

FREQUENTLY ASKED QUESTIONS

What is “flexible release to assist reintegration”?

The Prisoners Control of Release (Scotland) Act 2015 gives Scottish Ministers (the Scottish Prison Service (SPS)) the discretion to bring forward the release date of people in our care by no more than 2 days. “**where it is considered** that this will better support the successful reintegration into the community of the individual leaving custody.”

The 2015 Act does not define what is meant by reintegration into the community, but examples could include the prisoner obtaining access to drug or alcohol treatment services or the prisoner obtaining access to the provision of housing services.

Why was this process created?

Scottish Ministers want to give people leaving custody the best opportunity to successfully re-integrate into the community and to reduce the risk of further offending. This arrangement is intended to help ensure that people leaving custody can make best use of the support services which are available to them.

We also want to enable public services and support services to deliver the most effective level of support they can to people being released from prison. This is an opportunity for public services and third sector organisations to think positively about the support they provide for people leaving prison. This arrangement will allow a greater degree of flexibility in relation to an individual being released from custody. It will where necessary enable services to deliver better results and remove some of the barriers that individuals may face soon after they are released.

Who is it for?

This process will provide an opportunity for **all those serving sentences of 15 days or more** to request release one or two working days before their EDL. This will result in public or third sector services providing the individual with a more effective service.

We know that many individuals will rely on key public services (like housing services, welfare benefit services, medical services, addictions and substance misuse services) or other support services (like Throughcare Services, Mentoring, other support workers and charities) to help them meet their basic needs after they are released. When these services are co-ordinated effectively with an individual’s release, it improves the prospect of that individual effectively settling back into their community and it reduces the likelihood that they will offend again.

However, sometimes there may be practical problems that stop individuals from getting access to the support they need. For example, an individual may have complex needs that require specific help and assistance on the day of release. In other cases, an individual may have practical problems getting access to the services they need (like having to travel long distances to return to their community, or services not being available on the date they are scheduled to be released).

Who is this not for?

Discretion to adjust an individual's release date does not apply where the individual is serving a sentence of imprisonment of less than 15 days. This would also not apply to any young offender serving a period of detention of less than 15 days. This is also not available for those receiving a period in custody of less than 15 days for non-payment of a fine or for contempt of court. Similarly, the discretion will not be available to adjust the release date for any young offender receiving a period of less than 15 days detention in a young offender's institution for non-payment of a fine or for contempt of court.

How can individuals make a request for flexible release?

Individuals can make this request themselves, but their request will require to be supported by the organisations who will be supporting them after release (e.g. Local Authority services, DWP, Health etc.). Public services or support organisations can also make requests on behalf of an individual.

How will requests be considered?

There must be clear evidence of how and why a flexible release date will improve the reintegration process, and help address the individual's needs. Flexible release is not an automatic entitlement. Each request will be considered on its individual merit including any potential risk to public safety. The SPS will only support a flexible release when there is a sound reason that the required services could not be provided on the EDL, and that other arrangements could not provide the same benefits to meet the individual's needs, or resolve the problems that have been identified. The six most common reasons are described below.

Access Suitable Accommodation

Clear evidence that there is difficulty accessing suitable accommodation on the EDL but this would be alleviated up to 2 days before liberation.

Access Drug and Alcohol Services

Clear evidence that the required access to a drug and alcohol worker is unavailable or difficult due to the day of liberation, but this access can be evidenced on the day or up to 2 working days before liberation.

Support Specific Health Requirements	Clear evidence that the required support for specific health issues are unavailable or difficult on the day of liberation, but this support can be evidenced to be available on the day or up to 2 days before their EDL.
Access to Community Support Worker	Clear evidence that the required access to their community support worker is unavailable or difficult on their day of liberation, but this access can be evidenced on the day or up to 2 working days before their EDL.
Access Employment	Clear evidence that there is access to a confirmed employment opportunity on the day or up to 2 working days before liberation, where the individual would be reporting unemployed on their EDL.
At Risk of Harm	Clear evidence that the individual is at risk of harm (e.g. domestic abuse) on their EDL but this would be reduced if liberated 1 or 2 days earlier.

Individuals who have been co-operating with pre-release planning or throughcare services will be able to start a request for flexible release through those processes. Others can also make a request but will be expected to engage with SPS or with the external service they plan to engage with (such as housing, welfare, substance misuse, or voluntary support services), to provide the evidence to support their request.

Point of note - requests are not limited to people being released on a Friday, or a Thursday prior to a public holiday weekend. This process supports early release between a Monday and a Friday, providing there is clear evidence that this will improve access to services, or remove barriers on the day of liberation.

Additional Notes:

This document relates to the Prisoners (Control of Release) (Scotland) Act 2015 and Management of Offenders (Scotland) Act 2019. The text of the Act, and related notes are available at:

<https://www.legislation.gov.uk/asp/2015/8/contents/enacted>

<https://www.legislation.gov.uk/asp/2019/14/contents/enacted>

Under this arrangement, the large majority of service users will continue to be released on their earliest date of liberation (EDL). However, where there is evidence that suitable arrangements are required to address their reintegration needs and these cannot be addressed immediately upon release, the Scottish Ministers have given Scottish Prison Service the discretion to release an individual up to two working days in advance of their EDL.

The Prisoners and Criminal Proceedings (Scotland) Act 1993 currently provides that, when a service user falls to be released on a Saturday, Sunday or public holiday, they will be released on the last preceding day which is not a Saturday, Sunday or public holiday.

Section 49 - Release timed to benefit re-integration of the Management of Offenders (Scotland) Act 2019 amends the 1993 Act is amended by substituting the word “days” by “working days (that is, days other than a Saturday or Sunday or a public holiday as described in section 27(8))”.

Prisoners (Control of Release) (Scotland) Act 2015 will not impact on the current obligation to release individuals on the last working day before weekends or public holidays. However, the Act provides the Scottish Ministers (delegated to the Scottish Prison Service), with an additional flexibility to bring forward the release date of an individual by no more than two days where there is evidence that this will better support the successful reintegration of an individual leaving custody back into the community. This is amended to working days by the Management of Offenders (Scotland) Act 2019.

This discretion will be available for all those serving sentences of 15 days or more. The Scottish Government does not consider it appropriate for any further reductions to apply to sentences of less than 15 days, as this would significantly reduce the period of time in custody.