

Written evidence from the Ministry of Justice

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

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

The Indeterminate Sentence of Imprisonment for Public Protection (IPP) was abolished in 2012 by the Legal Aid, Sentencing and Punishment of Offenders Act. At the time of abolition, the Government at the time decided against retrospectively abolishing the sentences of those still serving IPPs for two reasons.

First, the Government took the view it would not be right to alter sentences that had been lawfully imposed by an independent Court. Second, the Government recognised that to re-sentence those relevant individuals would result in the immediate release of many without an assessment by the independent Parole Board that they could be managed safely in the community. This would have exposed the public to unacceptable risk of serious harm. The risks around immediate release of serving IPP prisoners continue to exist now.

Therefore, those who had already been sentenced to and were serving an IPP sentence in prison continued to serve the sentence either because they had not yet served the minimum term of imprisonment or, where they have served the minimum term, because the independent Parole Board had determined that their risk remained too high for them to be safely managed in the community.

HM Prison and Probation Service (HMPPS) have focused on the rehabilitation of IPP prisoners by reducing their risk via the IPP Action Plan.

In 2020, the Government announced that HMPPS would automatically seek permission from those offenders serving the IPP sentence for whom more than 10 years had elapsed since their first release, in order to refer their case to the Parole Board to be considered for the termination of their IPP licence. Termination of such licences will reduce the number of IPP offenders in the community on licence and therefore the number liable to be recalled to prison.

2 - 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?

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.

As at 30 June, there were 1,722 IPP prisoners who have never been released. Of these, 73 are pre-tariff and 1,646 are post tariff. At its peak, there were over 6,000 people in custody serving an IPP sentence. All offenders serving IPP sentences will become post tariff by 2029.

The number of first releases from IPP sentences has reduced in the last two years. This is in line with expectations for two reasons. Firstly, proportionally more of the remaining

individuals are our most challenging and complex cases. Secondly, there are fewer IPP cases in custody, which means that fewer parole hearings are held each year.

It is important to note that, as the number of IPP offenders who have never been released continues to decrease, the proportion of those who remain in prison who have committed more serious offences and whose cases are complex grows. These offenders are still assessed to pose a high risk of committing further violent or sexual offences and have a complex set of risks and needs. These must be addressed before the Parole Board can consider release. For these reasons, there are some offenders serving the IPP sentence who have spent a significant number of years in custody after completing their tariff.

HMPPS continue to take forward work to increase opportunities for IPP offenders to progress through their sentences via a dedicated IPP action plan. The plan includes initiatives such as:

- **Central case reviews led by HMPPS Psychology Services** to give IPP prisoners struggling to progress a clear pathway, informing the next steps in sentence planning. These reviews were originally targeted at IPP cases where there has been no progression following two or more parole reviews, and for those with shorter tariffs. They are now extended to focus on those who do not have an index offence of a violent or sexual nature, as well as robbery and those who are more than 5 years past tariff expiry (irrespective of index offence). It is important to note that the completion of a case review does not guarantee an IPP offender's release, however it is a key component in identifying further progression pathways;
- **IPP Progression Panels** led by the Probation Service. These panels offer a multi-disciplinary approach to risk management and progression enabling cases which may have stalled to be put back on the right progression pathway. The panels are informed by the Psychology Services central case reviews, and are an important part of our efforts to improve the progression of recalled IPP offenders back into the community safely and sustainably. To date, over 6,600 panels have been held across community and custodial settings;
- **Progression Regimes** in 4 closed, adult male category C prisons which provide opportunities for IPP offenders to gain a fuller understanding of their risks and problematic behaviours;
- HMPPS has produced **guidance for staff writing reports for the parole process** to ensure that, where regimes have been restricted, for any reason, practitioners can effectively draw on other evidence to articulate how offenders may have been able to address their identified risks. More detailed practitioner guidance has also been produced which focuses on drawing out evidence from normal prison regime activities that relate to abilities to manage one's own life effectively, or to begin the process of family unit reintegration.
- **Guidance for families** of those serving indeterminate sentences was published earlier this year. The aim being to provide clear, useful and relevant information about the processes and activities that people serving life or IPP sentences are part of, and guidance for how families can offer constructive support to their loved ones.

4 - 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?

HMPPS is mindful that IPP prisoners do not have a definite release date and so provide additional support where prisoners complete a parole review without any direction for release or prospect of a progressive move to open conditions. We have found that a large proportion of the IPP population have personality related issues, alongside cognitive difficulties; or mental health concerns, or a combination of these.

Many IPP prisoners likely to meet the criteria for a diagnosis of a ‘personality disorder’ are able to access interventions that can help them with their specific needs. A connected set of services called the Offender Personality Disorder Pathway (OPDP) joins together knowledge and ways of working from prisons and probation, and the NHS, and is jointly delivered by health as well as prison and probation staff. OPDP Services include treatment services and also progression services called Psychologically Informed Planned Environments (PIPEs). OPDP services will support prisoners from the early stages of their sentence through to their release. They also support people who have been released and who need some additional support adjusting to life within the community, as well as offering further interventions in the community.

A high percentage of this cohort have a range of needs including personality difficulties and mental health concerns. 96% of those serving IPPs, including recalled IPP prisoners, are screened onto the Offender Personality Disorder pathway due to the level of risk and personality traits or difficulties that mean they may need additional consideration from a sentence planning perspective. There are also a proportion who are not engaging with those managing them and so are not able to progress while they are not willing to acknowledge or address their risky behaviour. While these individuals remain assessed as presenting too high a risk of serious harm to the public, they will not be released by the independent Parole Board.

We take mental health very seriously and recognise that providing the right interventions at the right time is vital to improve outcomes for people with mental health needs, including IPP offenders. Health and justice partners have committed to providing a standard of health care in prisons equivalent to that available in the community. A detailed programme of work to deliver safe, decent and effective healthcare for offenders is set out in the National Partnership Agreement on Prison Healthcare in England and its associated workplan.

For all offenders, including those serving IPP sentences, the provision of standard mental health care is the responsibility of NHS England Health and Justice, based on health needs assessments. When treatment cannot be provided in a prison, an offender can be transferred to another prison, escorted to hospital on an inpatient or outpatient basis for specialist mental health support or, if appropriate, transferred from prison to hospital under the Mental Health Act.

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

The introduction of Offender Management in Custody (OMiC) has made transformational improvements in the way we support and case manage prisoners through their sentences

Under the OMiC model, the intensity of offender management provision an individual will receive will be dependent on several factors, which include risk, need, complexity, time left to serve and sentence type. However, all sentenced individuals, serving over 10 months at

point of sentence, will be allocated a responsible Prison Offender Manager (POM) who will work with them to assess their risk and needs and offer one to one supervision and coordinate and manage their sentence plan to address their offending behaviour.

For indeterminate sentence prisoners OASys reviews, the main risk assessment tool used by HMPPS to assess risk of harm at key stages of an offender's sentence, happen every three years or when significant changes take place e.g. to inform a parole review or on completion of a significant piece of offending behaviour work. Resource is allocated to Prison Offender Managers, and Community Offender Managers, to undertake OASys reviews and sentence plan meetings when a significant change occurs while they are responsible for an individual's case management. A significant event or change in circumstance would trigger a review of the assessment if the information impacted upon the risk management and/or sentence plan. OMiC has also launched a streamlined approach to Parole which has introduced new reports and Quality Development Tools across HMPPS.

Accredited programmes aim both to protect the public and to reduce re-offending: they are part of a range of rehabilitation and risk reduction opportunities available in prisons. In recent years, there has been a change in emphasis, away from shorter, moderate-intensity programmes, in favour of longer, higher-intensity programmes.

To aid recovery planning for offending behaviour programmes following the pandemic, we have put in place new data collection systems. The information provided covers both offending behaviour and sexual offending programmes. Substance misuse programmes are the responsibility of NHS commissioners and we do not hold information in relation to them. At the end of August there were 158 IPP offenders waiting to commence an accredited general, violence, domestic violence, or sexual offending programme. It is normal to have a small number of individuals awaiting course commencement, following completion of the assessment of their suitability for it.

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

All IPP offenders are released on an IPP licence for a minimum period of 10 years. Once a period of 5 years of successful supervision has taken place, Probation Officers may consider whether to recommend that the active supervision requirements of the licence can be suspended. This is a decision for the Parole Board.

An offender serving the IPP sentence may apply to the Parole Board to have the IPP licence terminated once ten years have elapsed since the offender's first release from custody.

HMPPS have commenced a pro-active approach to pursuing applications for consideration to be given to terminating IPP licences, where appropriate. This includes automatically seeking offenders' permission to commence an application once they become eligible.

HMPPS are focusing on ensuring applications are submitted, where appropriate. This means that we will be able to bring IPP sentences to a formal end for many, where the Parole Board approve. By the end of 2021, a further 309 offenders will have become eligible to apply to have their IPP licence terminated, adding to the 265 who had become eligible by the end of 2020. There will be a subsequent automatic referral twelve months later, where the initial application is unsuccessful.

HMPPS has created a three tier Community Accommodation Service (CAS) which helps provide the necessary accommodation solution to meet the specific needs of individuals leaving prison. CAS consists of: CAS1 - Approved Premises, providing accommodation for high risk offenders; CAS2 - Bail, Accommodation & Support Services, providing accommodation for low & medium risk offenders who are either on bail or have been released on Home Detention Curfew (HDC); and CAS3, a new service launched initially in five probation areas, providing temporary accommodation for up to 12 weeks and support into settled accommodation. As a whole system, CAS enables accommodation to be provided that is suitable to an offender's risk level and circumstances.

To monitor outcomes and hold prisons and probation to account for ensuring offenders are not released homeless, the published Target Operating Model for the new unified Probation Service includes targets of: 90% of offenders released to accommodation within the first 24 hours of their release, which is a joint Prison and Probation measure, and 80% of offenders under probation supervision to be in settled accommodation three months after commencement of their period of supervision. As these are new performance measures, coming into force in April for prisons and June for probation, we will not have data on actual performance until next year.

Alongside CAS, the Department for Levelling Up, Housing & Communities launched their Accommodation for Ex-Offenders (AFE0) scheme on 28 July which helps to support prison leavers at risk of homelessness into private rental tenancies. The scheme was offered to all Local Authorities in our five temporary accommodation regions as well as local authorities with the highest number of homeless prison leavers outside those regions. Over £13m has been awarded to 87 schemes across 145 local authorities for this financial year. Combined with our temporary accommodation service, this scheme builds a pathway from prison to settled accommodation.

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

The power to recall is a vital public protection measure. The recall process provides for all community-based risk management strategies to be explored prior to a recall being initiated. As part of this process the Probation Service will always consider what alternative risk management steps can be taken and will then make an assessment of whether the risk of serious harm can continue to be safely managed in the community, with these added measures. The recall of an offender back to custody is a last resort and, therefore, as part of the recall request process, all Probation Officers must outline fully within the formal request to recall what other risk management steps they have taken to secure compliance and manage risk. These steps could include issuing warning letters or putting additional measures in place to manage the offender in the community, such as increased reporting, drug testing, or the inclusion of additional licence conditions, including hostel accommodation.

IPP offenders, as with lifers, may only be recalled if their behaviour has a causal link to their index offence (or they are out of touch with probation where the link can be presumed). On the contrary, the HMI Probation Inspection Report published in 2020 (A thematic review of probation recall culture and practice) found that the Probation Service is using recall appropriately, to prevent further serious offending and protect the public. In the 12 months to the end of June, about 40% of IPP recalls were as a result of facing further charges for new

offences. By contrast, we have seen a few cases where a clear opportunity to recall an offender was missed and the offender proceeded to commit a very serious offence.

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