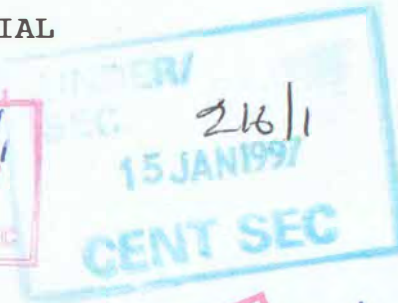


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Sec 6

290/46



16/1

FROM: B R D WHITE
Policy & Planning
14 January 1996



16/1

cc: PS/Sir John Wheeler (B&L) - B
PS/Michael Ancram (B&L) - B
PS/PUS (B&L) - B
PS/Sir David Fell - B
Mr Steele - B
Mr Thomas - B
Mr Shannon - B
Mr Bell - B
Mr Beeton - B
Ms Bharucha - B
Mr Mogg - B
Miss W Johnston - B
Mr McCaffrey - B



cc R. Williams
There will, we think,
be (false) comparisons
drawn with the present
reference of cases back
to the Appeal Court.
14/1/97

PS/SECRETARY OF STATE (B&L) - B

CONFIRMATION BY HOME OFFICE OF A NATURAL LIFE TARIFF TO TEMPORARILY TRANSFERRED TERRORIST PRISONER PATRICK JOSEPH MAGEE

The purpose of this submission is to advise the Secretary of State that another terrorist life sentence prisoner currently on temporary transfer to Northern Ireland will shortly be told that his formal tariff is whole life. The Home Office have asked that, subject to any NIO timing considerations, the notification to prisoner Magee be handed over during the week commencing 12 January 1997.

2. The prisoner in question, Patrick Joseph Magee, was convicted and sentenced in England for terrorist offences carried out in England. He is serving 8 life sentences (5 mandatory sentences and 3 discretionary sentences) for his role in the bombing of the Grand Central Hotel in Brighton during the 1984 Conservative Party Conference and for conspiracy to cause explosions in London and a number of seaside resorts during the 1985 summer season. He is currently located in HM Prison, Maze.

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3. From a purely prisons point of the view there are no justifiable reasons for delaying confirmation of the decision. I also understand that Ms Bharucha has indicated that the proposed timing would cause no difficulties.

4. The Home Secretary's decision will not be a surprise to Magee. As part of the normal Home Office tariff setting process he was given full disclosure in October 1995 of the information upon which the Home Secretary would base his decision ie the gist of the case against him and the views of the trial judge and the Lord Chief Justice of England and Wales. He was also advised of the whole life tariff intimated by the Home Secretary in 1987 and given the opportunity to make representations to the Home Secretary prior to the decision being taken afresh.

5. Two other temporary transferees have previously been advised of whole life tariffs. There was little media interest. However, against the possibility that the setting of another whole life tariff will attract media attention, I attach a background note and line to take.

6. If the Secretary of State is content that notification should proceed this week I will ensure that the Home Office notification is passed to the Governor at HM Prison, Maze for delivery to Magee.

signed

B R D WHITE
DH Ext 25291

Encs

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LIT TO TAKE

- * The setting of tariffs for temporarily transferred prisoners is a matter for the Home Secretary.
- * Prisoners on temporary transfer to another jurisdiction within the United Kingdom remain subject to the life sentence review procedures which pertain in the jurisdiction in which they were sentenced.

BACKGROUND

A life sentence in England and Wales is deemed to be made up of two separate but consecutive sentences. The first reflects the elements of retribution and deterrence, for which the Home Secretary sets a 'tariff', and the second the risk element.

A tariff system does not operate in Northern Ireland. In this jurisdiction a life sentence is viewed in an holistic way where the various elements of the sentence are relevant, to varying degrees, throughout sentence.

Following the House of Lord's judgement in Doody (June 1993) it was accepted that the Home Secretary must set an exact tariff in each individual case and the tariff must be disclosed to the prisoners, along with the judicial recommendations and any reasons should the Home Secretary depart from the judicial opinion. Magee had his original tariff set prior to the requirement for disclosure. As part of a 'catch-up' exercise the pre-Doddy tariff was disclosed to Magee in October 1995 and he was invited to make written representations to the Home Secretary before he considered the tariffs afresh. This process has now been completed.

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