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# **The Case for a Resentencing Review of Extant IPP Prisoners**

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## About the author

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## Executive Position

We set out the case for the establishment of a structured resentencing review mechanism for individuals subject to Imprisonment for Public Protection (IPP) sentences in England and Wales. Although IPP sentences were abolished by the Legal Aid, Sentencing and Punishment of Offenders Act 2012, a significant cohort remains subject to indeterminate detention and lifelong licence conditions (UK Government, 2012). The continued detention and supervision of these individuals constitute a structurally flawed system that undermines both rehabilitation and public protection. The ongoing operation of IPP sentences extant at the time of abolition has led to psychological harm, distorted risk assessment, and procedural injustice. We propose a resentencing mechanism that aims to restore proportionality in sentencing inclusive of improving the validity of risk assessment, enhancing rehabilitative outcomes, reducing systemic inefficiencies and strengthening public protection through evidence-based restorative approaches.

## The Condition of the Remaining IPP Cohort

The continued application of IPP sentences raises concerns regarding proportionality, procedural justice and the effectiveness of current approaches to risk assessment, management and rehabilitation. The absence of fixed timelines, consistent decision-making criteria and proportionate responses to risk renders continued detention effectively arbitrary in practice (Roberts & Lawrence, 2026). Risk assessment is further confounded by the effects of long-term institutionalisation, lack of access to required interventions and the psychological harm arising from indeterminate detention. Drawing on the concept of environmental embodiment, it can be argued that the affect and behaviours, especially risk related behaviours, of IPP populations cannot be understood independently of the consequent prolonged impact of the prison environment (Sauka, 2024). Environmental embodiment conceptualises that humans are fundamentally connected to and shaped by their physical and psycho-social environments (Sauka, 2024). It emphasises how environmental awareness and consciousness are developed through physical and sensory experiences of being in a particular environment, such as the feel of a cell or the layout and human dynamics of a prison spur (Seamon, 2015). The enduring indeterminacy and uncertainties of the IPP sentence and prison environments, together with immersion in an arguably defensive culture of institutional risk aversion, can act as chronic stressors and adversely impact mental health and well-being (Grimshaw, 2022). Lengthy exposure to the harsh, and at times unpredictable prison regime, can produce significant psychological and behavioural consequences, including hopelessness and depression, emotional dysregulation and disengagement, leading to an increased risk of harm to self and others, which may be misinterpreted as enduring risk traits (NHSE, 2024; Roberts & Lawrence, 2026). These effects can compromise the ability to demonstrate reduced risk and are subsequently relied upon to justify continued detention. This can create a self-reinforcing cycle of detention. Accordingly, risk is not assessed in a neutral context; with behaviour potentially reflecting environmental adaptation rather than inherent threat. Current risk assessments are thus confounded by intrinsic environmental and systemic flaws, as well as by the failure to deliver on the practical rehabilitative components of the IPP sentence (Grimshaw, 2022). The consequence of this is that the risk IPP sentences are perceived to present may be more reflective of their specific experience of the criminal justice system and their adaptation to harmful conditions than their intrinsic nature.

## Rationale for Resentencing

From a legal standpoint, the continued detention of IPP prisoners violates the principle of proportionality, given it exceeds what is proportionate to the original offence (Boyron, & Marique, 2021). The indeterminacy of the sentence has resulted in punishment beyond judicially intended limits. Furthermore, the existing system creates barriers to progression (for example sub-optimal access to important offender programmes), places sustained pressure on prisons, probation, and parole systems, and contributes to recall cycles based on reactive and risk-averse decision-making (Lauder, 2025). This generates significant financial and operational burdens without demonstrable improvements in long-term public protection. Current risk assessment frameworks insufficiently account for the impact of long-term institutionalisation, procedural injustice including restricted access to rehabilitative interventions, the chronic uncertainty and stress entailed by the nature and operation of the IPP sentence, and the harsh and often violent prison environment. As a result, behaviours influenced by the custodial environment may be interpreted as indicators of enduring risk, reducing the integrity and reliability of decision-making.

The nature of the IPP sentence undermines agency and motivation by creating opaque and shifting expectations of the system which holds near total authority over them. This acts to reinforce hopelessness and disengagement from the sparse processes for progression that do exist (Favril et al., 2020). These dynamics are exacerbated by the predominant culture of risk aversion which penalises symptoms of system-induced distress. Furthermore, parole processes, rather than acting as neutral evaluators, can function as recurrent stress events and behavioural conditioning mechanisms which reinforce fear and withdrawal (Prison Reform Trust, 2023). In short, the system can act to elicit the very behaviours it then uses to justify continued detention. This can lead to prisoners experiencing a profound sense of procedural injustice which can further corrode adaptive self-agency, engagement and progression (Beijersbergen et al., 2014). Procedural justice concerns the perceived fairness of decision-making processes enacted by those in authority and positive experience of procedural justice is associated with improved psychological outcomes (Bennett et al., 2018; Beijersbergen et al., 2014).

Furthermore, the current IPP framework operates to delay progression through systemic bottlenecks, thereby contributing to institutionalisation, the weakening of family and community ties and increased likelihood of recall to custody due to instability. IPP prisoners are required to demonstrate insight, emotional regulation, and reduced risk to be released on parole (Roberts & Lawrence, 2026). This can often be denied due to inconsistent rehabilitative opportunities, the absence of relational context through which to demonstrate change and a lack of achievable progression criteria (Roberts & Lawrence, 2026). The implication is that the system demands change without providing the conditions sufficient to achieve or evidence this.

To resolve this injustice and better support IPP sentences in their progression towards liberty, a resentencing exercise is required. The continued indeterminate detention and restriction of this cohort, following the abolition of the IPP, constitutes disproportionate punishment and causes unacceptable harm (Harris et al., 2020). Risk assessments are contextually unreliable, the system generates foreseeable psychological harm, and procedural fairness is compromised by opacity and inconsistency (Grimshaw, 2024). In contrast a resentencing review could

re-establish proportionality, align sentencing with current legal standards and incorporate contemporary understanding of risk and rehabilitation. Implementation of a resentencing framework would be expected to improve mental health and engagement among affected individuals and thereby enhance the accuracy and precision of risk assessment, improve reintegration outcomes, reduce prison population pressures, and strengthen public confidence in the justice system. This is not an argument for leniency, but for more reliable, evidence-based public protection, criminal justice and offender care.

## Proposed Resentencing Framework

There should be automatic eligibility for a resentencing review for all extant IPP prisoners, given the systemic and enduring nature of the harm experienced (Grimshaw, 2024). Furthermore, to avoid inequity and remove unnecessary bureaucracy and other barriers, there should be no requirement for prisoner application. The resentencing review process should adopt an individualized, non-adversarial, problem-solving approach, consider both risk and rehabilitative progress, and explicitly account for the impact of custodial conditions. Evidence considered should include current collaboratively conducted contextualized psychological and risk assessments, access to and completion of interventions, evidence of personal development, a review of behavioural history in custody, evidence of engagement (including informal and relational change), together with the existence of pragmatic release planning and community support structures. Each resentencing review case should be contextualised, factoring in environmental embodiment and institutional factors (e.g., offender programme access delays). Resentencing should also be procedurally just; transparent, time-bound thereby avoiding further indeterminacy, with clear decision-making criteria and reasoning. It should also be adaptively public protection-oriented drawing on robust, evidence-based collaborative risk assessment and management plans. Risk, rehabilitation, and behaviour are multi-dimensional and dynamic. A purely legal or purely actuarial approach is insufficient to address the potential risks to public protection.

## Resentencing Committee: Structure

A multidisciplinary panel should be established, comprising:

- A senior judge (chair)
- A forensic or clinical psychologist and psychiatrist
- A probation representative
- A prison system representative
- An independent member  
(e.g., with expertise in rehabilitation, desistance, or lived experience of the IPP sentence)
- Restorative justice specialist (where relevant)

The resentencing committee should operate independently of existing parole structures with a clear statutory mandate and published decision-making criteria. There should be external oversight (for example an inspectorate or review body) to ensure consistency, coherence and fairness. All decisions should provide clear, logical evidence-based reasoning, specify the factors informing and influencing risk assessment, and identify steps required for progression (where applicable). Furthermore, oversight mechanisms should ensure consistency and fairness across cases. Outcomes should include conversion to a determinate sentence, immediate release on licence, conditional release linked to clearly defined actions, and further review within a fixed timeframe. Continuation of indeterminate detention should be exceptional and clearly justified.

## Hearing Process

Therapeutic jurisprudence foregrounds the links between consideration of the impact of the legal system on offenders and how this can either support or undermine adaptive change. A resentencing review is therefore not only justified, but also necessary to ensure that punishment for offenders remains proportionate, risk assessment is contextualized, evidence-based and collaborative, and public protection is genuinely enhanced. To be procedurally just, the hearing process should align with therapeutic jurisprudence and have positive impact, hearings should be non-adversarial, and adopt a practicable problem-solving approach (Wexler, 2013). There should be opportunity for the prisoner to be meaningfully heard and explain their experience, progress and perspective. There needs to be clear, considered communication of how risk is being assessed and interpreted, together with the relative prioritisation of the factors considered.

## Reform of Licence and Recall (Post-Resentencing)

To ensure effectiveness of any reform or revision of the conditions imposed on individuals post resentencing, recall should be limited to cases of evidenced risk of serious harm and not be initiated solely by technical breaches of parole conditions. To protect against avoidable recall, it is important that individuals experience timely graduated responses and relevant support to concerns as they arise. To further guard against the revolving door syndrome of release under licence and recall to prison, it is essential that there are proportionately graded responses including relevant support in response to concerns before recall is initiated. Similarly, there needs to be the provision of pathways back to release after recall. It is further essential that the long-term needs of discharged individuals are identified, and met, including adequate accommodation, access to education, training and employment opportunities and support. Given the high incidence of mental and potentially physical health vulnerabilities within the extant IPP cohort, there needs to be robust (inclusion) health support for as long as needed. It has been recommended that an aftercare offer be introduced to all members of the existing IPP cohort with health or social care needs, akin to the aftercare duty provided under s.117 of the Mental Health Act (1983) (Howard League, 2025)

## Anticipated Benefits

The anticipated benefits are multi-level. For individuals it would hopefully bring relief and a restored sense of hope and motivation. It would lessen the psycho-emotional stress they experience thereby improving mental health and wider well-being. It would thereby promote increased engagement in rehabilitation. At the level of the Criminal Justice System the re-sentencing of the extant IPP cohort would lead to reduced prison population pressure, improved staff morale and reduced burnout. At a wider societal level, there is the potential for improved offender reintegration outcomes with reduced reoffending risk operating through increased psycho-emotional and environmental stability and support augmented by increased legitimacy and trust in the system.

## Conclusion

The continued operation of IPP sentences under an abolished sentencing framework presents a misalignment between sentencing practice, rehabilitative objectives, and public protection goals. It further constitutes a disproportionate, procedurally deficient, and potentially arbitrary deprivation of liberty. The failure to resolve the plight of the extant IPP cohort is a significant moral and systemic failure in which non-contextualised and defensive risk assessment, a paucity of therapeutic jurisprudence and disregard for prisoners' experiences and outcomes dominate. A resentencing mechanism is necessary to restore legality, fairness, and alignment with contemporary sentencing principles. A court or competent authority should mandate the establishment of a resentencing review mechanism, require conversion of indeterminate sentences into determinate frameworks where appropriate and ensure risk assessment is contextualised and evidence-based. Any remedial framework should include judicial oversight, multidisciplinary input, transparent reasoning and time-bound review processes. Without reform, the criminal justice system will continue to manifest a perverse alignment between legal process and human behaviour, and risk continuing to exacerbate the very risks it seeks to prevent.

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