

# CENTRE FOR CRIME AND JUSTICE STUDIES

## Parliamentary briefing: IPP – practical solutions instead of clinging to failure

### Top lines

- A decade after Parliament abolished the IPP sentence on the grounds of injustice, it is shocking that there remain almost 3,000 IPP prisoners in England and Wales.
- The Government have foolishly rejected the Justice Committee's recommendation of a resentencing exercise for all IPP prisoners on the grounds that the Parole Board must be the judge of whether they are safe – but at the same time Ministers are increasing control of the Board's procedures.
- Independent judges, guided by new legislation, are far better placed to untie the many knots created by this defunct legislation – but Government intransigence stands in the way of resolving this shameful stain on our criminal justice system.

### Background

The Imprisonment for Public Protection sentence (IPP) sentence was introduced under the Criminal Justice Act 2003 and allowed for people convicted of specified serious offences to be imprisoned for an indeterminate length of time, where the court considered that the offender posed a significant risk of serious harm in the future. Following criticism of the sentence, the Act was amended to allow for greater judicial discretion over imposition of IPP sentences. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) abolished the IPP, in effect replacing it with new provisions for life sentences to be imposed on convictions for a second serious offence and a new provision for extended sentences.

The sentence was not, however, abolished retrospectively – meaning that existing IPP prisoners continue to pay the price of poorly thought-through legislation with their liberty. In [written evidence](#) quoted by the Justice Select Committee in its powerful [report](#) on IPP sentences, the Centre for Crime and Justice Studies (CCJS) asked: “Had capital punishment been abolished in the same fashion, would the previously sentenced have been hanged nonetheless?”

A total of 8,711 IPP sentences were imposed by the criminal courts between 2005 and 2013, with the number of prisoners serving IPP sentences reaching a peak of over 6,000 when it was abolished in 2012. According to [UNGRIPP](#) (United Group for Reform of IPP), by December there remained 2,892 IPP prisoners, of whom 1,394 had never been released.

A [report](#) by the CCJS – *Imprisonment for Public Protection: Psychic Pain Redoubled* – published October 2022, assembled evidence from several sources, including official reports, academic studies, and testimony and submissions to the Justice Committee inquiry. It identified, at each stage of the sentence, an enduring pattern of discouragement and distress, culminating in despair, self-harm and suicide for a significant number. The Royal College of Psychiatrists has [acknowledged](#) entrenched distress among the prisoners and called for greater specialised help, both in prison and after release.

The primary recommendation of the Justice Committee's report on IPP sentences, published on 28 September 2022, was that the Government bring forward "legislation to enable a resentencing exercise in relation to all IPP sentenced individuals (except for those who have successfully had their licence terminated). This is the only way to address the unique injustice caused by the IPP sentence and its subsequent administration, and to restore proportionality to the original sentences that were given."

Rejecting the resentencing recommendation in its [response](#) of 9 February 2023, the Government have expressed its faith in the Parole Board, while making controversial changes to the Board's procedures affecting prisoners' access to open conditions ([Hansard](#)) for reasons that are at best unclear, according to the [Prison Reform Trust](#).

The Committee made other important recommendations, including on improved mental health support to IPP prisoners, an expansion of in-prison courses, greater resourcing of the Probation Service and Parole Board and improved post-release support. Yet another Action Plan, on top of the previous ones, is promised, but with the latest restrictions on open conditions, it is difficult to foresee how soon the promised changes will hasten the progress of prisoners, already far into their sentences, towards sustained release. Meanwhile, the Minister is already able to make arrangements under Section 128 of LASPO 2012 to alter the release test for indeterminate sentenced prisoners, providing scope for greater consideration of needs as well as risk.

### **Suggested actions**

Westminster Hall debate, Thursday 27 April 2023, 1:30pm

*Third Report of the Justice Committee, IPP Sentences, HC 266, and the Government response, HC 933*

CCJS would be pleased to provide personalised briefings for the coming debate. Possible interventions might include:

- Will the Minister issue an amended policy on the use of open conditions enabling prisoners to have greater opportunities to show their willingness to accept responsibility?
- Will the Minister undertake to reconsider the use of Section 128 of LASPO in order to make it possible for the needs of prisoners and their families to be better acknowledged?
- Will the Minister commission a joint inspection of the revised Action Plan targets and implementation to be published within one year of its announcement?
- Does the Minister agree with the Royal College of Psychiatrists that 'Mental Health services in prison are not equipped to manage the complexities of many of those subject to IPP in prison and additional resource and development of expertise is needed'?  
Will the Minister agree with NHS England to commission an expert psychological assessment of all prisoners ten years over tariff and never released?
- Will the Minister commit to accepting recommendations from the forthcoming inspection of recalls which stress the need for proportionality and attention solely to serious risks in making decisions about recall?
- In the light of Ministerial changes, will the Minister commit to relooking at the primary recommendation of the Justice Committee, starting with the establishment of "a time-limited small expert committee to advise on the practical implementation of the resentencing exercise in conjunction with the senior judiciary"?

April 2023