

Written evidence from the Parole Board for England and Wales

The Parole Board for England & Wales welcomes the opportunity to contribute to this inquiry into the IPP sentence.

The Parole Board is an independent court-like body that carries out risk assessments on prisoners to determine whether they can be safely released into the community. Detailed information about the Parole Board can be found on our web pages: <https://www.gov.uk/government/organisations/parole-board>

Please find below response to some of the questions set out in the call for evidence.

What options are available to reduce the size of the IPP prison population? What are the advantages and disadvantages of the different options?

Whilst the Parole Board's primary purpose is to ensure protection of the public, it is very aware of the understandable concerns that have been raised about the progress of prisoners serving IPP sentences ("IPPs"), especially since the sentence was abolished in 2012.

In particular, the Board shares concerns about IPPs with short-tariff lengths who are far beyond their tariff expiry date. There are some IPPs now serving longer time in custody than the maximum sentence available for the index offence if it was committed today.

The Board's role in IPPs is to ensure parole reviews progress without delay, and that Parole Board panels correctly apply the statutory release test set by Parliament. The test that panels must apply is whether *'it is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined [in prison]'*. Parole Board panels may *refuse* release, *recommend* a move to open conditions (unless ineligible), or *direct* release.

The Board is absolutely committed to progressing IPPs where it is safe to do so, as required by law. The legal test for release, as set out above, is the same for all prisoners (for both initial release and re-release following recall). The Board would be failing in its duty if panels released prisoners because of concern about the sentence rather than looking at the circumstances of the individual case.

The Board would point out that not all IPPs are ready to be released and to apply a blanket measure would be ill-advised. There are some highly dangerous IPPs in prison and the Board acts to ensure they remain in custody for as long as it considers risk cannot be safely managed in the community. This goes to the heart of protecting the public.

The following data on release of IPPs by year may be helpful to the Committee:

Year	IPP Review initial release	IPP recall Release
2006-07	6	n/a
2007-08	17	n/a
2008-09	43	n/a
2009-10	68	1
2010-11	135	5

2011-12	395	29
2012-13	469	42
2013-14	501	94
2014-15	486	139
2015-16	591	155
2016-17	645+1	249+10
2017-18	691+10	214+21
2018-19	589+7	280+17
2019-20	470+2	324+8
2020-21	409+12	419+25

(The + numbers are IPPs released on the papers without requiring an oral hearing)

It is noteworthy that the re-release of recalled IPPs has now overtaken the initial release of IPPs. The Board has previously put on record its support for sensible changes to the IPP licence arrangements which would still ensure the protection of the public.

What are the current barriers preventing release? What measures would need to be taken to overcome these barriers, and what would be the operational and resource implications for HMPPS?

In its 2016-2020 strategy, the Board committed to take a number of steps to ensure that IPPs were given hope that they could make progress where it was appropriate and safe to do so.

There was an immediate impact and in 2016-17 the Board ordered the release of over 900 IPPs, including the re-release of those recalled, which was more than it ever had before.

Over the four-year period covered by the strategy, the Board worked with the relevant agencies to ensure that the majority of IPPs referred for a parole review were in a position to be safely progressed, or where risk was not judged to be manageable in the community, there were clear plans in place to enable them to work on progressing.

This work was further informed by the HM Chief Inspector of Prisons' 2016 thematic report "[*Unintended Consequences*](#)" which had a number of helpful recommendations.

A key change that took place in November 2016 was the amendment to the Parole Board Rules, which provided for decisions to be made for release or progression of IPPs on the papers, without the requirement for an oral hearing. This has been a useful power and over 100 IPPs have now been released on the papers.

The Board commenced a collaborative initiative with HMPPS via a quarterly joint IPP improvement plan working group to develop a strategy. As part of this work, the group commissioned Ministry of Justice Analytics colleagues to assist with management information, to better understand why some cases were not progressing. As a follow up from this, HMPPS introduced IPP progression panels to look at individual cases which needed particular attention.

This work was presented to the Justice Committee by the Parole Board as part of oral evidence for its 2018 inquiry into the prison population; and reported on within the House of

Commons briefing paper No 6086 published in June 2019 – [*Sentences of Imprisonment for Public Protection*](#).

The Board fully supports the position that IPPs should be provided with every possible opportunity to attend courses and programmes that will benefit their rehabilitation. Parole Board panels are encouraged to challenge and explore every aspect of a review. Courses are not however a panacea and panels will take account of all the evidence available to them which may provide evidence of a reduction in risk. Parole Board panels will look at all evidence when making a decision, including behaviour in prison, the plan to manage and mitigate risk in the community, and other relevant evidence.

The Board's internal Research Governance Group (RGG) approved and supported two research studies related to IPPs:

- Prison Reform Trust and Russell Webster: The experiences of prisoners recalled under the sentence of Imprisonment for Public Protection
- HMPPS Prison Psychology: Understanding the experience of the Imprisonment for Public Protection (IPP) Sentence and Prisoner Progression

Parole Board members contributed to both studies. The first has now concluded (see section on recalls) and the second is likely to publish next year.

More recently, the introduction of the HMPPS Offender Management in Custody (OMiC) model has changed the dynamic to focus on community-based probation professionals leading on cases where a parole review is about to commence. This ensures that efforts are firmly directed at developing robust release and risk management plans.

What would be the options and implications of backdating the change to IPP legislation?

As a creature of statute, the Parole Board must deal with the cases put before it. The Board believes it would be very difficult to retrospectively amend sentences imposed by a judge without further judicial consideration. If sentenced today some of those serving an IPP sentence may well have received a life sentence. The Board does however have concerns about IPPs whose time in custody is massively disproportionate to the seriousness of their offence and would support steps to ameliorate that position, providing that the public is sufficiently protected.

What is the experience of people on IPP sentences in prison? What additional mental health challenges do people serving IPP sentences face because of the nature of their indeterminate sentence?

In the Board's experience many IPPs have lost hope and deteriorated in prison. The Board fully supports efforts to find ways of safely progressing those IPPs, through testing in open conditions and other avenues, such as progression regimes.

The Board is acutely aware of the frustration, anxiety and loss of hope that is often felt by IPPs and this, understandably can lead to increased incidence of mental health issues.

It is clear that a high proportion of IPPs have complex needs (particularly mental health), have chaotic lifestyles, and high support needs. The Board has limited powers to suggest how these needs can be met and how prisoners can be progressed.

The Committee is already aware of the work the Board is doing in terms of mental health of prisoners and future work will include looking at the particular circumstances of IPP sentenced prisoners.

In data previously collected as part of a review of prisoners detained under the mental health act (as restricted patients in secure hospital settings), the split between IPPs and Lifers was fairly even.

Year	Total Mental Health Cases Concluded	IPP	Lifer
2015/16	23 cases concluded resulting in 19 releases	11	12
2016/17	30 cases concluded resulting in 25 releases	16	14
2017/18	31 cases concluded resulting in 29 releases	14	17

In a number of these cases, the mental disorder may have been pre-existing but is likely to have been exacerbated for those serving an IPP sentence. Based on 2020 data¹, we are seeing approx. 0.4% of the IPP population in prison being detained under the MHA compared with 0.2% of the lifer population.

A future piece of work will be looking at the broader range of mental health issues that are more prevalent across the prison community including for those serving the IPP.

It is also worth noting the research undertaken by Southampton University Law School and the Prison Reform Trust into the impact of the sentence on families of those sentenced to an IPP. This study identified the additional pressure and anxiety on families.

The study can be read here: [A Helping Hand Supporting Families in the Resettlement of People Serving IPPs](#)

How is release and resettlement planned and managed for IPP prisoners given their unpredictable release date?

These are questions HMPPS is much better placed to answer than the Parole Board.

How are people on IPP sentences managed within the community once released?

Responsibility for supporting and supervising individuals is managed by the Probation Service within HMPPS, however it is only the Parole Board that can direct release from prison of someone serving an IPP sentence.

¹ MoJ Offender management statistics: prison population June 2020
[Offender management statistics quarterly: January to March 2020 - GOV.UK \(www.gov.uk\)](#)

As part of the decision-making process, Parole Board panels will analyse the effectiveness of the proposed risk management plan and consider recommended licence conditions. The general rule for licence conditions over and above the standard conditions is that the restriction which the condition imposes, must be no greater than is necessary to manage the relevant risk. Conditions should be preventative, not punitive. These are the principles of necessity and proportionality and are critical to ensuring the licence is not unwieldy or overly restrictive, and that the individual is not released into a situation where recall is very likely.

What are the main reasons why people serving IPP sentences are recalled? Once recalled what support is given to prepare them for re-release?

Whilst changes to primary legislation are a matter for Parliament the Board has previously signalled that it would very much welcome changes that would support a reduction in IPP recalls, for example, could wider powers be explored for the Secretary of State to consider executive re-release of recalled IPPs?

The Board would draw the Committee's attention to the excellent research undertaken by Russell Webster and the Prison Reform Trust into the experiences of prisoners recalled under the sentence of Imprisonment for Public Protection, and their published report, which goes into some detail about the reasons for recall.

The report can be read here: [No life, no freedom, no future \(2020\)](#)

The Board has previously highlighted that probation staff could perhaps make more use of the suspension of supervision element of IPP licences following a period of stable living, and would encourage this to be more widely considered, once the five-year point has been reached. There has previously been discussion about whether termination of the licence, in some cases, could also be considered at this point. The Board would support further exploration of this.

Remaining on licence indefinitely has been evidenced in research as a particular challenge for both prisoners and their families. The Board has provided detailed information on its web pages to encourage individuals on an IPP licence to consider applying for its termination, once they have reached the ten-year point following their first release. It is to be noted that this is irrespective of any subsequent recall. Whilst a previous recall may have a bearing on the appropriateness of terminating the licence, it is not an outright bar and will be considered alongside a dossier of other information.

The data provided in the earlier section sets out the number of IPP releases by year. This data indicates that potentially there are just under 700 individuals who were first released at least ten years ago and are potentially eligible to apply. There is approximately a further 500 becoming eligible in 2022.

Of course, not all of these individuals may be suitable for terminating their licence and Parole Board panels will undertake a full risk assessment, as with any other case referred to it. The Board has recently issued guidance to its members on the IPP licence termination process which is also published on its web pages [HERE](#).

However, it is disappointing that to date only a handful of IPPs (circa 20) have applied. The Board is pleased to note plans for HMPPS to introduce automatic applications for those on IPP licences who meet the eligibility criteria. It is anticipated that there will be a sizeable increase in applications in 2022, supported by this initiative.

More information about IPP licence terminations can be read on the Board's web pages [HERE](#).

October 2021