

Action

for Prisoners' Families

Sentence Calculation

Is the sentence passed in court the time someone will serve in prison?

The sentence expiry date (the date on which the sentence ends) is calculated from the date sentence is passed. All custodial sentences, (apart from life sentences, which are governed by different rules) include time served in prison and time served in the community, so the person will not be in prison for the whole of the sentence.

How much time will they spend in prison?

This depends on a number of factors, including the length of the sentence and date of offence:

- ◆ if the sentence is **less than 12 months**, regardless of when the offence was committed, the prisoner will get **Automatic unconditional release (ACR)** at the half way point (eg after 3 months of a 6 month sentence), serving half of their sentence in prison. From release until the sentence expiry date, they are classified as **'at risk'**. This means that if, during this time, they commit a further imprisonable offence, the court may order them to return to prison to serve a period of custody equal to the remainder of the sentence that stood at the time that the new offence was committed. This is in addition to any sentence for the new offence.
- ◆ if the sentence is 12 months or more, but less than 4 years for **an offence committed prior to 4 April 2005**, the person serves half their sentence in prison, and then gets **Automatic conditional release**. They are released at the half way mark **on licence**. This means that they are subject to conditions - the conditions will include regular meetings with a probation officer and possibly other conditions such as living at a specified address or undergoing treatment for a drug or alcohol problem. Breaching the conditions can result in a recall to prison by the Secretary of State. The licence lasts until three quarters of the way through the sentence. They are **'at risk'** from date of release until the sentence expiry date. (See above)
- ◆ sentences of **4 years or more** (but not life) for offences committed before 4 April 2005 are subject to **Discretionary conditional release (DCR)**, which means that the prisoner becomes *eligible* for release at the half way stage. It is not automatic, but is at the discretion of the Parole Board. If release is approved, they are released on licence. If not, they serve two thirds of their sentence in prison and are then released on licence. If released on DCR licence they remain on licence until the three quarter point of their sentence. From date of release to the sentence expiry date they are 'at risk' (see above)
- ◆ Sentences of 12 months or more imposed for offences committed on or after 4 April 2005 are subject to conditional release

at the half way point of the sentence and will be on licence to the end of the sentence. They are not 'at risk' on these sentences.

People convicted of sexual offences may be required by the court to remain on licence until the sentence expiry date (where the offence was before 30 September 1998), or may be sentenced to an extended sentence made up of a custodial period and an extension period (where the offence was after 30 September 1998 but before 4 April 2005) .

Where the offence was on or after 4 April 2005, they may be sentenced to an extended sentence where they must serve the whole of the custodial period in full unless the Parole Board approved release on parole on or after the half way mark. They will be released on licence to the end of the sentence.

The Criminal Justice Act 2003 introduced a new type of sentence called an Indeterminate Sentence for Public Protection (ISPP) which is for those prisoners that the court have assessed as being dangerous. The court will recommend a minimum period that must be served in custody, but release will be subject to similar procedures as release from a life sentence, on approval by a lifer review board. Release will be on a licence for life, but unlike a life sentence, the licence of an ISPP could be reassessed and terminated after 10 years from date of release. See separate IPP paper on APF website.

What else might affect the amount of time served in prison?

Time spent on remand will be deducted from the time spent in prison. However, nothing that counts towards the calculation of the sentence served shall have the effect of reducing the period for which the licence is in force to less than a quarter of the sentence where the offence was before 4 April 2005, or half the sentence where the offence was on or after 4 April 2005.

If a prisoner breaks prison rules, they may receive additional days in prison, meaning that their release or parole eligibility will be put back. This does not mean that the whole of their sentence is being increased - just the proportion of it they will spend in prison. The sentence expiry date stays the same, unless

they actually commit an imprisonable offence and are given an additional sentence.

Are the rules for young offenders the same?

A young person under 21 serving less than 12 months will be under supervision for at least three months after release, or up to their 22nd birthday, if this is sooner. For those serving more than 12 months the rules are the same.

July 2010 © Action for Prisoners' Families, Unit 21, Carlson Court, 116 Putney Bridge Road, London, SW15 2NQ. E-mail@ info@actionpf.org.uk. www.prisonersfamilies.org.uk