

CONFIDENTIAL - POLICY



Prime Minister

## SUMMARY

### Issue

How to respond to the Irish Government's consent to the repatriation of five terrorist prisoners - the Balcombe Street Gang and Paul Magee - all of whom have life sentences with whole life tariffs.

### Timing

Routine.

### Recommendation

That further assurances be sought from the Irish Government about the way in which they would operate the sentences of these men if repatriated and that I accordingly write as in the attached draft to John O'Donoghue, the Irish Minister for Justice, Equality and Law Reform.

1. I am currently considering requests for repatriation to the Irish Republic of five life sentence prisoners. The prisoners have been convicted of some of the most horrific terrorist acts ever carried out on mainland Britain. As a consequence, each has been given a whole life tariff. Details of the prisoners concerned are attached at Annex A.

2. The Irish Government has recently given its consent to the repatriation of the five men. In doing so they have indicated that had the prisoners concerned received a life sentence for a similar offence in the Republic, they could expect, save for exceptional circumstances arising, to serve a period similar to that which they could expect to serve in England and Wales based on considerations set out in my statement to Parliament made on 10 November 1997 which set out my discretion over tariffs for mandatory life sentences. The statement (copy attached) followed a House of Lords judgement that my predecessor's increasing of a particular prisoner's tariff was unlawful, although the general discretion to increase tariffs was upheld. The statement set out the procedures for reviewing tariffs and made clear that in exceptional circumstances tariffs could be also reduced.

3. I take this to mean that if the prisoners were to be repatriated, they could normally expect never to be released and I welcome this. However, by specifically linking the assurance given to my statement of 10 November, the Republic has acknowledged the possibility of a reduction in tariff.

CONFIDENTIAL - POLICY

Top - JEH  
 Prime Minister  
 we must seek more  
 assurances from the Irish  
 to make our position  
 defensible - as Jack  
 Straw indicates. Agree!  
 Yes  
 18/3



CONFIDENTIAL - POLICY

4. The appropriateness of a whole life tariff is normally reviewed in England and Wales by the Home Secretary of the day at the 25 year point in the sentence and thereafter at five yearly intervals. In reviewing the appropriateness of a tariff, criteria other than retribution and deterrence can be taken into account. However, to date there is no precedent for the reduction of a whole life tariff and such a reduction would be appropriate only in exceptional circumstances.

5. Four of the five prisoners concerned (the Balcombe Street gang) have spent some 22 years in custody and I have recently set whole life tariffs in their cases. However, if the prisoners are repatriated to the Republic the Irish Government will come under intense pressure from some quarters to release these men. Although the assurances given by the Irish indicate that they accept the principles governing the administration of whole life tariffs here, it is possible nevertheless, that within that framework, the four prisoners could be released early if repatriated to the Republic.

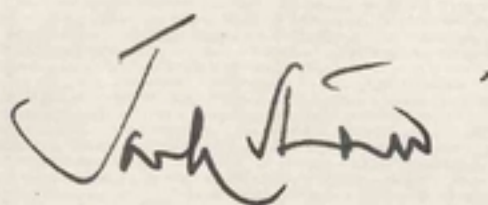
6. I therefore intend to write to my counterpart in the Republic (draft at Annex B) seeking confirmation that the release of these men will not be considered in any circumstances without consultation with the British Government (this is in line with previous assurances given) and seeking further information about their review process.

7. The five prisoners concerned have committed offences placing them amongst the most notorious of those convicted of terrorist related offences carried out in this country, and their repatriation is likely to attract significant adverse political and media attention here. It is vital therefore, that we are able to demonstrate that the prisoners are unlikely to be freed early in the Republic, except in exceptional circumstances.

8. I would welcome your comments and those of Mo Mowlam, on my proposed course of action, and your thoughts on the timing of future action in these cases.

9. I also attach a table showing the overall position on requests for repatriation or transfer, an issue which Caoimhghin O'Caolain raised during your 12 March meeting with Sinn Fein.

10. I am copying this minute to Mo Mowlam and to Sir Richard Wilson.



18<sup>th</sup>  
March 1998

CONFIDENTIAL - POLICY