

Response to Consultation Paper: The Use of Bail and Remand

Questions arising from Part Seven

I am concerned that different judges may be applying different criteria to applications for interim liberation. There is no clear protocol or guidance. It may be a matter of concern that someone convicted of serious offences and serving a long sentence is granted interim liberation pending appeal. In normal course, the bail judge has not previously dealt with the case, and a protocol or guidelines may assist in reaching a decision.

Accordingly I answer the questions arising from Part Seven as follows:

- Yes, it would be helpful to have more judicial guidance from the Appeal Court on issues relating to the grant and refusal of interim liberation.
- Issues would include: the nature of the offence (for example, someone with a fairly minor conviction for drugs may more suitable for interim liberation than someone convicted of violence or a sexual offence); the length of the sentence (a very short sentence may have been served before the appeal reaches the appeal court); the nature and number of previous convictions; the grounds of appeal and whether they have passed the sift.
- I am not sure whether statute would be appropriate: it is less flexible than rulings from the Appeal Court. The Appeal Court could respond very quickly to new circumstances, whereas legislation would take some time.

27 September 2004