

Justice Select Committee's inquiry into Imprisonment for Public Protection sentences – Written evidence from Independent Monitoring Boards

Appointed by Ministers under the Prison Act 1952, Independent Monitoring Boards (IMBs) are an integral part of the independent oversight of prisons. IMB members are a regular presence, visiting the establishment, monitoring the treatment and conditions of prisoners, reporting what they find to those running the prison, and dealing with queries and concerns from individual prisoners. They are unpaid but have statutory powers, granting them unrestricted access.

Summary

Introduced in 2005, Imprisonment for Public Protection (IPP) sentences consisted of a tariff (a minimum term of imprisonment, often quite short) after which prisoners were only released if they could show that it was not necessary for the protection of the public that they should be in prison. Once released, these individuals are subject to recall for at least 10 years. These sentences were used more widely and inconsistently than intended. They were abolished in 2012, but the change did not apply retrospectively and many IPP prisoners continue to be held without a release date, despite the overwhelming majority having passed their tariff expiry date. In September 2021, there were 3,018 IPP prisoners, of whom nearly half (1,357) had been recalled.¹ The overall number of IPP prisoners has reduced by 50% in the last five years, but during the same timeframe, the number of recalled prisoners has increased by 105%.²

Boards across the prison estate have repeatedly raised major concerns about the 'unjust' and 'inhuman' nature of IPP sentences and the detrimental impact on the mental health and wellbeing of prisoners serving these sentences, many of whom are held years beyond their initial tariff date. Boards have also expressed concern that not enough support is offered to IPP prisoners in planning for release or to support successful resettlement. They are subject to recall once released, and in many cases, this occurs as a result of breaking the terms of their licence, rather than for committing a further offence. Boards have reported a sense of hopelessness and helplessness among IPP prisoners, who despair at the lack of a release date and a seemingly never-ending sentence. This can lead to mental health deterioration and disruptive behaviour. Boards have provided anonymised individual accounts to illustrate this.

Boards' findings³

Some Boards reported a high proportion of IPP prisoners at the establishment that they monitor: a third at Swaleside, a quarter at Leyhill, and a fifth at Haverigg.⁴

¹ Table 1.9a. Ministry of Justice. Offender management statistics quarterly: April to June 2021.

<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2021>

² Table 1.9a. Ministry of Justice. Offender management statistics quarterly: April to June 2016.

<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2016>

³ Unless otherwise stated, these figures are from individual annual reports, which can be found on www.imb.org.uk

⁴ Figures for Haverigg as at mid-October 2021.

Boards have also reported considerable post-tariff imprisonment. At Buckley Hall, in November 2021, 17 of the 37 IPP prisoners were ten years or more over tariff. The Board at Coldingley reported that there were seven IPP prisoners who had collectively served a total of 64 years over tariff. At Garth, at the end of 2020, there were around 55 IPP prisoners, of whom about 40 were two or more years over tariff. Wakefield IMB reported many examples of significantly over-tariff IPP prisoners.

In the women's estate, at Foston Hall, there were three women who were nine years past their tariff date. At Send, although there had been a reduction in the number of IPP prisoners, the two who remained were held for many years beyond their tariff date, one by six years and the other by 10 years.

Suitability of prison

IPP prisoners should be held in an establishment that is able to provide the necessary courses and programmes for them to progress and eventually apply for parole. Local prisons are wholly unsuitable for those prisoners serving IPP sentences due to the limited access to such courses; however, they continue to be held there in some cases. At Lewes, for example, the Board found that other prisons refused to accept them.

The following accounts offer a snapshot of distress experienced by IPP prisoners, the difficulties in progressing through the prison system and securing release:

Case A

Mr A is described by staff as a model prisoner. He was 19 when he was sentenced to an IPP with a tariff of 24 months. He has been in prison for over 13 years and does not understand why.

When the IMB talked to him he was trying hard not to cry. He has been in 29 prisons and in his current prison three times. He thinks about killing himself because he cannot see any end to his situation. He has done every course available to him but never been released on licence.

He started on remand in a local prison where there were no courses available to help him. He then went to a young offender institution between the ages of 19 and 21, where there were also no courses to help him. He was already 10 months over tariff before he was able to access his first course.

Mr A has been told that he is due for a parole hearing between November 2021 and March 2022 but has not been given a specific date. He is a category D prisoner and went to a category D prison for three months but after they found something that was attributed to him that looked like drugs, he was sent back to a closed prison. He was promised that the substance would be tested, but it was not, and no charges were brought.

He has given up with it all. He says that he feels like a lost soul and has lost all of his 20s, going into his 30s, for no good reason. He feels guilt for his family and friends,

although he says that he has no family left since his mother died while he was in prison, only a girlfriend who has been a lifelong friend.

Case B

Mr B was sentenced to an IPP with a minimum term of four years six months. It was his first custodial sentence and he was 16 years old at the time. He has been in prison ever since - 14 years.

He has undertaken a plethora of courses since his imprisonment: SLTP, enhanced thinking skills (ETS), thinking skills programme (TSP), cognitive skills booster (CSB) and additionally the same or similar courses when they have been renamed. He has also undertaken numerous drug-related courses.

He has had limited engagement with probation as he believes he is not seen as a person, rather they are just undertaking a tick-box exercise. He believes that all the Parole Board are interested in is compliance rather than risk and, as he questions their decisions, he is perceived as non-compliant and therefore a risk. For his first 10 years of imprisonment, probation did not require any input from him, but since his withdrawal from the probation system, it appears his input is now considered essential.

He believes that advancement through the system via different prisons just relocates the problem and is not progression.

Case C

In 2007, Mr C was sentenced to an IPP with a minimum term of 22 months. He was released in late 2015 and then recalled for a technical breach of his licence in 2016 after allegations of drug use. There was too little evidence to bring a charge, but he was nonetheless returned to prison. He was released again later that year but recalled two and a half years later, again with no charges having been brought against him.

Mr C was not given a sentence plan until after his initial tariff of 22 months had expired and his first parole hearing was three and a half years after he entered prison. He has completed all of the courses available to him and parole has been recommended. He has a parole hearing due soon. He said that he had lost hope many times but had to accept his situation.

The lack of suitable offending behaviour programmes is also an issue in training prisons. The Mount IMB reported that the establishment was not able to provide the support these prisoners needed, and they were simply being 'warehoused'. At Lindholme, while there had been a reduction in the number of IPP prisoners, the

Board reported in early October 2021 that there continued to be considerable mental health challenges among the remaining 34 individuals. The lack of availability of appropriate courses and their perceived need to take these courses while in custody rather than when released on licence led to a feeling of helplessness and the view that the prison system was not enabling them to progress to parole.

Segregation

A number of Boards, including Wakefield and Hewell, raised concerns about the number of IPP prisoners held in the segregation unit. At the latter establishment, at the end of September 2020, there were four such prisoners in the unit, with stays of nine, three, 26 and 109 days, respectively. The Board believed that they were over-represented in the unit, which showed the challenges faced by them in dealing with the prison regime, and by the prison staff in managing their circumstances. Board members continued to meet IPP prisoners, often demonstrating poor behaviour and in segregation, who despaired of ever being released.

The Board at Wakefield, in its 2019/20 annual report, reported on an IPP prisoner who had spent 949 days cumulatively in segregation at Wakefield and another establishment. By April 2021, that prisoner had served 1,307 days in total in segregated conditions.

Impact on wellbeing and mental health

As stated above, the absence of a release date contributes to a general feeling of helplessness and despondency among this cohort, which may lead to a deterioration in their mental health and general behaviour. A Board shared the case study below illustrating the negative impact of the nature of these sentences on prisoners' mental health:

Case D

One of the most challenging individuals held in this prison is Mr D who is significantly over tariff on an IPP sentence. His behaviour has long been destructive and has featured frequent significant and distressing self-harm and regular periods of segregation.

After a lengthy period of relative stability on the wellbeing unit, an incident led to a further short stay in the segregation unit in April of this year. Mr D has received significant input and care from the prison and every effort has been made to support him, subject to the fact that his IPP status reportedly exacerbates his condition. The incident in April was deemed in part at least to have been triggered by his anxiety around his oral hearing scheduled for the following month. Since then he has reportedly been stable and has not self-harmed.

An invitation to consider a role as an orderly was recently made to Mr D, but he felt unable at the time to consider the role and its implications. He remains in receipt of extensive support and care with the priority being to maintain some stability for him. His IPP status makes constructive planning for the future almost impossible for and about him.

The Board at Garth noted different behaviours displayed by IPP prisoners. Some individuals 'have quietly got on with their sentence whilst feeling let down by a system that has, in their eyes, done little or nothing to help them'. They were generally more willing to undertake offending behaviour work. In other cases, the Board at Garth witnessed a gradual and steady deterioration in the behaviour of prisoners, as they gradually lost hope of ever being released. Some developed mental health illnesses and acute personality disorders, which frequently required hospital treatment. Some might resort to disruptive behaviour, as they began to think that if they were in prison for good, then they might as well behave as they liked. (It is worth noting that 'bad' behaviour in itself could be an indicator of complex mental health issues.)

Examples of good practice

Some Boards have reported positive initiatives that support IPP prisoners. At Haverigg, the Board reported on the new IPP peer-led support group that met bimonthly, with some support from three members of staff. However, it is noticeable that many other positive initiatives ceased during the pandemic.

At Warren Hill and Buckley Hall, there are progression regimes which enable life-sentenced and IPP prisoners to demonstrate their reduced risk of reoffending, while being held in closed conditions. At Warren Hill, there is a system of enhanced behaviour monitoring, where prisoners are able to progress by addressing risk factors with the support of their key worker. The Warren Hill activity licence (WHAL) was also introduced, which allowed free movement around the establishment on presentation of the WHAL card. However, these aspects of the regime were suspended at the outset of the pandemic. The Aspire unit at Buckley Hall provides a structured programme and supportive community for IPP prisoners, as well as for those who had previously failed in open conditions.

The Board at Stafford found that an increasing proportion of IPP prisoners had accessed a counselling service, which they had found beneficial. However, IPP/lifer resettlement events attended by prison staff and external agencies were halted during the pandemic. At Full Sutton, the Board noted that there were bimonthly meetings that reviewed the support needs of those IPP prisoners who were over tariff, although there was only limited assistance during Covid. Where possible, they were transferred to different establishments so that they could access specialist support or offending behaviour programmes once they restarted.

Preparation for release and recall

IPP prisoners still remaining in the system after many years have the most complex resettlement needs, and the current approach does not seem to be addressing these issues. The Board at Haverigg highlighted the concerns of IPP prisoners about delayed or no access to release on temporary licence (ROTL) testing prior to their parole hearings, as they were unable to demonstrate progression. At Garth, the Board found that many IPP prisoners displayed behavioural problems that made it difficult for their release to be justified, as they might appear likely to be at risk of further offending.

Buckley Hall IMB reported that some IPP prisoners had become 'institutionalised'. They felt that prison had become their life and they had no idea how they would cope in society. Several IPP prisoners had completed numerous courses on their sentence plans, sometimes repeating them at different prisons. The frustration they felt when asked to do another course was palpable and many now refused to comply.

Another Board recently spoke to a prisoner serving an IPP sentence who was 13 years into an IPP sentence, having been given a three-year tariff. The prisoner said that he had 'gone backwards' and developed a serious drug habit for a time once he had served his tariff. He was proud to have recovered now, and his focus at the time of the conversation was on doing everything possible to secure his release and on being reunited with his family.

In the women's estate, the Board at Send reported that the complex needs of IPP prisoners hindered their ability to meet the requirements for release set by the Parole Board. Foston Hall IMB noted that the suspension of the intensive CAMEO personality disorder treatment programme during the pandemic had disrupted the progression of some IPP prisoners who had to complete it as a condition of release. However, the Board praised the support provided by prison offender managers during this uncertain and unsettling period.

Some Boards raised concerns that there was limited pre- and post- release support for IPP prisoners, which contributed to the high number of prisoner recalls. Wealstun IMB reported problems with access to accredited offending behaviour programmes and that not all prisoners had access to a community probation officer. In some cases, the community probation officer had little knowledge of and prior contact with the prisoner. In March 2020, the Board undertook a review of IPP prisoners and reported that almost all of the 35 IPP prisoners released from prison, most of whom were over tariff, had subsequently been recalled to prison. Recalled prisoners must then work through the release process again, which may take a very long time. At Garth, the IMB Chair underlined the crucial role of the community or home area probation officer in managing those on IPP sentences on release. This extends beyond the prison leaver, as their families may also need adequate support and information, which can be difficult or impossible to obtain from other sources, in order to help in resettlement. In recent years, the community probation officer has only become involved in the last six to seven months of the custodial sentence, which is not enough time to develop a positive working relationship.

At Buckley Hall, the Board noted that there was an insufficient number of probation prison offender managers to properly manage the number of complex prisoners, including those serving IPP sentences. The Board had spoken to two prisoners who had twice been released and then returned to custody. They both blamed a system which, they said, did not support them sufficiently to reintegrate into society. One prisoner was recalled for failing to return to his approved premises.

Warren Hill IMB, which is a specialist prison dealing mainly with indeterminate-sentenced prisoners pointed out the lack of post-release support, compared with the support provided in the prison, resulting in a 'cliff edge' experience for many prison

leavers, who found it difficult to properly resettle in the community and often resulted in a licence breach.

Conclusion and recommendations

The IPP sentence was discontinued for a reason: because it was seen to be unfair and disproportionate. It leaves prisoners in limbo, which in many cases increases, rather than reducing, their risk. Yet, there are still over 3,000 people serving this sentence, nearly half of whom have been recalled. Boards' findings continue to show the damaging impact on those individuals.

Boards have presented a range of recommendations in their annual reports, ranging from retrospective abolition to better management and resources in both prisons and probation. We would urge the committee to consider:

- Legislation to commute the sentence to a determinate one, or at least to limit recall to a determinate period
- If the current sentence is retained
 - developing more discrete units, with access to appropriate specific programmes and support for progression for IPP prisoners
 - detailed pre-release planning to support parole applications, appropriate licence conditions and risk management in the community
 - enhanced probation support on release for prisoners and their families.

Dame Anne Owers

National Chair

Independent Monitoring Boards