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Sent to:

Your Ref:

Our Ref: 14:420

Date: November 14

Dear ,

FOI Case No. 14:420

Thank you for your letter of 10 November 14 which was treated as a request for information under the terms of the Freedom of Information Act 2000.

You requested:

I wonder if you would send me a copy of the "Sentence Calculation – NIPS Guidelines 2008" document issued on 30 July 2008, also, if this document has been superseded, please send me the current sentence calculation guidelines document.

Please find enclosed the Sentence Calculation Guidelines 2008 currently in use.

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Information Commissioner
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Wilmslow
Cheshire
SK9 5AF


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If you wish to discuss this please contact the Records and Information Management Team using the contact details provided at the top of the first page. Please remember to quote your reference in any correspondence.

Yours sincerely,

Instruction to Governors

FOR ACTION	FOR INFORMATION	ISSUE NUMBER
All Governors Sentence Calculators General Offices Establishment Support Branch	All Governors All Principal Officers LMU Prison Healthcare Department Prison Probation Departments Prison Psychology Departments Resettlement Teams	IG 11/08
		DATE OF ISSUE
		30 July 2008
		REPLACES
CONTACT POINT		
		

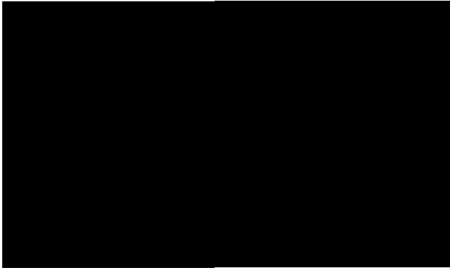
SENTENCE CALCULATION GUIDANCE

This Instruction and the previous [IG 02/08](#) provide clarification and guidance on how sentences are to be calculated under the current legislation (excluding sentences being introduced under the Criminal Justice Order (NI) 2008). The guidance attached to this Instruction should be applied to all prisoners in custody on and after 25 July 2008.

Should those responsible for sentence calculation, including Governors with responsibility for carrying out date checks, have any queries regarding the attached guidance or have a query regarding the calculation of a particular prisoner's sentence calculation he/she should contact Establishment Support Branch. This will ensure consistency in the operation of sentence calculation practice across the Service and if necessary to allow legal advice and clarity to be sought in complex cases. Where there is a query regarding a prisoner's Earliest Release Date (EDR) on transfer between prisons or where it has been discovered that a prisoner has been given an incorrect EDR the matter **MUST** be referred to Establishment Support Branch in the first instance. This is in accordance with Standing Order 1.6.24.

Where a prisoner's discharge date is changed, consideration will be given to handling of registered victims, particularly if the discharge date is advanced from that previously notified.

Further guidance will issue in due course in relation to the new sentences being introduced by the Criminal Justice Order as referred to above.



Deputy Director, Head of Operations

SENTENCE CALCULATION - NIPS GUIDELINES 2008

A. Introduction

1. These guidelines aim to set out for NIPS staff [and for access on the NIPS Intranet] clarification on how sentences are to be calculated under the current legislation (excluding sentences being introduced under the Criminal Justice Order (NI) 2008). The guidelines therefore focus on the issues of calculating remission and crediting relevant remand time.

2. The guidelines are in this format:
 - (a) The relevant extracts from the legislation,
 - (b) Definitions of key terms,
 - (c) The principles to be followed,
 - (d) How (a)-(c) are to be applied to the range of single, concurrent and consecutive sentences.

Worked examples of each type at (d) above are to be found in annex A.

B. The Legislation

- (i) **The Prison Act (NI) 1953** – remission and expiration of sentence:
S.13 (7), against the side heading of Rules for the management of prisons:

“(7) Prison rules may make provision whereby a person serving such a sentence or for such a term as may be prescribed by the rules, may, on the ground of his good conduct, be granted remission of such part of that sentence or term as may be so prescribed; and on the discharge of a person from a prison in pursuance of any such remission his sentence shall expire”.

- (ii) **The Treatment of Offenders Act (NI) 1968:**

- (a) sections 26(2), (3),(5) and (6), against the side heading of 'Duration of Sentence':

"s.26(2): The length of any sentence of imprisonment or term of detention in a young offenders centre imposed on or ordered in relation to an offender by a court shall be treated as reduced by any relevant period, but where he was previously subject to a probation order, a community service order, an order for conditional discharge or a suspended sentence or order for detention in respect of that offence, any such period falling before the order was made or the suspended sentence or order for detention was passed or made shall be disregarded for the purposes of this section.

(2A) In subsection (2) "relevant period" means -

- (a) any period during which the offender was in police detention in connection with the offence for which the sentence was passed; or
- (b) any period during which he was in custody -
 - (i) by reason only of having been committed to custody by an order of a court made in connection with any proceedings relating to that sentence or the offence for which it was passed or any proceedings from which those proceedings arose; or
 - (ii) by reason of his having been so committed and having been concurrently detained otherwise than by order of a court."

(Section 26(2A) was inserted by Article 49 of the Police and Criminal Evidence (NI) Order 1989)

s.26(3): For the purpose of this section a suspended sentence or order for detention shall be treated as a sentence of imprisonment or, as the case may be, an order for detention in a young offenders centre when it

takes effect under section 19 and is being imposed or made by the order under which it takes effect.

s.26(5): Any reference in this Act or any other enactment (whether passed before or after the commencement of this Act) to the length of any sentence of imprisonment or order for detention in a young offenders centre shall, unless the context otherwise requires, be construed as a reference to the sentence or order pronounced by the court and not the sentence or order as reduced by this section.

s.26(6): A person is in police detention for the purposes of this section -

- a) at any time when he is in police detention for the purposes of the Police and Criminal Evidence (NI) Order 1989, and
- b) at any time when he is detained under section 41 of the Terrorism Act 2000”.

- (b) Section 33(2) against the side heading of Interpretation:

"s.33(2): For the purposes of any reference in this Act to a term of imprisonment or to a term of detention in a young offenders centre, consecutive terms or terms which are wholly or partly concurrent shall be treated as a single term if-

- (a) the sentences were passed on the same occasion; or
- (b) where they were passed on different occasions, the person has not been released under Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 at any time during the period beginning with the first and ending with the last of those occasions.

[N.B.

1. The reference to the Prison Act in 33(2) was repealed by Schedule 3 to the Treatment of Offenders (NI) Order 1976 except in relation to a sentence of imprisonment imposed before 1 March 1976.

2. section 33(2) has been amended with the addition of the words "if – (a) " to the end, by para 1 of Sch 5 to the Criminal Justice (NI) Order 2008 which came into operation on Thursday 15 May 2008.
3. The provisions of s.26(2) are virtually identical to section 67 of the Criminal Justice Act 1967 which applies in England and Wales (as amended); similarly section 33(2) is effectively a mirror of section 51(2) of the Criminal Justice Act 1991.]

(iii) **The Prison & Young Offenders Centre Rules (NI) 1995** as amended:

Prison Rules 30(2), 30(7) and 30(8), under the heading "Remission of Sentence."

30(2) "The remission granted shall not exceed half the total of the actual term and any period spent in custody which is taken into account under section 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 (which relates to the duration of sentences).

30(7) In this rule "actual term" means the term of a sentence of imprisonment as reduced by section 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 and, in the case of a sentence pronounced outside Northern Ireland, any reference to the said section 26(2) includes a reference to any corresponding provision having effect where the sentence was pronounced.

30(8) For the purposes of this rule -

- (a) consecutive terms of imprisonment and, in the case of terms of imprisonment imposed before 1 March 1976, terms which are wholly or partly concurrent shall be treated as a single term;

- (b) a person committed to prison in default of a payment of a sum adjudged to be paid by a conviction shall be treated as serving a sentence of imprisonment;
- (c) a person ordered to be returned to prison under article 3 of the Treatment of Offenders (Northern Ireland) Order 1976 shall be treated as serving a sentence of imprisonment."

C. Definitions

This section of the guidelines provides definitions of terms useful in the calculation of sentences, either taken directly from the statute or as set out by Senior Crown Counsel:

- (i) Actual term - the term (i.e. the gross term pronounced by the court) of a sentence of imprisonment as reduced by s.26 (2) of the Treatment of Offenders Act (NI) 1968 above;
- (ii) Single term - see s.33 (2) of the Treatment of Offenders Act (NI) 1968 above; this may be called a total or composite or aggregate or gross term;
- (iii) Relevant period - see s.26(2A) of the Treatment of Offenders Act (NI) 1968 above. To be relevant, as set out in IG/08 of 8.5.08 (at paragraph 2 thereof) the prisoner must have been remanded "in connection with the offence for which the sentence was passed" or "in connection with any proceedings relating to that offence or the offence for which it was passed or any proceedings from which those proceedings arose". In Rea [2008] Weatherup J. said; "I interpret the requirement that the court order remanding the prisoner be made "in connection with " the offence for which he is sentenced as meaning that the matter in respect of which the applicant was on remand must relate to circumstances that are in substance those for which he is sentenced. So there may be different charges and dates and legislation but the substance of the matter may be the same."
- (iv) Gross sentence or term - the actual sentence imposed by the court;

- (v) Net sentence - the gross sentence minus the relevant remand period(s) ie. the same as the actual term;
- (vi) Overall term - the total of the individual (gross) sentences ordered to be served consecutively, or the longest of a number of concurrent sentences all passed on the same day;
- (vii) Total effective sentence – the gross term through to the Latest Date of Release.

D. The Principles to be Followed

This section sets out the principles and propositions to be followed in the application of the legislation and the guidelines to sentence calculation. The principles and propositions are drawn largely from Senior Crown Counsel's advice.

- (i) There are 3 fundamental principles in relation to remand:
 - (a) Credit must be given for any previous period of relevant police or remand custody,
 - (b) Credit is given for the totality of the period spent in custody,
 - (c) Credit is given once only.
- (ii) The Prison Service must do its best to comply with the intentions of the sentencing court, and bear this in mind in any cases that may appear to raise contradictions.
- (iii) The Service must check to establish that there is no unused balance of previous relevant police or remand custody (from the McMahon judgment).
- (iv) Where a prisoner has spent time in custody awaiting trial for more than one offence and on conviction was sentenced to concurrent, or partly concurrent i.e. overlapping, terms of imprisonment for those offences, the period by which the

sentence is to be reduced is the total period that the prisoner spent in custody before sentence on remand or in police detention for any of those offences and not merely the period spent in custody in respect of the offence for which the longest sentence was passed or, if the sentences were imposed on different occasions, for which the sentence was to expire last. [Evans and Reid].

However, any such periods cannot be taken into account more than once, nor can any period be taken into account during which the prisoner was in custody for some reason unrelated to the offences for which he was sentenced.

- (v) Time is not deducted from the sentence of imprisonment if the offender is in custody in connection with other matters (eg where he is concurrently serving a sentence for an unrelated offence, or a term of imprisonment imposed in default of payment of a fine).
- (vi) Where consecutive sentences are concerned, the overall term is the total of the individual sentences ordered to be served consecutively.
- (vii) In the case of concurrent sentences passed on the same day, the single (or overall) term will in effect be the longest of the concurrent terms because that will be the last sentence to expire.
- (viii) In the case of concurrent sentences imposed on different days, the terminal date or EDR will be the terminal date of the last sentence to expire which may or may not be the longest of the individual sentences.
- (ix) The provisions that the legislation contains for the protection of the detained person must be construed at all times in his favour in so far as the language of the statute permits this to be done.
- (x) If a court fails to make clear whether two or more sentences are concurrent or consecutive, it should be presumed that the sentences are concurrent.

- (xi) *Where a court passes a prison sentence on a person who is already serving one or more sentences of imprisonment, it must make clear whether the fresh sentence is to be served concurrently with or consecutively to the existing sentence or sentences". [Blackstone's Criminal Practice 2007]*
- (xii) Where a person has been discharged from prison custody i.e his sentence has expired under the provisions of s. 13(7) of the Prison Act the Court should not order retrospectively any fresh sentence to be served concurrently with a previous one.

E. The Application of the Legislation, the Definitions and the Principles

1. This section sets out, at a high level, how the material in the previous three sections is to be applied in practice. In particular it deals with the practical interplay of remission and remand. It needs to be read in conjunction with annex A which contains practical examples to assist those making the calculations.

2. It may be helpful to set out that, for offences committed prior to 15 May 2008, there are several potential categories of sentence. The following list is not exhaustive:

- (a) a single sentence,
- (b) two or more consecutive sentences,
- (c) two or more wholly concurrent sentences imposed on the same date (though not invariably at the same court),
- (d) concurrent sentences imposed on different dates which have the same terminal date,
- (e) overlapping sentences which are imposed on the same date, but the duration of the sentences differ
- (f) overlapping sentences which are imposed on different dates.

(d) to (f) are all examples of partly concurrent sentences.

3. In calculating the sentence

- a) one must start with the gross sentence ordered by the court and convert this into days;
- b) Second one identifies any relevant remand time served (days) in connection with the offence and calculates the actual or net term by deducting from the gross term the relevant remand period(s) including relevant police custody, in accordance with s.26(2) of the 1968 Act, as per Prison Rule 30(7) i.e. generating a longest date of release (LDR). This calculation must precede any calculation of the remission.
- c) The third step is to re-aggregate the actual or net term with the relevant remand period, i.e. to reverse the previous calculation.
- d) The fourth step is to divide the aggregate of these two figures by 2, as required in line with the Rules.
- e) The fifth and final step is to deduct from the Gross sentence both the remission and relevant remand time to establish the Earliest Date of Release (EDR) i.e. the remaining number of days in custody to be served by the prisoner.

4. In a single sentence there should be no ambiguity if the principles in section D are followed, as per annex A.

5. In the case of consecutive sentences, with no intervening periods not in custody, it is clear that all the terms of imprisonment shall be treated as an aggregate (or single) term 2.

6. Two or more wholly concurrent sentences imposed on the same date likewise present no major problem. Remand periods relevant to any of the sentences are deducted from the LDR.

7. Prison Rule 30(8)(c) states that "wholly or partly concurrent terms of imprisonment imposed after March 1976 shall not be treated as a single term.

Whereas for the purposes of the Treatment of Offenders Act concurrent and partly concurrent sentences are treated as a single term, they are not so treated for the purposes of the Prison Act and in particular Rule 30 prohibits treating such sentences as a single term for the purpose of calculating remission. Indeed it means that wholly or partly concurrent terms of imprisonment are to be treated as separate terms of imprisonment, for the purposes of calculating remission separately for each sentence. The latest EDR can thus be identified. All relevant remand is then deducted from that to identify the release date.

8. An offender who:

- a) Is released on a sex offender licence under Article 26 of the Criminal Justice (NI) Order 1996 and
- b) Later has his licence suspended or revoked under Article 27 for breach of a licence condition and is ordered to be returned to prison for the period of the suspension or revocation of his licence

Is not entitled to remission under prison rules of the period for which he is ordered to be returned to prison under Article 27.

Abbreviations

LDR = Latest Date of Release

EDR = Earliest Date of release (actual release date)

CMS = Calendar months

TES = Total Effective Sentence (or gross term)

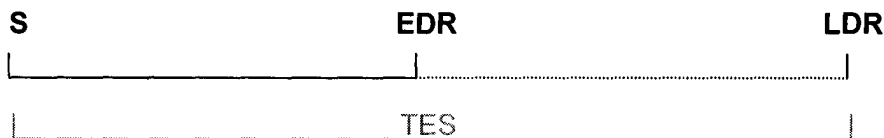
ACTUAL TERM = "actual term" means the term of a sentence of imprisonment as reduced by s. 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 [as defined by Prison Rule 30(7)]

A. APPLICATION OF REMISSION

1. Calculating a single determinate sentence

- 1.1 All determinate sentences will have an EDR at the half-way point of their sentence and a LDR at the end of the sentence.
- 1.2 All sentences are calculated from the date of imposition unless the Court directs that they are consecutive.
- 1.3 Firstly convert the length of the sentence into days.

Example 1



Total number of days in the sentence (TES) = A
Total relevant remand = B

- To calculate the number of days to the LDR, deduct relevant remand time from the number of days in the sentence to give the **actual term** in days

So **actual term** (C) = A – B

The LDR is that number of days (C) from the date of sentence

- To calculate the number of days to the EDR (Half-way point of the sentence), divide the total number of days in the sentence (A) by 2, rounding down fractions, and deduct that figure from the actual term (C).

So number of days to EDR = C – (½ of A)

The EDR is that number of days from the date of sentence.

2. Consecutive sentences

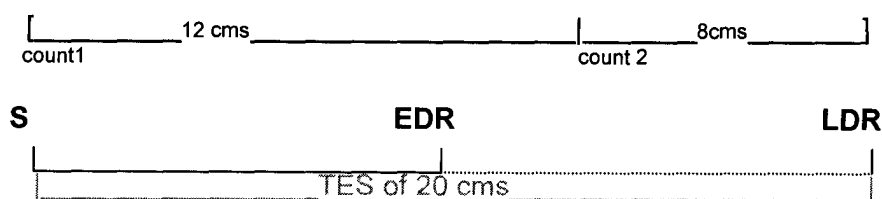
- 2.1 Sentences that are ordered to be served consecutively are aggregated for the purposes of calculation of release dates *and treated as a single term equal to the combined total of such sentences. For example, two consecutive sentences of 12 cms pronounced on the same day will result in a single term and Total Effective Sentence (TES) of 24 cms.* The total number of days in the aggregated sentences effects the LDR, the half-way point of which provides the EDR. For example two consecutive sentences of 4 years given on the same date, results in an aggregate Total Effective Sentence (TES) and LDR of 8 years from date of sentence and an EDR of 4 years from date of sentence.
- 2.2 The aggregate approach applies for those sentences imposed on the same day and for those imposed on different days, providing the prisoner has not been released from the custodial part of the earlier sentence, before the second sentence is passed and providing the warrant/order of imprisonment clearly specifies that the sentences are consecutive.
- 2.3 *Care must be taken to correctly interpret the precise intention of the Court. The warrant/order of imprisonment should clearly indicate whether the new sentence is consecutive to the TOTAL term of imprisonment to which the prisoner is already subject, or whether the new sentence is consecutive to a PARTICULAR sentence within the total term of imprisonment. If it is not clear, confirmation must be sought from the Court and where appropriate, a new warrant obtained. [Blackstone's Criminal Practice – conversation with Courts required.]*

Example 2

A prisoner is sentenced on the same date for two offences to run consecutively:

Case – sentenced to

Count 1 12 cms
Count 2 8 cms consecutive to count 1



The sentence would provide a dominant aggregate TES of 20 cms with an EDR at a half-way point of approximately 10 months (303 days).

Example 3

Prisoner receives:

Sentence 1 4 years on 12/08/05
Sentence 2 4 years on 02/10/05 ordered to be consecutive to Sentence 1

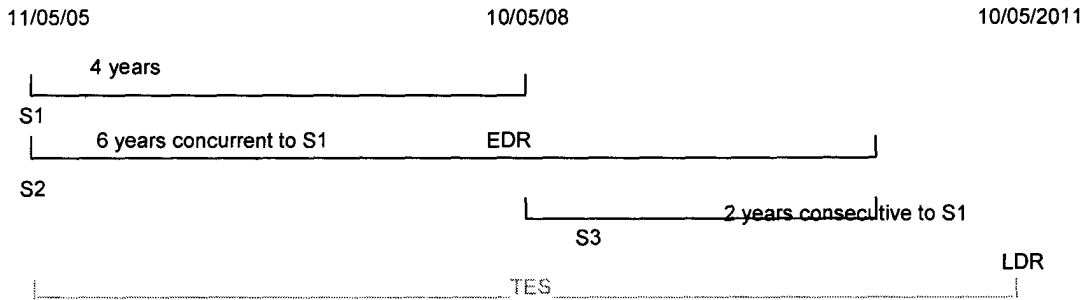
Sentence 1: EDR of 12/08/07 with a LDR of 11/08/09

But when sentence 2 is imposed an aggregate of 8 years is formed, calculated from the date of the first sentence – 12/08/05 effecting a EDR of 11/08/09 with a LDR of 11/08/2013

Example 4

Prisoner receives:

- Sentence 1 4 years on 11/05/05
- Sentence 2 6 years on 11/05/05 concurrent to 4 years
- Sentence 3 2 years on 20/09/06 consecutive to 4 years



Sentence 1: EDR of 11/05/07 with a LDR of 10/05/09
 Sentence 2: EDR of 10/05/08 with a LDR 10/05/2011

But when sentence 3 is imposed an aggregate of 6 years is formed with sentence 1 calculated from date of first sentence – 11/05/05

EDR of 10/05/08 with a LDR of 10/05/2011

This new calculation is a mirror image of sentence 2 and so the EDR 10/05/08 and LDR 10/05/2011 are adopted.

Example 5

Prisoner receives:

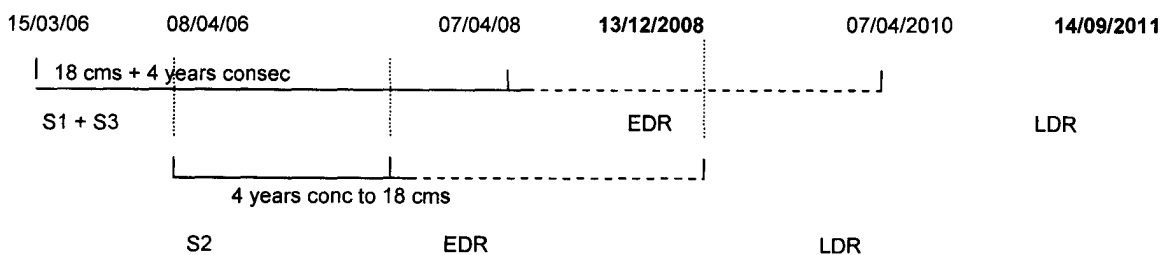
- Sentence 1 18 cms on 15/03/06
- Sentence 2 4 years on 08/04/06 concurrent to S1
- Sentence 3 4 years on 09/12/06 consecutive to S1

Sentence 1: EDR of 14/12/06 with a LDR of 14/09/07
 Sentence 2: EDR of 07/04/08 with a LDR of 07/04/2010

When sentence 3 is imposed an aggregate of 5 and a half years is formed with sentence 1 calculated from date of first sentence – 15/03/06

EDR of 13/12/08 with a LDR of 14/09/2011

The aggregated term of sentence 1 and sentence 3 effects the latest EDR and has the latest LDR. Therefore, these become the effective release dates.



Example 6

Prisoner receives:

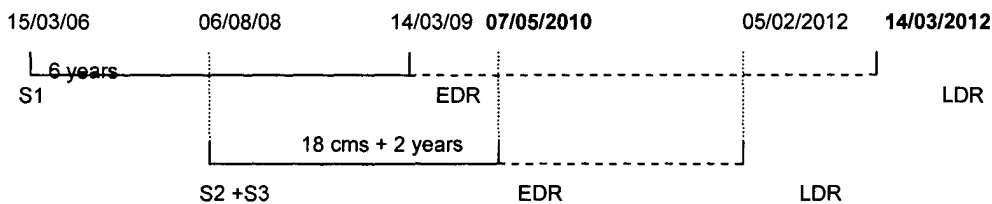
- Sentence 1 6 years on 15/03/06
- Sentence 2 18 cms on 06/08/08 concurrent to sentence 1
- Sentence 3 2 years on 26/04/09 consecutive to sentence 2

Sentence 1: EDR of 14/03/09 with a LDR of 14/03/2012
 Sentence 2: EDR of 07/05/09 with a LDR of 05/02/2010

When sentence 3 is imposed consecutive to sentence 2, an aggregate of 3 and a half years is created calculated from 06/08/08 effecting release dates of:

EDR of 07/05/2010 with a LDR of 05/02/2012

The latest EDR is that of the aggregated term (3 and a half years) – 07/05/2010, but the latest LDR is that of sentence 1. Therefore, release will take place on 07/05/2010 with an LDR of 14/03/2012.

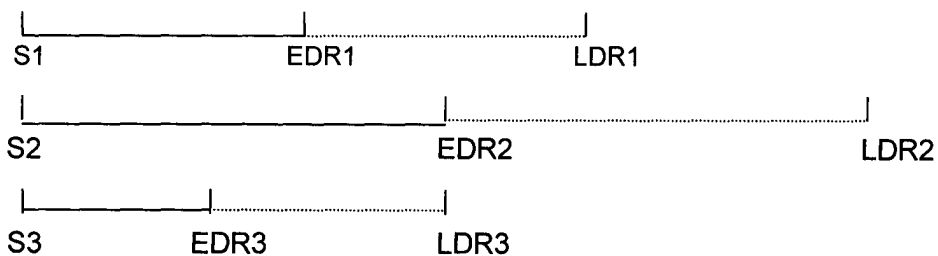


3 Multiple determinate sentences

3.1 Concurrent sentences

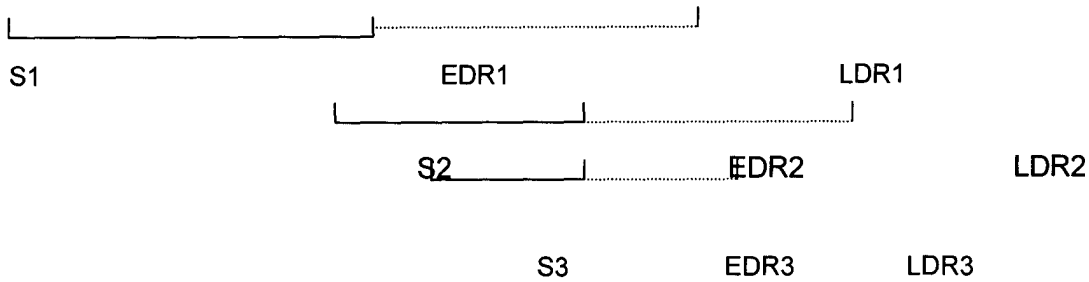
Unlike consecutive sentences there is **no** single term. Where concurrent sentences are passed on the same occasion, the longest of the sentences imposed will determine the effective release dates. *Where concurrent sentences are passed on different occasions, each concurrent sentence must be calculated individually and the prisoner must not be released until s/he is required to be released in respect of each sentence (i.e. latest EDR adopted).*

Example 7 – concurrent sentences imposed on the same occasion



The prisoner is not entitled to be released until EDR2. S2 provides the latest LDR and so release will take place at EDR2.

Example 8 – concurrent sentences imposed on different occasions



The prisoner is not entitled to be released until EDR2/EDR3. S2 provides the latest LDR and so the prisoner will be released at EDR2/3 with a notice of discharge (if required) valid until LDR2. *[NB Article 3 and Art 6 notices of discharge needs covered elsewhere in our instructions.]*

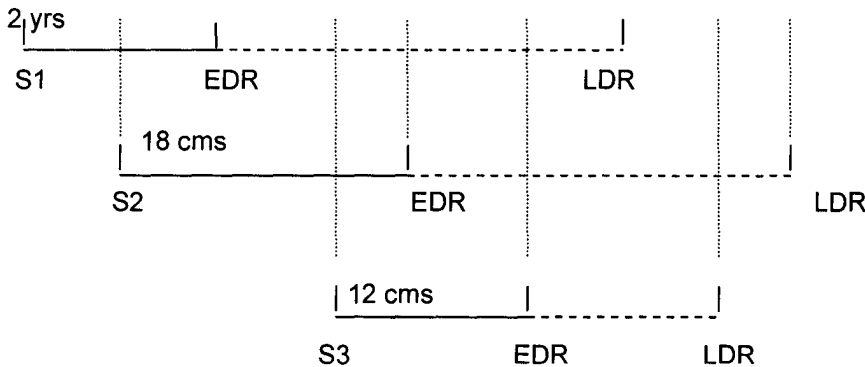
Example 9

Prisoner receives:-

- Sentence 1 2 years on 18/05/05
- Sentence 2 18 cms concurrent on 27/03/06
- Sentence 3 12 cms concurrent on 05/08/06

- Sentence 1: EDR of 17/05/06 with a LDR of 17/05/07
- Sentence 2: EDR of 26/12/06 with a LDR of 26/09/07
- Sentence 3: EDR of 03/02/07 with a LDR of 04/08/07

18/05/05 27/03/06 17/05/06 05/08/06 26/12/06 03/02/07 17/05/07 04/08/07 26/09/07



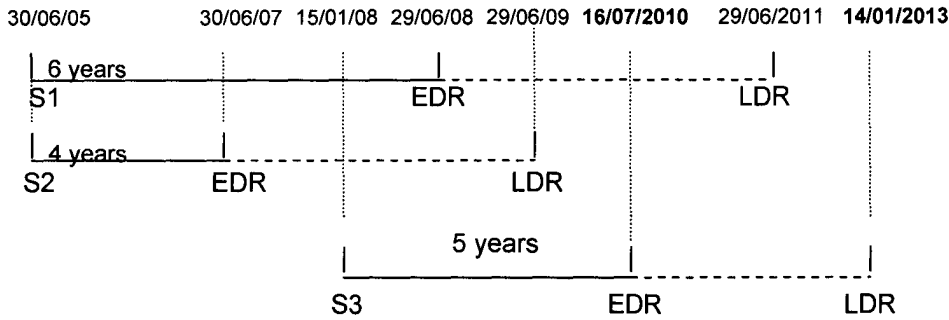
Release will take place on 03/02/07 – the latest EDR. The notice of discharge will be to 26/09/07 the LDR of sentence 2

Example 10

Prisoner receives:

- Sentence 1 6 years on 30/06/05
- Sentence 2 4 years concurrent on 30/06/05
- Sentence 3 5 years concurrent on 15/01/08

- Sentence 1: EDR of 29/06/08 with a LDR of 29/06/2011
- Sentence 2: EDR of 30/06/07 with a LDR of 29/06/09
- Sentence 3: EDR of 16/07/2010 with a LDR of 14/01/2013



Release will take place on 16/07/2010 – the latest EDR with a notice of discharge to 14/01/2013.

B. APPLICATION OF REMAND TIME

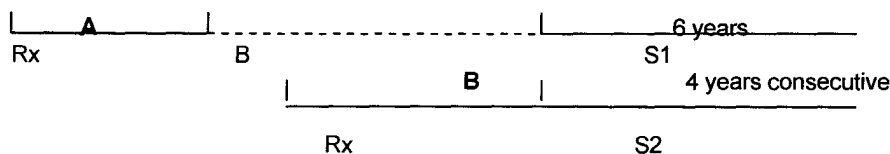
4. Remand time

- 4.1.1 When a sentence(s) are passed relevant police custody and or relevant remand time must be taken into account against the sentence(s), **but remand time must never be counted more than once.**
- 4.1.2 Where there is shared remand time, and release has taken place from the earlier sentence where the Prison Service have already applied shared remand time, the same period of remand will NOT count towards a subsequent sentence imposed.
- 4.1.3 Where there is shared remand time and release has not taken place from an earlier sentence where remand time has already been taken into account by the Prison Service, the shared remand time should count towards the sentence imposed.

4.2 Consecutive sentences

- 4.2.1 *Any remand time must reduce the aggregate sentence length and the aggregate custodial period. A period of remand time cannot be counted more than once.*

Example 11



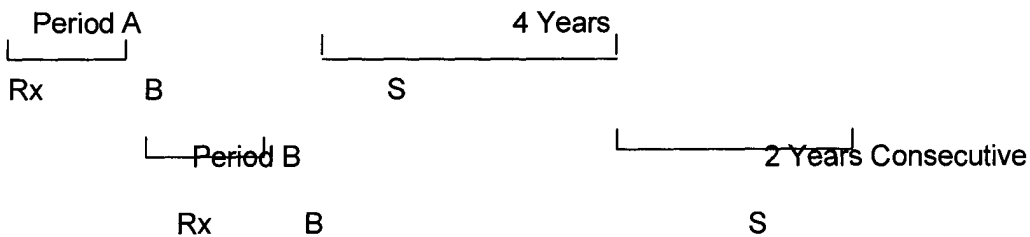
The remand periods A and B reduce the 10 year aggregate sentence and consequently, the custodial period of 5 years.

Example 12

A prisoner receives a 4 year sentence on 15 March 2006. There are 60 relevant remand days before the offender was bailed pending sentencing.

Subsequently, a 2 year sentence is imposed on 10 May 2006, ordered to be consecutive to the total term of imprisonment to which the defendant is already subject. There are 30 relevant remand days

that occurred after the date of bail from the 60 remand days above, but prior to the first date of sentence.



Remand periods A and B count. These periods will reduce the aggregate 6 year sentence.

Aggregate sentence 15/03/2006 to 14/03/2012	= 2192 days
Relevant remand is 60 days + 30 days	= 90 days
Days to LDR 2192 – 90	= 2102 days
2102 days reckoned from date of first sentence	= 15/12/2011
Days to EDR 2102 – (2192 ÷ 2)	= 1006 days
1006 days reckoned from date of first sentence	= 14/12/2008

Example 13

A prisoner receives a 3 year sentence on 29 June 2005 and 15 cms consecutive. He was on remand for offences in relation to both sentences from 20 March 05 to 29 June 05.



The total effective sentence (TES) length is the aggregate of the two sentences = 4 years 3 cms. The maximum number of remand days that can be counted towards the aggregate sentence is equal to period A because a period of remand time may only count once and period B was at the same time as period A.

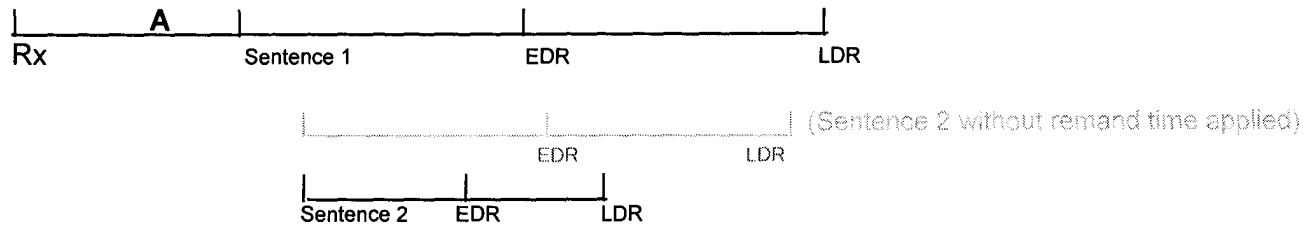
Aggregate sentence 29/06/05 to 28/09/09	= 1553 days
Court directed remand time	= 101 days
Days to LDR 1553 – 101 days	= 1452 days
1452 days from 29 June 05	= 19/06/09
Days to EDR 1452 – (1553 / 2)	= 676 days
676 days from 29/06/05	= 05/05/07

4.3 Concurrent sentences

4.2.1 Where there are multiple wholly concurrent, or concurrent and overlapping sentences, the total period of time comprising any remand relevant to any of the concurrent/overlapping sentences should be allowed, providing that a period is not counted more than once. The remand time will reduce the latest EDR and LDR from the individual sentences.

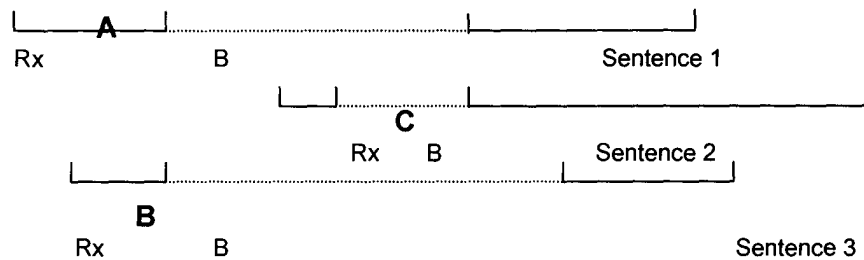
Example 14

Sentence 1 is for 8cms (45 days relevant remand time).
Sentence 2 is for 5cms (no relevant remand time).



When receiving sentence 1 remand period **A** must be counted. When sentence 2 is pronounced remand period **A** must be counted as release has not taken place from the earlier sentence. The Prison Service would apply the total time directed to the EDR and LDR of sentence 1, as this would provide the latest dates of the two individual sentences imposed.

Example 15

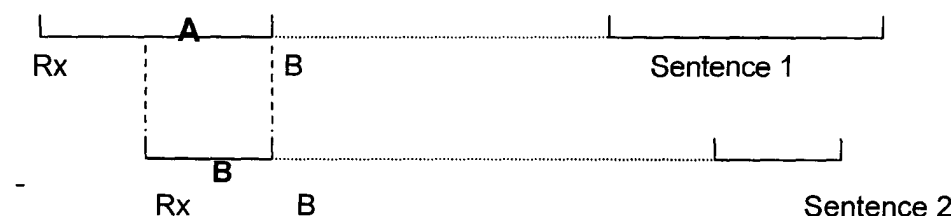


When receiving sentences 1 and 2, the remand periods **A** and **C** must be counted. The prison service would apply the total remand to the EDR and LDR of sentence 2 (these would be later than those produced by sentence 1).

When sentence 3 is imposed, the prisoner has not been released from the earlier sentences and so the sentences are concurrent and overlapping. Therefore, the periods **A**, **B** and **C** must be considered, but **B** would be not be counted as it was at the same time as period **A** and can only be counted once. The Prison Service would apply the total time to the EDR and LDR of sentence 2, as this would still provide the latest dates of the three individual sentences imposed.

Note. Had remand period **B** fallen between periods **A** and **C** it would have been counted and allowed against sentence 2.

Example 16



The total number of days in remand period A should be credited when sentence 1 is imposed. Remand period B is shared with remand period A. Therefore, when sentence 2 is imposed concurrent to sentence 1, no additional remand time to period A can be credited.

Crediting remand time B in addition to all of remand time in A would mean that period B had been credited twice.

Example 17

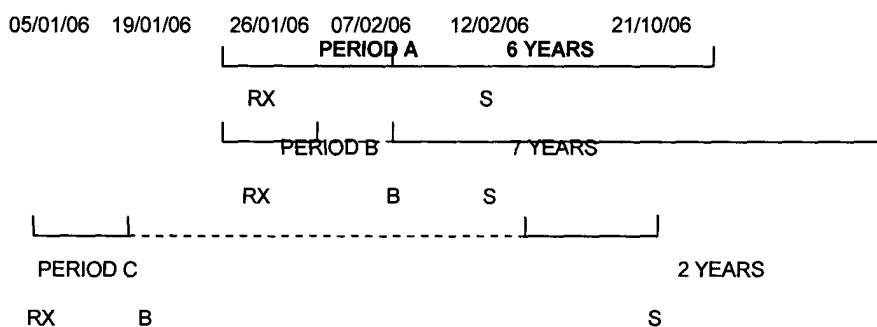
A Court imposes a 6 year sentence on 12 February 2006.

Remand time relevant to the offence is from 26 January 2006 to 11 February 2006.

At the same time, the Court imposes a sentence of 7 years concurrent.

The remand time relevant to the offence is from 26 January 2006 to 6 February 2006.

On 21 October 2006, the Court impose a further sentence of 2 years concurrent for which the relevant remand time is from 5 January 2006 to 19 January 2006.



When the sentences are passed on 12 February 2006, the 7 year sentence effects the latest EDR and LDR. The maximum remand time allowable is the total period of A, because period B is served at the same time as period A and a period of remand time can only be counted once. The remand time reduces the EDR and LDR of the 7 year sentence.

When the Court imposes the 2 year sentence release has not taken place from the earlier sentences and so therefore Period A and Period C must be counted towards the sentences. The 7 year sentence still effects the latest EDR and LDR and they will be reduced by Periods A and C.

12 February 2006 to 11 February 2013	=	2557	
Remand 05/01/06 to 19/01/06	=	15)	
26/01/06 to 11/02/06	=	17)	= 32
Days to LDR 2557 - 32	=	2525	= 10/01/2013
Days to EDR 2525 - (2557 ÷ 2)	=	1247	= 12/07/2009

4.4. Separate sentences and shared remand

4.4.1 *The principle that remand time must never be counted twice extends to a situation in which a remand period is relevant to more than one sentence, but the sentences do not together form a single term. Such a period of remand is referred to as a period of 'shared' remand.*

4.4.2 The shared remand time must first be set against the custodial part of the first sentence. If there remains any surplus shared remand time after this has been done, the excess must be set against the custodial part of the second sentence.

Example 18

R 105 days S1 120 days (TES) – (Time served on remand)

|-----|.....

R 154 days S2 15 months (TES)

|-----|-----

Sufficient remand time is credited against the first sentence to cover the custodial part only (60 days in this case). Remand time prior to the first sentence which has not been credited against that sentence (105 - 60 = 45 days) is carried forward to be credited against the second sentence, together with the remand time between the sentencing date for the first offence and the sentencing date for the second offence (49 days).