



Who Needs To See This Bulletin?

Please ensure this is circulated to ALL STAFF (including Healthcare staff) who are or may be involved in the care of a terminally ill prisoner.

Quick-Time Learning Bulletin Early Release on Compassionate Grounds

This 'quick time' learning bulletin is the sixth in a series of publications from NOMS Offender Safety, Rights and Responsibilities (formerly Safer Custody and Offender Policy). The aim of this bulletin is to highlight key learning points which may be useful to all establishments when considering applying for early release on compassionate grounds for a terminally ill prisoner.

Issue: Use Of Early Release On Compassionate Grounds (ERCG) For Terminally Ill Prisoners

Applications for early release on compassionate grounds are considered by the Public Protection Casework Section which is part of the Public Protection and Mental Health Group (PPMHG) within NOMS. The Section's primary role is to administer the Parole Board review process for indeterminate sentence prisoners. They also consider applications for compassionate release on behalf of the Secretary of State for Justice.

Early Release on Compassionate Grounds is granted in only the most exceptional of circumstances, and the overriding factor in deciding whether or not to grant an application is risk to the public. Determinate sentenced prisoners may be considered for compassionate release for medical reasons or in tragic family circumstances. Life/indeterminate sentence prisoners are only eligible to be considered for compassionate release in medical circumstances. The Prisons and Probation Ombudsman (PPO), in their fatal incident investigation reports, regularly make recommendations about establishments not considering an application for early release on compassionate grounds for those prisoners diagnosed with a terminal illness. Some prisoners will prefer to spend their remaining weeks in custody for a variety of reasons but in most cases compassionate release should be considered to enable an individual to spend as much time as possible in a more suitable environment with their family members.

KEY LEARNING POINTS:

- Criteria, instructions and guidance on ERCG for determinate sentence prisoners can be found in Chapter 12 of PSO 6000. For life/indeterminate sentenced prisoners the relevant guidance is in chapter 12 of PSO 4700.
- It is not necessary to inform PPMHG when a prisoner is initially diagnosed with a terminal illness but it is important that the Offender Manager is informed and risk assessments started in case the prisoner's health deteriorates quickly. In the case of those who have been in custody for a long period of time finding a suitable release address may be a lengthy process.
- If an initial application is refused this does not mean that further applications can not be made if the situation changes. This could include an updated life expectancy diagnosis from a consultant or a revised risk assessment.
- If a prisoner is bedridden this does not necessarily mean that they can't or won't reoffend. Robust risk assessments will need to be undertaken to ensure that all opportunities for reoffending have been considered.
- Applications are usually rejected because the risk remains too high, the prognosis is not clear or does not meet the criteria, no suitable release address has been identified or the sentencing judge was aware of the nature of the illness at the time of sentencing.
- The timing of an application for ERCG is the key to a successful application. It should not be made too early at a point where life expectancy is not known, however, neither should it be left too late when there may be little chance of it being processed before the prisoner dies.

PROMPTS FOR ACTIONS:

- Do you consider applying for ERCG when a prisoner is diagnosed with a terminal illness at your establishment?
- Are Offender Managers informed when a prisoner is diagnosed with a terminal illness? This is key if risk assessments are to be prepared as part of an application.
- Do you keep the prisoner with the terminal illness informed about what the options might be in regards their end of life care and where this takes place?
- If there is a ERCG application that involves a prisoner with a very short life expectancy do you contact PPMHG by telephone as quickly as possible?
- If an application is declined do you keep the relevant Public Protection Casework Section informed of any changes in circumstance which might result in a positive decision?

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