

Written evidence from Napo, Trade Union and Professional Association for Probation and Family Court Staff

Napo welcomes the opportunity to be able to contribute to this consultation. IPP's have been long forgotten in the justice system with many prisoners being significantly over their original tariff with no prospect of being released. The issue is not one that can be dealt with overnight or easily and will require a detailed analysis, an overhaul of legislation and most importantly the political will.

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

Option 1

Many IPP prisoners are considerably over tariff, one of the biggest criticisms of the sentence. One solution would be to retrospectively resentence those affected to a determinate sentence equivalent to the original tariff. Potentially the tariff period could be doubled to reflect the seriousness of the original sentence and the standard release date. This would however, need to be under in line with the sentencing guidelines at the time of the original offence.

Advantage is that this will dramatically reduce the prison population overnight as well as reflecting the view that these sentences are aberrations. It would allow those that have been stuck in the system to have an end goal that in turn may in some cases motivate people to engage better with both prison and probation.

The biggest disadvantage of this approach is that, given the numbers of prisoners over tariff, we will be faced with hundreds (or more) people who are immediately eligible for release. The current demand for Approved Premises (AP'S) bed spaces is already under pressure which would impact on our ability to put together credible Risk Management Plans, similarly staff workload will significantly increase.

There is the potential for this to significantly risk a negative reaction from members of public. Increased scrutiny from the press etc resulting from what will likely be an extremely unpopular political decision. Any Serious Further Offences (SFO) or similar in these cases will likely attract adverse media attention and, given past performance, it's unlikely the employer, as in the Probation Service as an organisation, will take any responsibility and will more than likely look to place blame onto individual practitioners.

Further complications to this approach is that would likely entail some, if not a great deal, of changes in legislation. Each IPP prisoner would need to be looked at on a case by case basis. This would be best done by starting with those that most over their tariff. The Parole Board is unlikely to have the capacity for such an extensive exercise and would need not only significant additional funding but also a large recruitment drive to increase capacity.

Option 2

A Review of Parole Board test of re-release to make progression/release easier; make it a Parole Board direction to 'open conditions' rather than just a recommendation.

Again, advantage is that this will reduce the prison population overnight as well as maintaining the general approach currently in place (so likely reducing the possibility of large numbers of IPP sentenced prisoners moving suddenly into the community). Many IPP's have mental health issues exacerbated by the prison environment thus making it impossible for them to behave in a way the Parole Board deem acceptable or suitable for release. A review of the release test would enable the impact of prison on mental health to be considered. Making a move to open conditions a direction rather than a recommendation would help to ensure that those who are eligible are moved at the earliest opportunity.

Disadvantage is further Government interference in the Parole Board (if they lead or influence the change), and then using them and our members, to blame in the tiny proportion of cases where SFOs or similar (including absconds from Cat Ds) occur. There is also some concern over whether this will create tension in Cat D establishments – with those seen as unsuitable by staff there progressed to those prisons – and the potential for quick movements to/from those prisons. Again, this move also creates additional pressure on community supervision resources, albeit less than the retroactive resentencing option.

From Napo's experience the test, as it is, seems able to be interpreted fairly widely and inconsistently by Parole Board Panels, to recommend progression or direct release, on a case-by-case basis.

Option 3

Review/replace the current timescales for suspending supervision – halving these (e.g. to 5 years for sexual offences and 2.5 years for violent offences) and introduce a mandatory termination of the IPP licence after these points. Or allowing professional judgement to be used by the Probation Officer and Region to revoke licences for good progress.

Advantage is that this is a much more conservative option – so likely to be more politically acceptable – and it focuses on reducing the prison population by reducing the window that people can be recalled. The introduction of a mandatory termination option removes the possibility that members will receive criticism for decisions to suspend licence conditions at certain points if the individuals reoffend etc.

Disadvantage would be the possible perceived impact on victims and the much more rapid removal of additional licence conditions in place to protect them, or provide some reassurance against further contact with those on licences.

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?

Resources

Across England and Wales there are not enough programmes or specialist units (i.e. PIPEs) in each region of England & Wales. This prevents prisoners from completing sentence plans whilst in custody and in turn therefore not passing the Parole Board test for release.

A lack of psychologists to complete assessments adds further delay. For a myriad of reasons there is too great a wait to transfer between prisons (especially Cat Ds). With regards to direct release, too few AP bed spaces (especially PIPEs in certain parts of the country). In addition, there are not enough experienced Probation Officers. As a result, excessively high caseloads reduce the amount of time each officer can spend with their custody cases who become deprioritised when staff are under significant pressure. Outside of prison and probation there are issues with other agencies such as mental health too limited access to OPD Pathway services. It is simplistic but any resolution requires sustained, long term investment in HMPPS.

Inconsistent approach of Parole Board Panels

There are wildly varying approaches to risk adopted from one Panel to the next and unrealistic expectations on staff working in the community on what is available or achievable. More effective training of Parole Board members (possibly better recruitment as well) and mandatory time spent shadowing Probation/Prison staff who appear as witnesses at Parole Board Panels to increase their understanding; joint training on risk; more discussions between Parole Board and front line Probation staff, not just management.

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

This has been covered in our first response.

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?

Napo hopes that the JSC will be able to hear a lot of people's personal experiences, and those of their families too. First hand testimonies are vital in understanding the impact, sometime devastating, that these sentences are having on people's lives. From Napo's experience, people serving IPP sentences, generally, tend to suffer from personality disorders, anxiety and depression and other mental health issues, at a higher rate than others in the prison system and there's a similar higher rate of a history of deliberate self-harm (including suicide attempts); it also tends to entrench/reinforce identified personality traits too. As stated previously this impacts on a person's ability to "behave" in a way that is expected by the Parole Board and the Prison Service. As such they are denied release due to bad behaviour when in fact we should be looking at how imprisonment and the trauma this causes can escalate these behaviours. Many prisoners as a result are in a never ending cycle.

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

The system for preparing parole reports in these cases tries to build in planning – for instance identifying AP bed spaces months in advance in theory – but our reliance on the Parole Board to direct additional work and set Oral Hearing dates is a big destabiliser. Especially given their current workloads which often result significant delays in hearings and additional reports being prepared to update information or changes that may have occurred since the original parole report date was fixed. It needs to be about having clear plans set up and agreed with all concerned if possible, but making sure we have as much flexibility as possible in terms of dates when AP beds might be needed.

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

IPP's are required to be on licence for a minimum of 10 years. How they are managed is very individualised in terms of licence conditions, requirements such as accredited programmes, multi agency work and accommodation. However, the majority are likely to be required to live initially in an Approved Premises for the first 3 months of their licence. Due to the length of their licence many released prisoners will have a change in Probation Officer at some point which can add further inconsistency to their supervision. Some probation regions have previously had specialist resettlement teams but offender management is now moving to a more generic caseload. The majority of offence focused work such as interventions, is done at the beginning of a licence as is often the case with life licences.

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

At the time of writing this submission, Napo has not been able to ascertain if HMPPS keeps figures on number of IPPs recalled year on year. If they do it would be interesting to see what happens after high profile cases are recalled due to a serious further offence where Probation practice is called into question, as to whether recalls increase as a result of greater risk-averseness. From Napo's anecdotal evidence many cases have been recalled after being charged with further offences – with an established link to identified risk factors associated with their original offence.

The issue with those recalled following allegedly committing further offences is the lack of support available in custody, combined with the breakdown of established community supports with the return to custody. There are massively unrealistic expectations on Probation staff to address these issues; in addition if people are charged with new offences, and plead Not Guilty, they're then at the mercy of lengthy delays in the Court system that impacts on their ability to have their case dealt with by the Parole Board (who'll defer hearing the review of recall/re-release until the Court case is heard).

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