 years for terrorist prisoners served in Great Britain.

Despite the claims of the Loyalists, possible recidivism is an issue. All, except one, recalled terrorist lifers have had a Loyalist background. Moreover, it is wrong to imply that the relatively low rate of offences by released lifers reads across to released determinate sentence prisoners.

2(B). PRISONERS WITH SERIOUS MEDICAL CONDITIONS SHOULD BE CONSIDERED FOR IMMEDIATE RELEASE

This already happens in relation to prisoners who have serious medical conditions. In general our policy is to ensure that prisoners receive the treatment which is appropriate to their medical needs and this may require discharge either temporarily or permanently to hospital, hospice or home. Consideration will be given to the use of the Royal Prerogative of Mercy depending on where the prisoner is in sentence, the nature of his offence and so on.

Loyalist representatives have raised a number of cases of prisoners who have chronic illness. However, chronic illness would not in itself justify temporary or permanent release.

3. 66% REMISSION SHOULD BE INTRODUCED FOR DETERMINATE SENTENCE PRISONERS

Changing the remission rates of scheduled offenders would require primary legislation. Such a change would be entirely inconsistent with the Home Secretary's honesty in sentencing proposals.

4. REVIEW OF LIFE SENTENCES AT THE FIVE YEAR POINT AND FULL ENTITLEMENT FOR PAROLE

There is little point in the LSRB reviewing life sentences early unless there is a genuine possibility of release or unless the review was primarily to determine entitlement to home leave.

It would be difficult to justify extending the seven day and Christmas Home Leave schemes to lifers who have served only one-third of the average life sentence.

5. **LIFE PRISONERS SHOULD BE ENTITLED TO FIVE WEEKS LEAVE DURING THE YEAR**

There is no statutory right to Christmas home leave.

Currently prisoners who have served 11 years (who are those mainly lifers) are eligible for 7 days leave at Christmas and 7 days to be taken as the prisoner wishes during the remainder of the year. This is already a generous entitlement particularly for those likely to serve longer than the average 15 years.

6. **PAROLES FOR MALES AND FEMALES SHOULD BE BROUGHT INTO LINE**

The Prison Service has been considering its pre-release arrangements with a view to removing the differences between the entitlements of male and females. Current proposals would also involve increasing the amount of leave available to those with longer sentences. Increases of 7 to 10 days are envisaged.

It should be noted that the Prison Service is also committed to looking at other aspects of the regime with a view to bringing male and female more closely into line. In general the perception is that the females have an inferior regime which was to some extent mitigated by the better home leave arrangements.

7. **COMPASSIONATE HOME LEAVE SHOULD BE EXTENDED TO SEVEN DAYS AND TO COVER THOSE IN THE SECOND DEGREE OF KINSHIP**

Changes to the compassionate temporary release system were introduced in June 1995 most notably to allow prisoners to visit grandparents who are very seriously ill. In the year to March 1995, 80 applications under the scheme were accepted.

In the year since April 1995 711 applications have been accepted. About a quarter of those released were given 48 hours leave which is available for those who have been bereaved.

In Northern Ireland prisoners are normally granted the full leave available - it has not been possible to discriminate between degrees of compassion. A maximum entitlement of 7 days for bereavement would almost immediately become the norm.

There have been concerns about the revised scheme, in particular that doctors are being put under pressure to exaggerate the seriousness of relatives' illnesses. Extending the scheme to include aunts, uncles, nieces and nephews would massively increase the number of applications and the scope for mischief.

8. PRISONERS SHOULD BE GIVEN UNESCORTED MEDICAL LEAVE

Many paramilitary prisoners are already given unescorted leave to attend hospital. The decision whether to escort prisoners is made in the light of individual security assessments. These assessments take into account not only possible risk to the public and risk of escape but also the need to ensure the safety of the prisoner.

9. THE WORKING OUT SCHEME FOR LIFE SENTENCE PRISONERS SHOULD BE ABOLISHED

The working out scheme involves a period of 3 months during which prisoners work in the community and return to prison at night and 9 months during which they spend all their time in the community reporting fortnightly to prison. This period counts towards the time which life prisoners are deemed to have served in prison.

I assume that by recommending that the scheme be abolished, the Loyalists are not suggesting that prisoner should remain in prison for a further 9 months. In other words, the Loyalists are requesting that life sentences be reduced by 9 months.

Although the scheme has its limitations, it does provide the Secretary of State with a degree of reassurance about the possible behaviour of life sentence prisoners. The release of life prisoners directly into the community would be inconsistent with arrangements in other jurisdictions.

10. GREATER FLEXIBILITY IN THE RELEASE SCHEMES TO ALLOW PRISONERS
TO RETAIN CONTACT WITH SICK OR DISABLED RELATIVES

The scheme in operation are already very generous and the Prison Service operates them compassionately. However, greater flexibility of the kind requested by the Loyalists would ultimately erode the criteria for granting home leave and would result in schemes that were effectively unmanageable.

SPEAKING NOTE: POLITICAL AND SECURITY MATTERS

1. The Loyalist Ceasefire

The continuing restraint of the Loyalist paramilitaries is of critical importance to efforts to secure a better future for Northern Ireland. Ministers have regularly commended the discipline of the Loyalist organisations: in my own speech at the Conservative Party Conference, I applauded the way that the ceasefire had been maintained in the face of IRA provocation, and drew attention to the influence and standing that loyalism had gained as a result.

I appreciate the pressures there must have been within paramilitary groups over the IRA Lisburn bomb. The maintenance of the ceasefire in such circumstances has I believe earned Loyalists much credit in Northern Ireland, Great Britain and further afield: indeed is seen as one of the most important signs of hope in the present Northern Ireland situation.

2. Consent

[The Loyalists have told us that they will be looking to the Prime Minister to reaffirm the Government's commitment to the principle of consent - in fact something Ministers do very regularly.]

Mr McMichael takes the line that it is unacceptable for the future of Northern Ireland to be determined by a majority of 50% plus one: he would argue for a minimum of two-thirds to any proposals. The Joint Declaration and Frameworks document, however, speak only of the wish of "a greater number of the people of Northern Ireland" or of "a

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majority". This is difficult: but the problem is unlikely to arise in the near future.]

The principle of consent is a keystone of our approach to Northern Ireland, and has long been embodied in the statutory guarantee. It is further safeguarded by the "triple lock" to which any settlement will be subject: it must be approved by the parties, then by the people at referendums in Northern Ireland and in the Republic, and then by Parliament.

I have made clear myself - most recently at the Party Conference- that I do not believe Northern Ireland will leave the UK, and I certainly do not wish it to do so. I and other Ministers have often said publicly that we cherish Northern Ireland's membership of the United Kingdom.

What should be equally reassuring is the overwhelming acceptance that has developed throughout Ireland of the principle of consent, signed up to in the Joint Declaration, the Framework Document and the work of the Dublin Forum. It was summed up by Mr Bruton in an important speech in the Dail on 10 October: "the British presence in Ireland is not the British Army or State, but a million Unionistswe, the people in the Republic, have no agenda of progressive takeover of Northern Ireland against the wishes of the majority of people there consent does not now exist to a united Ireland, and is unlikely to do so in any near future".

Our position is crystal clear. So is that of the Irish. But I appreciate we have to go on working.

[If raised: the mechanisms and principles by which consent is assessed might be considered in the talks. What is clear, however, is that this is not a question that will arise in the foreseeable future: it appears most unlikely that there will be any sort of majority for Northern Ireland leaving the United Kingdom for a very long time, if ever].

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3. Articles 2 and 3 of the Irish Constitution

[The Loyalists have suggested that the Government will need to put pressure on the Irish Government during the negotiations to make changes in Articles 2 and 3 of the Irish Constitution, which embody the "claim" on Northern Ireland.]

We have always made clear that any sort of legal claim in the Irish Constitution over Northern Ireland is entirely invalid.

The Irish have agreed, in the Framework document, to introduce and support changes in the Irish Constitution reflecting the principle of consent. We shall not of course let them forget this in the talks, and nor will you and others; but I believe in any event that they have recognised the need for change. Mr Bruton said in the Dail last month (10 October) that he was looking at amendments to Articles 2 and 3 in line with the Frameworks, "emphasising that it is agreement between peoples, and not territorial aggrandisement, that we are seeking".

Articles 2 and 3 do not correspond with any reality. The need for change is widely recognised in Dublin as elsewhere. The Irish Government have however to proceed with some caution: they will need to carry an amendment to the Irish Constitution in a referendum.

4. Position in Negotiations

[The Loyalist parties may seek the Prime Minister's assessment of the prospect of early movement in negotiations and raise their concerns about DUP and UKUP hostility to them].

We remain very grateful for your constructive approach to the negotiations. It is important that the Loyalist voice is heard. I appreciate the depth of your frustration and anxiety at the failure to move faster, and address issues of substance.

We do believe that there can be progress before the elections; and it would be dangerous to put the Talks into suspension until much nearer an election.

We continue to make all the efforts we can to get round the blockages. That, crucially, means decommissioning. The question has to be addressed, mechanisms established to permit further progress on decommissioning alongside negotiations, and an undertaking given by all participants to work constructively to implement them. I know that is not easy for you, but it is an essential part of the Mitchell compromise, and we cannot realistically expect agreement on anything not reflecting the essential elements of Mitchell.

The Mitchell approach however requires decommissioning on the basis of mutual commitment and participation of the paramilitary organisations. It is not asking for unilateral decommissioning. We recognise that that is unrealistic.

5. IRA intentions and possible entry of Sinn Fein

[The delegation are likely to seek an assessment of prospects for a resumed IRA ceasefire, and to ask about criteria for the admission of Sinn Fein].

We approach talk of a renewed ceasefire with some scepticism. But some of those we talk to believe there is a good prospect of a ceasefire being declared. We must take this seriously, therefore.

We are not open to negotiation with Sinn Fein or the IRA about any part of our position on talks or a settlement. We have regular discussions with all the Northern Ireland party leaders about these issues, but say nothing in private that we are not prepared to say in public.

If a new IRA ceasefire was declared, the Government would have to look very carefully about what was being said and what was happening on the ground, and it would obviously take time to establish the criteria laid down in statute was genuinely met: an unequivocal restoration of the 1994 ceasefire. After recent IRA activity, there could be no question of the IRA declaring a ceasefire one day, and Sinn Fein taking a full part in talks the next.

We still believe that the negotiations would benefit from being as inclusive as possible. But we believe also that they are capable of making worthwhile progress in the absence of Sinn Fein.

What is your assessment of the likelihood of an IRA ceasefire? What criteria would you favour applying?

6. Security Policy

[Both groups have pressed Ministers for a 'stronger' security policy in the light of renewed IRA terrorism, pointing out that the loyalist paramilitaries originally developed because of a perception that the security forces were not tackling the IRA. They have particularly mentioned that only two people have been convicted of the offence of "directing terrorism" under the emergency legislation: the problem here is that witnesses are not generally available.]

There is no policy of slackening the security effort: indeed it has been stepped up since the Thiepval barracks bombing.

Since the end of the IRA ceasefire:

- 214 charges of a terrorist nature have been brought against republicans;
- one man has been charged in connection with the barracks bomb;
- three further suspected senior republican terrorists were charged last week;
- Army patrolling has been stepped up since Thiepval, and additional vehicle checkpoints have been set up;
- recent finds in the South, and arrests in London, have disrupted PIRA efforts;
- [offence of directing terrorism]: the police will not pass up any opportunity to secure convictions on this charge, but it presents real difficulties of proof - testimony of the sort required is rarely forthcoming.