

## Justice Committee

### Oral evidence: [Imprisonment for Public Protection \(IPP\) Sentences, HC 678](#)

Tuesday 23 November 2021

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Members present: Sir Robert Neill (Chair); Rob Butler; James Daly; Maria Eagle; Laura Farris; Kate Hollern; Dr Kieran Mullan.

Questions 1 - 67

#### Witnesses

**I:** Donna Mooney, Campaigner, UNGRIPP; Shirley Debono, Campaigner, UNGRIPP; and Dr Dinesh Maganty, Consultant Forensic Psychiatrist, Clinical Lead, Tamarind Centre and Chief Mental Health Legislation Officer, Birmingham and Solihull Mental Health Foundation Trust.

**II:** Peter Dawson, Director, Prison Reform Trust; Dr Mia Harris, Research Officer, Prison Reform Trust; and Russell Webster, Independent Prisons Consultant.



## Examination of witnesses

Witnesses: Donna Mooney, Shirley Debono and Dr Maganty.

**Chair:** Good afternoon, everyone, and welcome to this session of the Justice Committee. We are continuing our inquiry into indeterminate sentences for public protection. I will turn to our witnesses very shortly. Thank you all for coming to join us.

First, Members always have to start every meeting by declaring their interests. I am a non-practising barrister and a former consultant to a law firm.

**Maria Eagle:** I am a non-practising solicitor.

**Rob Butler:** Prior to my election, I was a non-executive director of Her Majesty's Prison and Probation Service and a magistrate.

**Laura Farris:** I am a practising barrister.

**James Daly:** I am a practising solicitor and partner in a firm of solicitors.

Q1 **Chair:** Perhaps I could ask our witnesses briefly to introduce themselves and their organisation and then we will go straight into questions.

**Shirley Debono:** I am Shirley Debono and I have been campaigning against IPP sentences for well over a decade now. My son was sentenced in 2006.

**Donna Mooney:** I am Donna Mooney and I am the sister of Tommy Nicol, who took his own life six years ago while in prison serving an IPP sentence. He was over tariff. Alongside Shirley, I have been campaigning since, and we set up UNGRIPP, which is a campaigning group.

**Dr Maganty:** I am Dinesh Maganty. I am a consultant forensic psychiatrist and clinical lead for secure psychiatric services at the Tamarind Centre for Birmingham and Solihull Health Foundation Trust.

Q2 **Chair:** Shirley and Donna, you have set out almost immediately the reasons you became involved in the campaign. Perhaps you could tell us how that campaign has developed over the past few years.

**Donna Mooney:** Shirley and I got to know each other through family groups around IPP. We did some campaigning together and separately, and set up a website called "The Forgotten IPPs", which shares stories of those who are suffering under IPP sentences, both those who are given IPP and their families. We give them a voice, and from that grew the UNGRIPP campaigning site, which is essentially a campaign that represents families and those affected by the sentence. We try to bring together everyone who wants some change to the sentence, not just families. We try to put forward a united front for change.

**Chair:** Okay. Thank you.



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**Donna Mooney:** We have four main aims. I do not know whether you want to hear them.

Q3 **Chair:** Just set out the four main aims; that would be really helpful to us.

**Donna Mooney:** The main one is the campaign for change. The second one is to educate people about the sentence. We have one of the biggest collections of information on our site. The third aim is to remember people who are on that sentence and those who have passed away on that sentence and their families, and give them a voice. The fourth aim is to support people with families and those affected by it.

Q4 **Chair:** That is very helpful. We also have some written evidence from you, for which we are grateful.

Understanding all of that, perhaps we can turn to Dr Maganty. As an experienced practitioner in the field, what lessons do you draw from your experience as a clinical lead working with those with IPP sentences that are perhaps different from the rest of the prison population that you work with?

**Dr Maganty:** I have worked with IPP prisoners as patients right from the day IPP came in. I was lead for one of the largest prisons in the country at that stage, and I continued to work with them really, up until yesterday.

For me, the major lesson we have learned is that they form a heterogeneous group. They are not a homogeneous group and IPP is not a diagnosis. At one end of the spectrum, we have quite high-risk individuals who have committed very serious offences. At the other end of the spectrum, we have individuals in the IPP group who have committed considerably less severe offences, even minor ones in some instances. I will talk about them separately.

My focus is on the mental health aspects of IPP prisoners. In that context, there is a large group of prisoners or patients who are in the less severe offence group. We learned quite a lot from that group initially, when they started coming in in 2005 or 2006. They did not know what the sentence was and, to be honest, we did not understand it very well either. They would come in with a tariff and they were all grouped together as lifers; they literally went down the lifer pathway. I was a consultant forensic psychiatrist for one of the country's largest remand prisons, HMP Hewell, then called Blakenhurst, at that stage. They came in on short tariffs and would still be there after the tariff was finished, in a local prison. They thought they were going to be released and we presumed they would be, but even the offender programmes they were supposed to do just did not materialise.

As we continued to work with that group, there was a distinct change in their presentation. Initially, when they came in, they were young men—women in some cases, but largely young men—who were not severely mentally ill, but as the years have gone by, increasingly, we find that



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they were becoming mentally ill. Their clinical presentation is increasingly akin to those who have been wrongfully convicted.

Research shows that they present with anxiety, depression and a great deal of mistrust of the criminal justice system. Initially, there was rebellion—"I'm supposed to get out, but I didn't"—and when that moved forward you ended up in a situation where that behavioural disturbance was used as a risk indicator not to release them. It was not the original offence or their criminal history outside prison, but that behaviour in prison. When that happened, their mental health needs—their anxiety, depression and eventually psychosis in some cases—were used as a risk indicator. When that occurred, it led to a system where they were perpetually imprisoned. That led to a sense of helplessness and a lot of them have become institutionalised, if I may use that word. It has become very difficult for them to move forward.

Initially, there was a belief that you could prevent detention by offering offender-related programmes on a preventive basis by incarcerating somebody in prison. That is just not evidence based. It leads to loss of hope and loss of engagement, and when that occurs it leads to perpetual incarceration and institutionalisation with the development of mental illness. That is the first thing.

The second thing we have learned is that, on the other hand, when you have IPP individuals transferred to a hospital, especially a secure hospital, they do quite well. I am clinical lead for a 90-bed NHS secure hospital. The IPP sentence acts as a motivator to engage the therapeutic end of it and they do reasonably well. There are programmes within prison that are much more therapeutic in some instances, like the CAMEO programme for women and so on. They do reasonably well as long as they are within that programme. It is a therapeutic environment; it is not a custodial environment.

The last major factor is what was offered to them. It is clear that quite a lot of the offender programmes that were offered, initially anyway, were not evidence based. The same rigour of evidence-based programmes that we offered was not there, whether it was the personality disorder programmes, which have been closed down now, and similarly sex offender treatment programmes that were offered and were clearly shown not to be effective.

Even though those programmes were not effective, they were given hope that if they did those programmes they would be released. That did not materialise, so the last and biggest lesson we learned is that when you offer something, it needs to be evidence based; it needs to be shown to work and it needs to be delivered in a manner that is available, because even for the programmes that were not evidence based and did not work individuals had to wait for a very long period of time. They lived in hope that they would get to the offender programme that would deliver a result. There were long delays in getting there, but even when they got



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there the programmes did not work. It only led to, "Well, you're still risky, so you stay in." That trauma has left us with a group of IPP prisoners who in my opinion have developed mental illness in that context, and they are incarcerated long term. I am talking about that group of patients as prisoners, especially those on low tariffs. It applies less to those who have discretionary life sentences in any case. It does not apply to them.

**Chair:** Thank you very much; that is very clear.

Q5 **Dr Mullan:** You have talked about the programmes not being evidence based. At the time the programmes were picked, were there evidence-based programmes that could have been chosen, or is it an evolving area and at the time there were no evidence-based programmes?

**Dr Maganty:** It was an evolving area. It was set up such that the sentences, the preventive detention, came in first, and then they said, "Well, we've got the individuals here, so let's look at what we can deliver for them and learn from that." It was an experiment and, sadly, in many cases it has not worked.

Q6 **Dr Mullan:** Are there well-established evidence-based programmes now? If there are, what sort of success rates do they achieve, and how are they measured?

**Dr Maganty:** In a therapeutic setting, in an in-patient NHS hospital setting, they would have a success rate of more than 50% among that group of individuals. I am not talking about the severe end of the spectrum; I am talking about the less severe end of the spectrum, especially non-sex offending individuals. For those, the success rate is very good. We have information as to why a hospital, or a therapeutic pathway akin to an NHS hospital, can be very easily successful, but the difficulty is availability and how the secure hospitals, including mine, end up screening individuals. For example, if you are an IPP prisoner, you would not get ahead in the queue; you would be in the same queue as everybody else.

Q7 **Dr Mullan:** How are you defining success? Is that looking at their views, attitudes and behaviour, or is it reoffending?

**Dr Maganty:** It is defined as being discharged into the community and living a successful life, by which I mean a life that is non-offending and not returning to hospital.

Q8 **Chair:** That's very helpful. Thank you. As you said, this is not a homogeneous group and, as you also pointed out, the index offences will vary considerably in terms of severity and public risk potentially as well. In terms of any reform or changes, does it follow logically that you cannot do a one-size-fits-all reform, or can you?

**Dr Maganty:** In my view, you cannot have a one-size-fits-all approach. They are a heterogeneous group and it needs to be looked at differently.



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The group can be successfully rehabilitated. Perhaps it needs to be looked at much more urgently than the others.

Q9 **Chair:** That is the group you have just referred to.

**Dr Maganty:** Yes.

Q10 **Laura Farris:** I have a couple of follow-up questions on what you have just said. When you are talking about low-level offenders, do you think they understand what is required of them to satisfy the Parole Board that they would be suitable for release, or is it unclear what thresholds they need to meet to do that?

**Dr Maganty:** Perhaps I can illustrate this with an example. I have a patient currently in my hospital. I will call him John, but that is not his real name. He was born in 1983. In 1999, at the age of 17 he committed an offence, which was a street robbery involving the theft of a mobile phone from a 16-year-old. In 2006, seven years later, he committed a further offence, which involved a fake Rolex watch in a nightclub. He got an IPP and his tariff was a year. He was my patient as soon as he came into prison 15 years ago. Initially, he was a young man who was taking drugs but was not mentally ill. He was antisocial but not in an extreme manner. In 2013 and 2014, he was seven years post-tariff and by that time he had been in the segregation unit of the prison for two years; he was self-harming profusely; he was very anti-authoritarian and would not trust anybody.

By 2018, he had become seriously mentally ill, floridly psychotic and could not cope in any prison setting and was not suitable for any offender programme. He was severely mentally ill. He had to go into a secure hospital. This month, for the first time, he got unescorted leave to go into the community. He was scared of walking out of the hospital and being in the community; he is that anxious. When I asked if I could talk about him at the Justice Committee today, his first question was, "Will they hold it against me?" That is how fearful he is of the criminal justice system.

For that group of patients, it is not that they do not understand what they need to satisfy the Parole Board; they are so anxious and institutionalised that, if today you opened the door of the secure hospital and let John out, he would not be able to live in the community.

Q11 **Laura Farris:** Is it the effect of prison and the IPP that has caused that deterioration in John?

**Dr Maganty:** I would not say that it is due entirely to the IPP and the incarceration, but for any severe mental illness, trauma is a big predisposing or precipitating factor, whether it is severe depression, psychosis or anxiety. For all mental illness, trauma is a big factor. When the sentence is seen by you as unjust, and you and those around you perceive it as unjust, and the incarceration goes on for years and years, and is open-ended, that precipitates mental illness. I am not saying that he was unlikely to have got that mental illness if he had not been



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incarcerated for that long, but there are other individuals who are much more resilient and would not become mentally ill, and they have been released from their IPP.

**Q12 Laura Farris:** Is it right to say that the manifestation of mental illness when it is severe is another factor that would prevent the sentence coming to an end?

**Dr Maganty:** Absolutely. It is a vicious cycle. If you become mentally ill, mental illness is perceived as a risk factor, even in original sentencing. I prepare reports for original sentences, and the sentencing guidelines say that a judge can consider all the information in front of him or her. One of the pieces of information is about mental illness, mental disorder and instability. That is a factor considered in sentencing. I have prepared reports for Parole Boards and have given evidence at a number of Parole Board hearings. That is a factor. If I am asked today whether John could be safely released, my answer would still be no, because he cannot live safely in the community, but that is not because of his original offence; it is because of what has gone on in between.

**Q13 Laura Farris:** That brings me to a question to Donna. I read about your brother. One of the things you talk about are his attempts to access therapeutic treatments, which were seen as important for him to secure release. You have talked about his frustration of not being able to do that when he was transferred. What was the official response from the Ministry of Justice when you raised that?

**Donna Mooney:** I have paperwork here that shows that he did this. He made complaints within the prison system and got feedback from the prison he was in that they were not available there. He did that twice within a six-year period. There was another occasion when something had been lost for a year and he repeatedly asked to follow it up. He could not go and check himself. That is the difficulty. People think that if you are in prison you can just go and do it yourself. You cannot. He had to wait to ask other people who worked in the prison system what was happening with those applications. He did that regularly. They always said they would check it, but they never got back to him. He never escalated it beyond that, probably because he did not know that he could.

I do not know whether he would ever have known how to do that, so he just waited and waited. He had two parole hearings, which both told him, "This is what you need to do," despite the fact he had been trying to do it for six years. He could not just say, "I want to go to a therapeutic community." There were processes he had to follow that were all in the hands of other people who have control over that, so he never got there. His story is not unique by any means.

**Q14 Laura Farris:** That was going to be my next question. Perhaps I could open this up. It is obviously unbelievably frustrating not to be able to access that service. How typical or atypical is that for an inmate?



**Dr Maganty:** Obviously, the sentences are not being given now. In the initial five or six years when they were being given, the difficulty was that none of us, me included—I was part of it as clinical lead for a large prison—fully understood what we were getting. They were all classed as being in the same boat as life sentence prisoners. That was the difficulty. They stood in the same queue. A life sentence prisoner would wait three or four years before they started their programme; they would go into it and into a training prison and so forth.

They remained in local prisons for years because there was such a queue; their tariffs were over, but they still would not get their offender programmes. That was the norm. They eventually did get them, most of them when they were post-tariff, but by that stage, in the majority of cases, they were difficult to engage because they were so angry and frustrated with the system.

Q15 **Laura Farris:** Thank you.

**Donna Mooney:** Shirley and I speak to a lot of people on IPPs now. It might not be to the same extent, but it is still happening now. We speak to people all the time in prisons where they are not offered what they need. They can make a request to be moved, but they do not have the power to do that. Often, they can be moved to a prison that does not offer anything. I am sure you know some of the stats around category C prisoners who are now in category A and category B prisons. These people are over tariff by years. Currently, it is still an issue for a lot of people and we are still asking those people to engage with the system despite them being in that position. It is almost no wonder that they do not want to engage.

**Shirley Debono:** I am in touch with a family now whose son is a C cat prisoner who has been in since 2006. He has terrible mental health issues. It is sad to see his self-harm; he has cut chunks of his body. I was in touch with his mum who I used to phone once a month. A couple of months ago I rang her up. Her partner answered the phone and said, "Shirl, Carol's died."

All Carol ever wanted was her son to be freed before she died, because the IPP sentence itself and his self-harming made her very ill. She passed away. Her son could not go to the funeral; he had mental health issues and they have just been exacerbated again. They have now transferred him to an A cat prison. He will not get the mental healthcare he needs in that prison. He should have been transferred to a therapeutic community or maybe a mental hospital, or somewhere he could get help. I have spoken to his mum's partner, [REDACTED]. He is lost in the system. He will never go from cat A to cat C unless he gets mental healthcare.

**Dr Maganty:** It is, unfortunately, a vicious cycle, in the sense that if you are self-harming profusely and you have a severe mental illness—

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<sup>1</sup> Redacted.



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depression or psychosis—that is an exclusion criteria for many of the programmes. You have to be stable; you must not self-harm; you must not be severely mentally ill, or have a mental disorder, or even be on medication. The programmes do not allow you to get into them if you are on medication. Accessing them becomes difficult if you have a mental illness.

There is another level of difficulty in the sense that there is quite a lot of stigma. If I show that I am mentally ill, it will count against me at the parole hearing because it will be a risk factor. A number of times, patients tell me, “Doc, I’ll take the medication, but don’t write it down.” The stigma associated with it makes it very difficult, so you are caught in this bind. These are not exceptions; they are common.

**Q16 Dr Mullan:** You described a really powerful example. Can you recall the original rationale for that person to be put on IPP, because there were lots of people who committed similar offences but were not put on IPPs at the time?

**Dr Maganty:** The rationale for John—that is not his name—was that he had committed a previous offence that the judge could take into consideration. The second offence was classed as a robbery, which was a schedule 15 offence, and he fitted those criteria. The default position when he got the sentence was that it would be an IPP unless there were other factors. He was using illicit substances at that stage. That was considered. There was no psychiatric report, but a risk assessment was made that highlighted the fact that because of his illicit substance use he would be a risk. He had an IPP with an extremely low tariff of 12 months.

**Chair:** There was a low tariff, but for the reasons you have set out he has still not been released. I understand.

**Q17 Rob Butler:** You have covered a lot of the material I was going to ask you about, but I want to pick up one or two specific points. Donna and Shirley, can you give us an idea of the number of IPP prisoners you are in contact with through your organisation?

**Donna Mooney:** It is probably in the hundreds. We are in contact with IPP people both in prison and in the community and some families who have loved ones in prison, so it varies.

**Shirley Debono:** I am a McKenzie friend to a lot of the prisoners. I would be surprised if I never got a call in a day; I get four or five.

**Q18 Rob Butler:** That sets a useful context for the questions. What I am interested to find out is what they describe to you as the biggest problems they face in prison compared with those on a determinate sentence. We have talked quite a lot about mental health issues. What do you think about programmes that are or are not currently available to help them through, especially given that the IPP sentence no longer exists?



**Shirley Debono:** In [REDACTED] case, I have been speaking to him for a couple of years. The Parole Board had ordered a psychology report or assessment to be done on him, but they did not do that in the prison. He waited for over a year. I was emailing him and talking to him on the phone. I got him a good solicitor and stuff like that, and things progressed. All of a sudden, a psychologist turned up from nowhere. Sometimes, by being a friend to these people you can help them if they have nobody on the outside. When they turn to people like me and Donna, we can help to a certain extent and put them on the right path, but there are so many who have nobody and are just stuck there. Where did that psychologist pop up from? He had been waiting for the psychologist for a year to 18 months, to be transferred to a different prison and suddenly he turned up.

That causes distress and makes them low. There was a time when he said to me, "Shirl, I may as well just end here. I'm never going to get out." I said, "No. Calm down. We'll sort this out. Sit back and take a deep breath." I just talked to him. That is all you can do. You just hope they can get help along the way, because the trouble is that there are not the resources within prisons that they need. The courses are not in some of the prisons. By the time they get to the next prison, they are again in a massive queue. It is just keeping them in prison for years and years, three or four years down the line. By the time they get to do the courses they are told, "Oops. You need to do this one again because you did that one in 2010. We're in 2021 now and you need to do it again." That is what is going on.

Q19 **Rob Butler:** Since the actual sentence has been abolished and it is not possible to sentence somebody to an IPP any more, do you think the availability of courses has increased or decreased?

**Shirley Debono:** Decreased.

**Donna Mooney:** I've done my own list. I do not know how accurate it is, but I believe there has been a huge decrease. The prison population has been increasing. IPPs do not have a release date; they have most certainly not been put at the top of the list. We know that for certain, so you have IPPs waiting for courses. Even if they stayed the same—they haven't; they have decreased—people are waiting to go on them, the prison population is increasing and other people are being pushed to the front. As Shirley said, even if they have done them, when they come to the parole hearing they are often told that it is not recent enough, or a new one has come around. That is definitely a factor, but I also believe there is a huge problem in getting them on courses, even in being in the right prison.

I go back to this. I know no data are held outside the individual prisons; there is no overarching information about where people need to be in order to progress based on their last parole hearing, and whether they

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<sup>2</sup> Redacted.



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are in the right place for that. I know for certain that that information is not held centrally anywhere. If you want people to be in the right prison to access the right rehabilitation, currently they are relying on individual prisons to do that. We know that generally for a lot of people that is not happening; they are not being moved to the right places to access those courses. That is a major barrier. Do you want me to talk about some of the other barriers?

**Q20 Rob Butler:** Yes, I do, but I wonder whether you would respond to this. The Ministry of Justice was asked about barriers to release. I would be interested in your response to what they said: "There is no barrier preventing their release, other than the statutory release test which the Parole Board must operate. Thus, the Parole Board will direct the release of any IPP prisoner who has completed his/her minimum term except where it remains necessary on the grounds of public protection for the prisoner to remain confined." Does that chime with the experience of the people you are dealing with?

**Donna Mooney:** No. One of the difficulties is that for the release test the Parole Board must have some evidence that these people are safe, so they are relying on courses—what else can they rely on?—or reports from prison officers in the prison, which can be accurate, but not always. They have to make a decision based on that. The people in prison rely on those around them to make sure they are in the right place to do the courses and then write the reports that will support their release. They are relying on those things happening.

Outside, they are living in an extremely violent environment with people who know they are on an IPP and that if they get into any trouble, or they make any allegations, all of that will be recorded and it will be held against them at their parole hearing. They are in a really difficult position, so I do not agree with what the MOJ said.

**Q21 Rob Butler:** That's completely fine. Shirley, is there anything you want to say about that?

**Shirley Debono:** Everything Donna has just said is right. Sometimes these prisoners are not getting directed for release. I can give you an example. My son Shaun had parole hearing after parole hearing, and then I got a phone call from him saying, "Mam, I haven't got my parole." I can go into a cupboard, get a stack of dishes and throw them on the floor and get it out of my system, because I need to calm down. He could go back to his cell and punch the wall and he is adjudicated for that. That potentially keeps him in prison at his next parole.

One time when I visited him, he wanted a haircut. They would not let him have a haircut. He used the F-word; he said, "F you," and walked back into his cell. When it came to his parole hearing I was sitting there, just as I am sitting here now, and I did nothing but cry and cry. I knew he was not going to get directed for release because at the parole hearing they seemed to go on for the whole hour about him using the F-word. He



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just wanted his hair cut and that kept him in prison for another year until his next parole. It was just a simple thing like that.

**Donna Mooney:** On the back end of that, you are asking these people to engage in a system where those kinds of things are happening to them very often.

Q22 **Rob Butler:** Dr Maganty, that frustration is very understandable. Recognising, as you said right at the beginning, that IPP prisoners are not a homogenous group, how typical is that frustration and the impact it has on mental health?

**Dr Maganty:** That is the crucial factor that has the most impact on mental health. You are in a situation where you have an indefinite sentence and you are told you have to do these courses. You want to get access to them but you do not get access to them, or there are other barriers. It is not true that there are no barriers to getting the courses. There are massive barriers. When those barriers are put up and you are still incarcerated, that situation is traumatic. For example, in the statutory criteria for release there are no statutory standards or criteria for access to courses. There are no timelines. If there were timelines, it would help immensely. Everybody would understand what they have to do, what the timeline is and how to do it.

Under the Mental Health Act 1983, we have more patients who are detained indefinitely, but they do not have those traumatic experiences because, first, their environment is therapeutic. They can be detained only as long as there is appropriate treatment. That is the most important thing, and you have to demonstrate that to a tribunal. In the IPP system everything is flipped around. There are no statutory time limits or criteria for access to courses, but the statutory criterion you have to satisfy is that the individual is not a risk, so it is a very lopsided system.

Q23 **Rob Butler:** On barriers preventing release, in the MOJ statement another reason was that the recent decline in releases was understandable because more of the remaining individuals are the most challenging and complex cases and, one would infer from that, potentially with mental health issues. Would that chime with your understanding of the picture of remaining IPP prisoners, and is that an adequate explanation for their not being released?

**Dr Maganty:** To take the first part first, the low-hanging fruit, as it were, have been picked. What are left are individuals who are difficult and have complex needs, as people would put it, but also individuals who have been very traumatised and have become or are mentally ill in that system, or individuals who are very high risk, especially very serious sexual offending, or sadistic violent offending. I am not talking about them. They exist; they should have discretionary life sentences. They are a different group.



The other difficult group comprises individuals who are severely traumatised and are mentally ill. Within the prison system there is a dichotomy. The NHS provides mental health services largely—virtually always—but offender programmes are provided separately. The mental health teams do not always fully interact; they are not an integrated team. Offender programmes are separate from mental health treatment. There is no real provision when there is severe deterioration—for example, when somebody is severely self-harming. As the Justice Committee may have heard, the Prison Service is always troubled with those who severely self-harm or are similarly disturbed in that context. For acute mental disorder, not pure mental illness but personality disorder and crisis, there is absolutely no provision. That also makes it difficult.

You have all of those exclusion criteria. You have to be motivated; you should not have a severe mental illness; and in many instances you should not be on medication for severe depression or replacement treatment for your substance misuse. Only then are you eligible, and there are no statutory standards or time limits. You are an IPP prisoner, so there is a big queue. It is fair to say that Covid has made that worse. You would be at the back of the queue. That is the reality.

**Q24 Rob Butler:** It is very difficult for any of us not in that position to understand what it is like to be in custody with a huge degree of uncertainty. We heard from one person on an IPP sentence who described it as like being buried alive, which I thought was particularly vivid and, frankly, quite horrific. Given that you are in regular communication with lots of people on IPP sentences, are there particular descriptions they have given you that would help us to understand what it feels like from an emotional perspective?

**Donna Mooney:** I have spoken to somebody who I think was given a two-year tariff and is still in prison and has never been released. They are actively trying to get to a cat A prison because they do not think they will be released again. They say, “What’s the point? I’m never going to be released.” From a personal perspective, my brother referred to it on more than one occasion as psychological torture. I think that sums it up for me.

**Shirley Debono:** They describe it as not being able to take it any more; they talk about wanting it to end and the only way it will end is through death. They see no way out and no light at the end of the tunnel. Paroles come and go, and they still do not get out; even though they may have completed the courses and done everything asked of them, there is always something in the way. Their mental health is going down and down. They have no hope. Their hopelessness is the problem with these sentences. When their mental health is seen to be going down, it is like a red flag to a bull; it just keeps them in prison.

**Dr Maganty:** A large percentage of this population is not resilient mentally. They come from quite deprived backgrounds, with underlying



childhood trauma and deprivation already present when they enter prison. That is compounded by the process. A large group of those prisoners come to the conclusion, appropriately so in many senses, that to cope with this they have to accept it; they are going to be there and make a life there. That leads to a set of quite institutionalised behaviours where they struggle to cope with ever being released.

**Q25 Maria Eagle:** I have a brief question for Donna and Shirley. You are in touch with many prisoners who are going through what this is like in their own lives. Have you noticed any distinction? There is such a broad range of index offences, some of which are low tariff and some of which would not be seen as extremely serious and, at the other end, some would be seen as extremely serious.

Have you noticed in respect of your experience talking to IPP prisoners any difference that arises out of the index offence? Is it easier for people who have had low-level offences and short tariffs to feel as if they have more hope because they might have a greater chance of getting out than those who perhaps have committed more serious index offences?

**Shirley Debono:** I am in touch with a lot of IPP prisoners and, if not the prisoners, their families. For a lot of offences, mainly street robbery, their tariff has been no more than four years, or less. I have come across some who have committed the more serious crimes, like armed robbery or something like that, but most of the cases I come across were young boys when they got the IPP.

If you got the IPP in the early years, nobody knew what it was. We didn't. If you were 17, 18, 19 or 20 years of age and you got an IPP in the early years, you had no idea what you were sentenced to. In some cases, some did not know until three, four or five years down the line. Those prisoners find it harder to get out of prison because of not even knowing what they were sentenced to; they did not know why they were still kept in prison. Some might be illiterate or have learning difficulties. They could not get their heads around it. Then you have some who perhaps got their IPP sentence in 2010 or 2011, even 2012. By the time those years came around, those new IPP prisoners would have known what the sentence was. People were becoming aware of it through people like us campaigning, the Prison Reform Trust and people like that. It is the prisoners from the early days who find it the hardest to get out.

**Q26 Maria Eagle:** That is regardless of the kind of offence, so it is more about them being sentenced early in light of that sentence being available.

**Shirley Debono:** I also find that those who were sentenced later and the older ones knew what the IPP sentence was about, and they more or less got out on their tariff or just over. Those who got out on their tariff never really served the IPP sentence, the indefinite part of it. You had more chance of getting out on tariff if you were sentenced to it in later years than you did in the early years.



I think that for the people sentenced in the early years there needs to be an intervention somewhere to help them, because they had no understanding at the beginning; we never had any understanding. Within two or three days of the judge sending my son Shaun to prison, he was taken to see the governor. The paperwork was there. He was sentenced to detention for life; that was on the paperwork. Then I had to call his barrister. It took six weeks to clear that up. Shaun had just turned 18 years of age. Imagine a governor saying, "You're going to die in prison." That is what was going on. Straightaway, mental health kicks in because of what they are being told.

When you get told that it is an IPP sentence, which we did not know for two and a half years down the line when Sean did not get out on his first parole hearing, I thought, "What's going on here?" Then you learn that it is a life sentence through the back door. It is not just the prisoners suffering mental health; you suffer it yourself. I did not even know how to use a mobile phone. I never needed one in my life. I had to learn to help my son. We got around it all, but there are thousands on this sentence who didn't know. For those sentenced in the early days, there needs to be some intervention because they were kids; they were 17 years of age, a child in the eyes of the law, and are still in prison 15, 16 or 17 years later.

**Donna Mooney:** My experience predominantly is of people who are at the lower end of the tariff. I have had some experience of people who have higher tariffs. My experience is generally of the difficulties for those with lower tariffs, first, because of the injustice of it, and, secondly, because of the number of years they have spent over tariff. I do not know what the statistics are about how many more years over tariff you can spend the higher the tariff is, but I suspect that those on the high tariffs get out a lot sooner than those on two-year tariffs who are still inside 10 years later. When you look at it that way, it is quite understandable that they may find it more difficult because in their eyes they have served their two-year tariff again and again.

Q27 **Maria Eagle:** Are you in touch with any women IPP prisoners? Is there a distinction between the way in which they experience it and men experience it?

**Donna Mooney:** They have less access to things because there is less resource. I think all of the women now in prison are over tariff, so that is much more difficult. I am not sure about the support once they come out. I think the support for everyone when they come out is poor, but I do not know whether there is a difference between men and women on that.

**Dr Maganty:** The distinction is really around the offence. The women were mainly involved in arson, and in many instances self-harm, and they have a much more emotionally unstable personality make-up. That makes it doubly difficult because their perception is, "I want to harm myself; I did not want to harm anybody else, but I have got a life sentence for it." That is difficult.



Generally, women in prison, but far more IPP prisoners, come from a very traumatic background. There are fewer women, but they come from very traumatised backgrounds. That makes the indeterminate nature of the sentence much more traumatic, but there are some good programmes in prisons for women now available. They have tried to make those programmes so it is not a prison; they make it much more therapeutic, but it is very much like trying to create a vegan burger, as it were; you make it look like a beefburger. In that sense, the prison environment is different. The places are fewer, but they work for women who get into those programmes.

**Q28 Kate Hollern:** I want to pose a question to Shirley. Obviously, you have dealt with a lot of families. We recognise how difficult it is for people who get released. What are the challenges of the licence imposed on them when they are released?

**Shirley Debono:** They don't cope with the licence conditions at all. I have people phoning me up saying, "Shirl, I was five minutes late for probation yesterday. What am I going to do?" I advise them to get on the phone and tell them that you will be in today to see them to explain it. It is like a load on your shoulders. You cannot get that weight off your shoulders.

There is a fear of probation. I will give you an example. In 2017, my son Shaun was released from prison. We were having a barbecue in the garden and the phone rang. Shaun answered the phone. It was the probation officer. She gave him two hours' notice to pack his bag and get to Cardiff Central train station, get a ticket and get on the train to Swansea to approved premises. Shaun said, "What have I done now, Mum?" He was breaking down. He was holding his head and rocking, saying, "They're putting me away." I cried. He wanted to go on the run. I said, "Don't go on the run, Shaun. Go away. You've done nothing wrong. We will get you back out, okay."

He got on the train and went to Swansea. He could not find the hostel. I was phoning the hostel in Swansea. He had not done a runner; he was just lost and was looking for the hostel. He got to the hostel. I did not even know that he had got to the hostel. All I got was a phone call from the hostel. He was on the other end of the phone. He had been attacked as soon as he got through the door. He still had his bag on his shoulder. They allowed him to make a phone call to me. The phone went down.

Then I got a phone call later in the evening from the manager at the hostel to say, "Shirl, can you come and get your son, please?" I said, "Come and get my son? He's been recalled; I can't just come and get my son." He said, "Come and get your son." I had to phone around. Although I drive, I cannot drive at night and it was late. I couldn't drive at night to a place I wasn't familiar with. I had to get a lift and go to the hostel. We parked outside. I got a phone call from the manager saying, "Please can you park up the street a little bit behind the bushes." We parked behind



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the bushes and used the side entrance. I went in. They brought Shaun to me and we crept out the side door, into the car and we were gone.

He was called to the approved premises by probation and he had done nothing wrong. On the Monday, I called the probation office and said, "Look, I have Shaun home here. What are we going to do? You have recalled him. Has he got to go to prison? What are you going to do?" They brushed all of it under the carpet and left Shaun at home with me.

They did not apologise. They praised Shaun because he had used his thinking skills and never retaliated when he was attacked. That is an example of an unfair recall. Had he been recalled to a prison, there is not a governor in the land who would have picked up the phone and said, "Shirl, come and get your son." He would have remained in prison for at least a twelvemonth, maybe 18 months, while probation would be going through their paperwork, ticking boxes—"What can we keep him inside for? What can we say he did wrong?"—to justify keeping him in there. They couldn't do that because Shaun was home with me.

That was a crime that day. It upsets me to think my son is afraid of the telephone. If the phone rings, he says, "Oh, Mum, it's probation. It's probation." It has affected him mentally. IPP prisoners get recalled for no reason and I think that Shaun's case is a classic example of what is going on in the system.

**Q29** **Kate Hollern:** When they are released, are the conditions of the licence explained and discussed to see what is reasonable and that there is an understanding of what is behind them? Do you have any clarification of what your son has to do to meet the conditions, or is it just situations like that?

**Shirley Debono:** There was no reason for that recall. His conditions were to live at home, or wherever he was supposed to be living. He was not on a curfew or anything like that; he just had to live at home and stay away from trouble. Those were his conditions.

I went to the probation office because we had to make an appointment with the manager to find out what had gone wrong. When we went in to see the manager, her answer was, "We wanted to contain you, Shaun." Shaun said, "Recall should not have been on the paper because I haven't done anything wrong." Her answer to Shaun was, "We wanted to contain you." I looked at her and thought, "He's not an animal, love." That was how we felt we were treated. They have the power to pick up the phone, and this is what they do.

**Donna Mooney:** Irrespective of licence conditions, recalls can happen outside things like that. People already live in a world of fear and mistrust because of the IPP sentence in prison. They get out, but they are still living with that fear. They do not want to talk to anybody in case they make a false allegation, even if it is not one of their licence conditions. They do not want to leave the house. We hear about people being



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recalled because they stopped someone fighting in the street. They were not involved in it; they were trying to stop something happening, and they got recalled.

Irrespective of their licence conditions, they still live in heightened fear. They say, "It doesn't matter. Even if I do something not linked to my licence conditions, I can still be recalled." I know someone who went to probation every week with a set of clothes in a bag because they were worried they were going to be recalled despite not having done anything. That is the heightened level of fear they are living in every single day.

**Shirley Debono:** They feel like the fear of God is being put into them.

Q30 **Kate Hollern:** We have heard some examples of that. What pressure does that put on the mental health of released IPP prisoners?

**Dr Maganty:** It puts substantial pressure on their mental health. Initially, the vast majority of those released are released post-tariff; they have already done years post-tariff. They have mistrust of the criminal justice system as such because it has kept them in prison in their view. There is a general perception that the 10-year licence is a life licence and is unjust. There is a combination of mistrust in the criminal justice system and the perception that the licence is unjust, and that the criminal justice system acts unjustly towards them. There is eternal anxiety and fear that they will be recalled.

I do not believe that probation officers, having worked with them for 20 years now, act in any way unjustly towards IPP prisoners, but the real difficulty is that because of the heightened level of anxiety and stress that they feel while on licence, many prefer going back to prison because it is an environment that they know and one where they cannot be recalled any more, and they do not need to live with that anxiety and fear. I have heard that said as well.

It is quite stressful and traumatic, and it stigmatises them in the sense that they are seen as exactly the same as lifers. People outside do not understand it. Mental health services externally do not understand the difference between an IPP-sentence individual on licence and a life sentence prisoner on licence. They are seen to be similar. The knowledge base to treat their mental illness and what they have gone through is very limited in the community setting in access to alternative services that can offer them that support. An example would be that they would be told that access to the psychological services that you and I can access would be too complex for them, so they find it difficult accessing services and trusting the criminal justice system, and they find the whole situation extremely stressful. They are disadvantaged in a multifaceted manner and stigmatised in that context.

**Chair:** Thank you very much. I think we now need to move on to our second panel.

**Dr Mullan:** I have a further question.



**Chair:** It will have to be very quick, because we are very pushed on time.

Q31 **Dr Mullan:** Dr Maganty, you have talked about people on high tariff who are a risk and you think that tends to make sense, while for people on low tariff the sentence itself has put them at risk and they were perhaps not risky, but do you come across some low-tariff individuals who would be a risk regardless of the effects of the IPP? They present from the start as people you think are dangerous and should be kept behind bars.

**Dr Maganty:** Yes. There are those specific individuals, but they are very few and far between.

**Chair:** That is very clear. Thank you very much.

We are very grateful to all of you for your evidence. It has been most helpful to us. Thank you for coming.

### Examination of witnesses

Witnesses: Peter Dawson, Dr Harris and Russell Webster.

Q32 **Chair:** We will move straight on to our next panel because, unfortunately, there are going to be a number of votes at 4.30 and we will not be able to reconvene afterwards. That is why we are keen to move on. We have had some very useful evidence.

Welcome everybody. It is good to see you all and to see again some of those we have seen before. Can I ask each of you to introduce yourselves?

**Peter Dawson:** I am Peter Dawson. I am the director at the Prison Reform Trust.

**Russell Webster:** Hello, I am Russell Webster. I trained as a probation officer, but for the last 25 years I have been an independent criminal justice researcher.

**Dr Harris:** Hi, I am Dr Mia Harris. I am a researcher at the Prison Reform Trust.

**Chair:** Thank you very much. We are going to start with Maria Eagle.

**Maria Eagle:** Are we?

**Chair:** I think we are. If you are not ready, I can move to Mr Daly first.

**James Daly:** I am okay with that.

**Maria Eagle:** I thought James was going first. My apologies.

**Chair:** No, it is fine.

Q33 **James Daly:** One of the things that we have been hearing about, and the clear evidence would suggest, is that there is a causal link between the imposition of an IPP sentence and mental health deterioration.



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Everybody has different circumstances in their lives, and clearly that cannot be a blanket statement. Is that your view, Mr Dawson?

**Peter Dawson:** Yes, it is. It is borne out by the evidence of the research that we did, which Dr Harris and Mr Webster took part in, about people who had been released from the IPP and people who had been recalled. We heard that from people. It is also borne out in the self-harm statistics, which are disproportionately high for people on IPP sentences compared with an ordinary life sentence. We were surprised by that, but it is true.

Q34 **James Daly:** Dr Harris, could you give us some evidence to support what Mr Dawson has just said?

**Dr Harris:** Sure. Some of the people I spoke to said quite explicitly that being in prison on an IPP was affecting their mental health and that, as we heard from the previous panel, that would in turn affect their behaviour, and their behaviour would be seen as a risk factor that then kept them in prison. For example, somebody told me: "Not knowing when I am getting out, it brings on my anxiety and brings on my other behaviours. I have smashed up cells, I have done dirty protests, getting up at height and am mentally unstable because of the sentence."

We saw people in the community, as Donna and Shirley were talking about, who had a fear of the phone. I spoke to a man who became incontinent when he heard a police siren. He was that fearful of being recalled. I came across a lot of clear evidence that the fear of constant imprisonment, potentially until the day they died, caused a great many mental health conditions.

Q35 **James Daly:** On that basis, if we accept what you have just said, there are two issues. One is what we do about IPP sentences now, and the second issue, which has been talked about at great length here, is the parole system and how people are judged. With the parole system, some of the principles we are talking about could apply to many people, not just people on IPP sentences.

Mr Webster, you heard the evidence that has been given. With IPP sentences, if we as parliamentarians want to do something about this issue, could you give us some idea as to your thoughts on what we should be doing?

**Russell Webster:** Certainly. Peter Dawson will be able to give—

**Chair:** We are having a bit of trouble with your sound, Russell, so you may need to shout a bit.

**Russell Webster:** I am sorry about that. Are you hearing me better now?

**Chair:** Just a bit better. I am sorry to be—

**Russell Webster:** No, it's fine. I have the microphone up high.



**Chair:** Great.

**Russell Webster:** Partly, Mr Dawson will be able to give you a better description of what can be done. In particular, the issue is the indeterminate recall that is disproportionate for people. I think it would be possible for Parliament, on your recommendations, to address that, so that there is an endpoint to people's sentences.

Q36 **James Daly:** Thank you, Mr Webster. Mr Dawson, in actual recommendations, if IPP sentences were to be dealt with, something has to happen in the sentencing legalistic sense to the people who are currently subject to those sentences. What should it be from your perspective?

**Peter Dawson:** We are a resolutely pragmatic charity. The best solution, in our view, would be a re-sentencing exercise where each case was re-examined judicially to isolate cases where, were it not for the IPP, it is likely that somebody would have received an indeterminate sentence—say, a discretionary life sentence—which would deal with the high-tariff, high-risk people of most concern to the general public. The remainder should receive a determinate sentence governed by the tariff that they received, and there should be a minimum licence period for everyone when they were released. We recognise that that is unlikely to attract parliamentary support now, or probably for the foreseeable future.

The particular recommendation we have for the Bill that is going through Parliament now is to recognise the people who overcome the many obstacles that this sentence places in their way, and who make a success of their lives in the community. Currently, they have to wait 10 years until the licence can be terminated and the sentence is finished, and that is only at the discretion of the Parole Board. It is not automatic. The Parole Board can choose to extend the licence. We suggest that that could be brought down to five years so that, if somebody has made a success of their life in the community, at that point the sentence comes to an absolute conclusion.

The evidence we have from the Ministry is that there have been no serious further offences committed by anybody who has been out on licence for five years, and that the recall rate for people on IPPs, although it is very high, is generally high up to about two to three years after release. By five years from release, on the whole, people are not recalled to prison. We think it is a very low-risk proposal.

Q37 **James Daly:** Thank you very much, Mr Dawson.

My final question is to Dr Harris. You may want to explain whether you have direct experience with the Parole Board. There are some statements that have been made today such as "mental health is a risk factor." I suspect that in certain circumstances it is, but I hope that we would be finding creative and supportive ways to ensure that people with mental health problems can be managed in the community, and that should not



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be a bar to release from prison. The fact that someone has a mental health condition and that that automatically considers them to be a risk seems to me utterly perverse. Do you have any experience of that or can you share any thoughts on that?

**Dr Harris:** I have no formal experience of the Parole Board. As part of the research, we did interviews and focus groups with Parole Board members, probation staff and a range of professionals. It is quite concerning that mental health is treated as a risk factor in that way, and it often stops people seeking the support they need, be it in the community or in prison. People have told me, "I think I need to be on antidepressants. I am very mentally unwell, but I can't tell anybody that because if I do it will count against me." Mental health is a risk factor for further reoffending. The approach to treating mental health as a risk factor in that way can be very counterproductive.

A lot of professionals we interviewed felt the same. There are ways we can support people in the community better with their mental health. One woman I interviewed had been recalled to prison because she was too mentally unwell to be supported in the probation hostel that she was in. She was extremely upset and angry that she was now in prison, potentially for the rest of her life, because of her mental illness, rather than because she had committed any sort of offence or was a risk of harm to anybody but herself.

**James Daly:** Thank you very much indeed for that evidence.

**Chair:** Thank you very much. Maria.

Q38 **Maria Eagle:** Thank you, Chair. Mr Dawson, what in your experience are the main reasons why IPP prisoners are being held in custody for so long after their tariff date? Do you notice a difference between those with short tariffs, or those who were sentenced at an early stage of the life of the sentence being available when it was first legislated for, and those who were sentenced later and perhaps have longer tariffs? Do you notice any distinction?

**Peter Dawson:** Those generalisations are really dangerous. The evidence you have already heard is that people are suffering because they do not feel treated as individuals. I would hesitate to make that generalisation. The evidence you have already heard about the impact of injustice is what is unique about this sentence and is one of the reasons why you see a difference between people serving the IPP sentence and those serving other sorts of indeterminate sentences. For a justice system to treat someone unjustly impacts on mental health and destroys the trust in the system that is essential to showing that you are safe to be released. You have to co-operate with the system to get to that point. The bigger the gap between your tariff and when you are eventually released, the bigger the sense of injustice.



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The main reason for people still being in the system—a lot of what you heard in the first hour—is that the experience of imprisonment under the IPP does huge harm to people’s ability to live a normal life. The Parole Board looks at safety, but it has to be confident that a person has a way of life such that they can live successfully on release. Prison is a very bad place to try to assess that. The prison environment is very artificial. It is very hard to show how you would survive in the community, particularly if you started the sentence in your early 20s and you are being released in your mid-30s or later. The mental health impacts are significant.

The other thing, which, again, goes to our research, is that the Parole Board in applying its test of public protection is looking not just at the characteristics of the person in front of them and whether their attitude has changed, which in many cases is important; they are looking at whether there is a coherent plan to manage the remaining risk in the community. We constantly now underestimate the challenge of doing that. It is difficult for some very obvious reasons. People normally go out to very little support in the community. Family connections are likely to have disintegrated over time. People are often going out to a life in which they have nothing constructive or purposeful to do. Employment is unlikely. It is going to be boring and lonely. People are often going out to physical circumstances that make it difficult. Probation hostels are often very difficult places to restart your life in the community.

Q39 **Maria Eagle:** Do our other two panellists have anything to add? That was quite a comprehensive answer.

**Dr Harris:** I do not know if these things will be covered in future questions, but to add to what Peter said about the prison environment being an artificial place to test somebody’s suitability for the community, as well as being an artificial environment it is a very stressful, very violent and very volatile environment. It is a place where drug use is common. It is a place where fights are very common. People said to me, for example, “You’ve put me in the most violent, volatile situation. The wings are mad. People get stabbed and slashed. If you don’t stand up for yourself, you’re going to be a victim.” It is a very difficult place to prove that you are not going to be a risk to the community because it is such a violent place. There is a lot more that I would like to say about accommodation and hostels, but that might be covered later, so I do not want to take the time now.

Q40 **Chair:** Russell, do you have any thoughts?

**Russell Webster:** Yes, I hope you can hear me a bit better now, Bob.

**Chair:** Yes, it is a lot better.

**Russell Webster:** Parole Board members and probation officers struggle with some of the same issues. For instance, probation officers often feel, “I need to put a lot of conditions on this person so that the Parole Board thinks there is a good, safe plan for them to be released,” but a lot of



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conditions mean that it is very easy to break one of those conditions and be recalled. Similarly, Parole Board members were very frustrated that people with drug problems could not be considered, or were not considered, for residential drug treatment as a suitable place to be released from, where there would be lots of support and lots of supervision, but that was not possible. Often, professionals spend a lot of time getting together comprehensive support plans for individuals, only for a place at an approved premises to not be available and therefore someone is released to somewhere completely different, 30, 40 or 50 miles away where, of course, none of that support plan is in place.

There is a lot of frustration on behalf of the professionals and a lot of second-guessing on their behalf—in other words, probation officers thinking, “What would the Parole Board want to see here?” All of that puts people who are released as IPPs in a very vulnerable position. The classic one, as I think Dr Harris was just about to say, is approved premises where very many people are released to. The reality is that all approved premises have a curfew. If you are 15 or 20 minutes late on a Friday or Saturday night, the staff are duty-bound to call up and report that up the chain of command because someone is an IPP. If there is no contact and someone does not know where an individual is, they will be recalled.

I think both probation and Parole Board staff would like a situation where those cases can be properly reviewed. A probation officer who has an ongoing relationship with an individual who is on supervision to them will know whether the fact that someone was late on a Friday or Saturday night is a minor issue that just needs to be talked about, or a major concern because someone was hanging around outside a victim’s family’s house, but the system does not allow for that. The system is very clunky, and it is difficult to see how to make big changes to the system, other than the fundamental things that Mr Dawson has spoken about, which is reducing the length of licence.

Probation officers feel under an awful lot of pressure and that they are at risk of being scapegoated if they make what turns out to be the wrong decision. These are human decisions. These are assessments. It is not a scientific fact. When we spoke to probation officers for the research, people would say, “I moved areas, and the culture for recall where I moved was very different because they had just had a serious further offence where probation officers were found to be at fault.” Irrespective of whether that further offence was committed by an IPP or not, there is a lot of pressure then on everyone—the frontline practitioners, their managers and senior managers—to make sure that does not happen again. As with all these things, it is very difficult.

You will know because of the political nature of offending—political with a small p—that there is an expectation somehow that no one who is ever released from prison will ever commit a further offence or a serious further offence. Of course, in the real world that is not possible. It always



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seems to me unfair that we try to judge our probation officers and our prison officers to that sort of standard, whereas no one expects every child at school to get five GCSEs and A-levels, and no one expects every hospital operation to be successful, but somehow we only ever judge the criminal justice system when things go wrong. I think I have said enough, Sir Bob.

**Chair:** Okay, thank you very much. That is helpful.

Q41 **Laura Farris:** When you look at the way that the IPP is treated in the prison estate, is it seen, because someone has that sentence, that it is automatically the case that they should serve more than their tariff?

**Peter Dawson:** No, absolutely not. I do not think the Prison Service would see it in that way. There are hardly any IPPs left who are not in that situation in prison.

Q42 **Laura Farris:** But of those that are, I thought 96% were already ahead of their tariff—

**Peter Dawson:** Yes.

**Laura Farris:** I wondered why almost all.

**Peter Dawson:** I do not think that is anybody's intention. You have heard the multiple ways in which the system has failed to deliver what Parliament thought it was going to get. There is certainly no intention.

In terms of the Parole Board, there is a big gap between what I am sure you will hear from the Parole Board when you take evidence about their intention and approach and what people believe. What people believe will be fed sometimes by completely accurate anecdote and sometimes by myth. It does not really matter because if people believe it that is what informs their behaviour in prison and their loss of hope.

Q43 **Laura Farris:** Do you agree with the previous witness who thought there was a conflation between those serving IPPs and those who were serving life sentences in terms of accessing treatments? Is that something you have seen?

**Peter Dawson:** Both have an urgent need to access courses and other interventions that will help them to get released. There are tremendously difficult decisions to be taken about priorities. Do you prioritise the person who is coming up to a parole hearing, or do you prioritise the person who is furthest beyond tariff? Do you prioritise the person who may be closest to meeting the release test rather than the person who appears to be furthest away?

Q44 **Laura Farris:** Is there a regional variation in the way that that is applied, or is there some uniformity?

**Peter Dawson:** Yes, there will be.



Q45 **Laura Farris:** There will be regional variation or there will be uniformity?

**Peter Dawson:** Yes, there will. It is chaotic in exactly the way that has been described to you. The Prison Service, over the last seven or eight years, has made a better co-ordinated effort to get people to the point of release, and that is shown in the release figures, which, although they have slowed down now, accelerated for a number of years. That reflected a centralised data-gathering and monitoring effort to know exactly who was in prison and to try to be conscious centrally of where people were in their sentence. I am not aware that there is anything of that nature in relation to people who have now been released.

Q46 **Laura Farris:** Could you say that again? I misheard you.

**Peter Dawson:** I am not aware that what the Prison Service has done in relation to people in prison to try to accelerate the rate of release is matched by a similar effort in probation in relation to people who have been released. What the numbers show, and what we should be really anxious about, is that the number of people being recalled—the number of IPPs being recalled—has for one quarter exceeded the number of people who are being released, and that trend is likely to continue. It is likely that more people will be recalled than will be released, so the number of people in prison on an IPP sentence will grow.

Q47 **Laura Farris:** Why is that?

**Peter Dawson:** The key thing is that people are not well enough supported while they are in the community. I do not want to make that a criticism of the probation service. Everything you have heard shows that the complexity of the people probation are now supervising is uniquely high. People, when they manage to come out of prison, are coming with a huge range of problems and facing severe resettlement difficulties, partly because they have been in prison for such a long time. Providing the support that will stop probation officers being put in the situation where they see no option but to recall is likely to be intense, expensive and difficult to deliver, but not impossible. It requires the same kind of central attention and determination that was brought, not perfectly, to the challenge of getting more people released in the first place.

Q48 **Laura Farris:** Would it be a correct statement to say that, irrespective of whether it was originally a low-level offence or a high-level offence, the outcomes of the released IPP prisoner are less good than those of the ordinary prisoner serving a specific sentence?

**Peter Dawson:** Yes, I am sure that is right. It is crucial to remember that the original offence for almost all of these people was a very long time ago and committed at a time when they were much younger.

**Laura Farris:** Thank you.

Q49 **Kate Hollern:** It was interesting that you spoke about the high level of recalls for prisoners. Do you think that is linked to the conditions that are



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applied to the licence or the lack of support to meet those conditions?

**Peter Dawson:** I think it is both. Russell has described really well the dilemma that probation staff face. It is a very unforgiving world if you fail to recall someone who goes on to commit a serious further offence. A natural response to that is to put in more conditions because it makes you feel safe, but that provides more triggers for recall. Fundamentally, we are underestimating the challenge of giving people successful resettlement. That is about all the usual resettlement issues around accommodation, employment, mental health and family support. They are much more difficult to meet for most people who have served these sentences.

Q50 **Kate Hollern:** I was thinking of an example we have seen of a prisoner being recalled because probation services could not find a place for them to live. That seems hugely unfair, doesn't it? It is also about gaining employment where it is very difficult for an employer to take them on. Should there be more support to help people meet conditions and perhaps softer conditions?

**Peter Dawson:** Yes to the first. I would hesitate over the second. I do not think there is any mileage at all in changing the public protection test. If we say that we are less interested in public protection and something goes wrong, that does everybody in the system a huge disservice—the victims of crime as well as all the other IPP prisoners whose future will be affected by that. On support, absolutely.

Q51 **Kate Hollern:** I was not thinking of public protection; I was thinking rather of employment, perhaps a training programme to gain skills support.

**Peter Dawson:** It has to be very individualised. Quite a lot of IPP prisoners will be coming out to a life of retirement, where the issue probably is around having something to do during the day that makes it worth getting up in the morning. Other people will come out wanting to work and finding it very difficult to work because of the stigma of the sentence. That individualised support is enormously resource intensive. Most probation officers supervising IPPs will be supervising multiple people, and will struggle to give personal support but also maybe to access the support that other organisations in the voluntary sector and in the community can bring.

Q52 **Kate Hollern:** I had a further question on the reduction of the 10-year term, but you already answered that. Most people reoffend much sooner than that period. Do you feel it will be reasonable to reduce that 10-year period?

**Peter Dawson:** It feels like the most modest reform we could possibly suggest, but it would at least provide a glimmer of hope for people who have made a success of their release. There is a big difference between having that licence hanging over you and not. Active supervision can end at five years, and does for some people, but you can be recalled after



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that point, and you can be recalled for minor offending or for a misdemeanour.

**Kate Hollern:** Okay, thank you.

Q53 **Chair:** Thank you. Dr Harris and Russell, do you have anything to add to those points?

**Dr Harris:** There is lots I could add. One of the main points that Peter raised and that I want to reiterate is the need for concerted effort to support people once they are in the community, to match what is being put into helping people get out of prison in the first place. That is something that the probation officers we spoke to were really supportive of as well. One person told me that, if a fraction of the amount of money spent on keeping IPPs in prison could go to each case to keep them out of prison, that would be helpful. The cost of keeping someone in prison is £40,000 or £50,000 a year. If that kind of money was spent on support in the community, it would be much better spent.

Even though there is big distrust of probation among a lot of people serving IPPs, for the reasons that Donna and Shirley spoke about so eloquently in the previous session, some people really wanted support from probation and felt well supported by them. One man told me that he was initially signing on weekly. "Half an hour every week I could chat in a safe environment. It then went down to fortnightly. I said I would like to continue weekly. She had to cut it down. Eventually, she cut it down to speaking once every four weeks, and that didn't work for me." He was an older man who was convicted of a sex offence and went on to view child sexual abuse material online. Some people are really crying out for more support that just is not available in the community, unfortunately.

Q54 **Chair:** Okay. Russell?

**Russell Webster:** I have one glimmer of something positive to contribute. I am only aware of one programme, which has been running in Humberside for the last seven or eight years, particularly for the group of people that the psychiatrist who gave evidence in the first session talked about—people with multiple needs. In Humberside, it is based on the back of the offender personality disorder pathway. People get a lot of support pre-release and through the period of release. The reality is that some people are so damaged, both through pre-existing conditions and from having been locked up so long, that they do not all succeed. However, sometimes the team will say, "Do you know what? It is all breaking down now. I think you will need to go back to prison," but they support someone through that process and then get them to the point where they can be re-released safely. It is not cheap, but neither is it at the level of custodial expenditure. That is a partnership between the probation service and the health service that predates Transforming Rehabilitation, and survived through all that period and is still running today. I am certainly happy to give details to your Clerk to follow that up.



**Chair:** That is very helpful. Thank you very much.

Q55 **Dr Mullan:** We have talked about the licence conditions. Your evidence in person reflects, to me, an acceptance that, while you might have received evidence from people that their conditions are unfair and disproportionate, that is not what you are saying in terms of what you could say objectively, and that the conditions, in your view, are reasonable. I was going to contrast the evidence you have heard with the HMI Probation inspection report that said that it was being used proportionately, and the offending managers you talked to who also felt that the conditions were proportionate. Would that be fair—that you do not have any evidence objectively that the conditions are disproportionate but the support people get to adhere to them is perhaps what is lacking?

**Peter Dawson:** That is exactly right. It is not a perfect system. We certainly came across cases where decisions appeared to be hasty. There may well be problems, for example, around the weekend, when it is difficult to get the kind of attention from the more senior people you might want to take a decision that feels risky. Once someone is back in prison, re-release is tricky. The things that we would hope for might be that rather than going back to prison, people should think about whether there are other conditions that would postpone that moment and allow recovery in the community. It could be tagging.

You summarise it perfectly. We do not think that the way forward is for the probation service to apply a different test. We think that probation find themselves in impossible situations because they are not resourced for the complexity of the challenge they face.

**Dr Harris:** Could I jump in? Going back to what Russell said earlier, some probation officers feel pressure to give people a lot of licence conditions in order to get them released. A probation officer said to us, "I tried to give them a load of conditions to get them released, a really robust risk management plan." They said that sometimes if you portray someone as a higher risk that is going to get them an approved premises place, for example. They said, "If this person is a medium risk, I can't get them into a hostel." Sometimes there is a tension where you have to bump up someone's risk potentially, to get them the support they need, which then has repercussions in breaching licence conditions potentially.

Q56 **Dr Mullan:** You mentioned it earlier but, for balance and to be clear, I think you would agree that there are plenty of people who manage to get out of prison within their original sentence time and manage to adhere to their licence conditions and are not recalled.

**Peter Dawson:** There are some. I do not think there are very many IPPs for whom that is true, to be honest. Thinking of people who have done it successfully, there is a phrase in the report about walking on eggshells. For people who have done really well, the rational fear that you could at



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any point be taken back to prison, and taken back to prison for the rest of your life, is always there.

Q57 **Dr Mullan:** In terms of the figures, the peak population was 6,000. We are now down to 3,000, including recall. That is several thousand people who have managed to leave prison from an IPP and not be recalled. I accept the evidence is difficult.

**Peter Dawson:** Absolutely.

**Dr Harris:** Just to clarify, that is the numbers at the moment. Of those 3,000 who are in, some of them will be released and some might be recalled. There will be people who are seemingly positive statistics at the moment but who in two years' time might be recalled for a non-criminal offence that is a breach of their licence.

Q58 **Dr Mullan:** I understand that, but it probably would not account for a difference of 3,000 out of that population. There would be some turnover and those figures may go up and down, but it does not move away from the fact that there are substantial numbers of people who are not likely to come back. Do you think that is a fair comment—those numbers of thousands?

**Peter Dawson:** Yes, that is fair. Typically, 50% of people released from prison are not reconvicted within two years.

Q59 **Dr Mullan:** A final question from me is about the two proposals you have about lowering the threshold to get the supervision reduced and then a resentencing exercise, as we covered. Perhaps the group I would be most concerned about, which I asked the previous panel about, are individuals who were given a low sentence—a low-tariff offence—but they have come to the attention of the Prison Service and the Court Service, and we have identified them as very high-risk individuals for whom, if we were to go through a resentencing exercise, there would not be a legal basis to keep them if they were on an original low tariff. What would your answer be to letting those individuals out?

**Peter Dawson:** I would say that the Prison Service every day of every week releases people who represent a risk to the public who have served a determinate sentence, and systems exist to try to manage that risk. They are not perfect, but they are hugely more sophisticated than they were a decade ago. As a society, we live with that risk. Russell made the point that we live with all sorts of risks in other areas of our national life. We have a rather curious view of the risk that we all face from serious crime. That is where the interests of justice and public protection sometimes rub up against each other.

Q60 **Dr Mullan:** I have one other quick question. We have talked about the lack of a statutory duty on the Prison Service to provide courses that would enable you to come out of an IPP. Would that be something that you would support if there was such a duty?



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**Peter Dawson:** We have to be careful about courses. I am sure you will take evidence from the Parole Board, and they will tell you what their policy is towards the completion of courses. I used to govern it. There is not a course that when you finish it gives you a pass or fail: "This course has definitely worked for you." The evidence on courses that are successful relies on huge banks of data and says that slightly more people seem to come out of this better than not.

The Parole Board assessment has to be based on all sorts of different things. I would hesitate about a statutory duty because it could encourage a view among the people going through those programmes that was not justified. That is not to say that if you do every single programme on your sentence plan you are guaranteed a yes from the Parole Board, not least because the circumstances that you are going out to are hugely influential on whether you succeed or not.

**Dr Mullan:** Okay, thank you.

**Dr Harris:** Could I briefly add to the point about courses? Sometimes offender supervisors or probation officers told us that there can be a tendency to over-prescribe courses. Especially if somebody is recalled, there is a tendency to think, "Okay, what you've done in prison clearly wasn't good enough. We need to stick you on another course," whereas that might not be the case. It is important not always to rely on courses.

**Dr Mullan:** Thank you.

Q61 **Chair:** That is very helpful, thanks. Russell?

**Russell Webster:** I was just looking up the data to try to give a definitive answer. It is not quite there, but we have official HMPPS data for the best part of a five-year period from January 2015 to September 2019. During that period, 4,095 people serving IPPs were released, and 1,760 of them were recalled at least once. Of course, some people would have been released in the last year or two of that period and would have subsequently been recalled. One of the frustrations in doing the research, and for everyone looking at this issue, is that we do not have a definitive database where we can look at what happened to every one of the 8,000 or so people who were made subject to an IPP. It just does not exist.

**Chair:** That is helpful. Thank you very much.

Q62 **James Daly:** I want to ask a follow-up question in respect of that to Mr Webster, and perhaps all the panellists. I practised in the criminal court for a long time. One of the things with licence conditions is that there is a vicious circle for some offenders in some ways. You quite rightly said that, for the best possible reasons, a probation officer is going to overload conditions on to somebody because they want to help them get out of prison. The problem with that is that some of those conditions are nearly impossible to abide by, and they are not related to the risk. Imposing conditions that are not related to the risk is not very sensible,



in my view, but I understand why it happens.

I do not know the answer to that, Mr Webster or Mr Dawson, but if we are judging risk we have to have an analytical thing. I do not know whether there has been any research on the link between breach of licence conditions and reoffending. My experience is that, if somebody wants to reoffend, you can put all the conditions in the world on the licence, but they are still going to reoffend. It is not the licence conditions that are going to stop them. Is that an unfair point of view?

**Russell Webster:** I am afraid, Mr Daly, that it is a very fair point of view. It is exacerbated in premises in probation hostels where someone is counting and checking and knows whether you are coming back in. The reality is that it depends on the lens through which you look at it. There are hundreds of thousands of young men going out on a Friday and Saturday night getting drunk, doing things that they might even regret themselves the next day, but if they do not have a condition or a probation hostel to monitor them, they will just sleep it off on Sunday and go to work on Monday morning and that is the end of it.

There is a real sense in which the more conditions you put on, the more people breach them. We have seen that since the Offender Rehabilitation Act 2014, whereby everyone who serves even a short prison sentence is now subject to statutory supervision. We know that a very large percentage now of our prison population are people who have been recalled. Before 2014, when that came in, that population was not subject to the conditions, so they were not recalled. It is as straightforward as that, in one way of looking at it.

**Peter Dawson:** It is a really important point. It is very difficult to come up with licence conditions that really assess risk. It is very easy to come up with licence conditions that assess compliance.

**James Daly:** Absolutely.

**Peter Dawson:** It is the same in prison. What we are looking at most of the time in prison is whether people comply with the weirdness of prison. The most important prison regimes are those that give people the most freedom to live the most normal life, which open conditions do to a certain extent; a prison such as Warren Hill has made a huge effort to do it within semi-open conditions. But that all requires placing trust in the person and giving them the space in which to live a more normal existence and make some mistakes.

**Chair:** Thanks very much. Rob Butler, any questions from you to the panel?

Q63 **Rob Butler:** What I am interested in is what you think are viable alternatives. I know that you have presented a detailed proposal, and you will be aware that there are counter-challenges to that. Feel free to talk us through elements of that proposal.



Going right back to the beginning of the first session, we were told by the consultant psychiatrist that IPP prisoners are not a homogeneous group. I wonder if we need to come at this with a little bit more of a piecemeal approach. I am not yet at the stage of venturing what that might be, but it could be that people on different lengths of tariff would be treated differently, or if they were beyond tariff, or if different types of statutory maxima had been reached. I just throw all that out there. What are your thoughts, given that your own proposals have not been universally accepted, even in the sector?

**Peter Dawson:** Absolutely. I do not envy you the task because you are probably going to get a lot of very different proposals. Fellow panellists may well take different views on this, but my view is that, if we want to make the biggest difference for the largest number of people, we should concentrate on the help that each individual needs in their particular circumstances both in prison and in the community. The evidence we have of where that appears to have had some impact—far from perfect, but some impact—is in the increase in the number of people who have managed to be released from this sentence. My impression of that was that it relied on good data, on knowing who everybody was, where they were, being sure centrally that there was a plan for everybody, and taking the time and putting in the resource to see that plan through for each individual. There really is no escape from treating every individual as that.

Trying to do things by cohort may be useful to work out how much money you need and what sort of help you need, but, fundamentally, once you start defining cohorts, most people will fit into more than one. If you have a cohort for people with severe mental illness, they may well fall into a cohort for short tariff or for particular categories of offence. The most promising thing at the moment is to devote energy to help in the community, so that when we finally get to the point when somebody is released we do not two months later bring them back to prison to spend another 18 months, most of it probably in inappropriate conditions, probably in a local prison where they are not going to get much help, and incur all that expense and do all that additional damage and destroy all that motivation because we did not put the energy into the crucial period when they had been released.

Q64 **Rob Butler:** That is very helpful. I did not explain myself very well when I was talking about the changes. What I am wondering about is legislative change. If there is to be legislative change, a broad-brush, blunt instrument does not seem to fit any model or to any satisfaction. That is why I wonder whether there might be different legislative options for different cohorts, or does that fall into the same trap?

**Peter Dawson:** It is incredibly difficult. This is not a Gordian knot. If we try to slice through it, we will do huge harm, including to innocent people in the community, which is why the big proposal that we have put forward is the re-sentencing, that you need to send it back to the judiciary with the evidence that is available to say, "Is this a case where



an indeterminate sentence, were it not for the IPP, would have been appropriate?” That is tremendously difficult because the offence was a very long time ago, but it would avoid putting Parliament in the situation where it was consciously legislating to release people who everybody knew were still dangerous.

**Q65 Rob Butler:** We all know that there is a big backlog in the courts at the moment. We do not have enough judges to do the cases that are already pending. Realistically, we know there is almost nil chance of what you are proposing happening, don't we?

**Peter Dawson:** I think we do, which is exactly why I gave the first answer and exactly why in this Bill we have only suggested very modest amendments to the status quo. You are investigating it now, but this is a problem of Parliament's making, and Parliament should make the time for specific legislation to put it right, but it has not. That is why the operational services are the people who can make the most difference now.

**Q66 Rob Butler:** Thank you, that is very helpful. Mr Webster?

**Russell Webster:** The single most effective thing would be to reduce the length of licence, which Parliament could theoretically do, against the original tariffs so that it is proportionate. That would just mean that they give everyone a fixed date. Some people would have ongoing needs and would get into trouble past that date, but there are hundreds of thousands of people in the community already in that situation. It would avoid Peter's realistic fear that some people are now so unwell and so dangerous that we would not want to let everyone out at once because, clearly, people would not get the support they needed. There should be a push to release people, as has been going on, and then to reduce the licence so that there is an endpoint to what clearly is an injustice.

The hardest thing for people in this situation is that there are several hundreds, small numbers of thousands, of people who were set at a tariff between two or four years who went into prison at a time when people who received sentences of 10, 12 or 14 years for serious acts of violence have long since been released, long since completed their licence and got on with their life. It is a natural injustice of the scale that we do not normally see in this country. Some sort of direct and strong action needs to be taken, at least to put an endpoint to the situation.

**Rob Butler:** Thank you.

**Q67 Chair:** Thank you very much. There seems to be general agreement, Dr Harris.

**Dr Harris:** Yes.

**Chair:** Thank you very much to all our witnesses. That has covered all the ground that we needed to. It has been most helpful. I am very grateful for your time and for your coming to give evidence to us. I am



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sure we will be keeping in touch as the inquiry goes on. Thank you very much to all the Members. The session is concluded.