



# No life, no freedom, no future

The experiences of prisoners recalled under the sentence of Imprisonment for Public Protection

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The Prison Reform Trust is an independent UK charity working to create a just, humane and effective penal system. We do this by inquiring into the workings of the system; informing prisoners, staff and the wider public; and by influencing Parliament, government and officials towards reform. The Prison Reform Trust provides the secretariat to the All Party Parliamentary Penal Affairs Group and has an advice and information service for people in prison. Our two main objectives are: reducing unnecessary imprisonment and promoting community solutions to crime, and improving treatment and conditions for prisoners and their families.

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## Foreword

I have no hesitation in describing the continuing aftermath of the ill-starred IPP sentencing regime as the greatest single stain on our criminal justice system. As, moreover, this report demonstrates, it grows ever-wider.

The entire scheme, operating as it did for seven and a half years from April 2005 until its abolition (alas prospectively only) in December 2012, has long since been wholly discredited. A total of 8,711 IPP sentences were passed between 2005 and 2013. This led to a dramatic increase in the total number of people in our prisons serving an indeterminate sentence, rising from nearly 5,600 in 2004 to over 13,700 at its peak in 2012.

Of these 8,711, 1,895 have never been released despite the great majority of them having served well beyond their tariff terms (the terms judged appropriate for their actual wrongdoing). Indeed over 400 of these are still detained, having served ten years or more beyond their tariffs. The growing injustice of their continuing plight – recognised over the years by several Justice Ministers including Kenneth Clarke and Michael Gove – is not, however, the only legacy of this deplorable regime. It is now matched, if not exceeded by the injustices increasingly suffered under the scheme's recall provisions.

In addition to the 1,895 IPP prisoners never yet released, a further 1,357 people serving IPPs were in prison having been recalled to custody in the year ending September 2020, a 13% increase on the previous year. The substantial majority of all these had committed no further offence, their recall being rather for (often minor) non-compliance with release conditions or for mental health reasons. Whether detained under their original sentences or recalled, however, they all now (together with their families) exist in a Kafkaesque world of uncertainty, despair and hopelessness, indefinitely detained unless and until they are able to satisfy the inevitably difficult test of persuading the Parole Board that they can safely be (re)released.

Many are the grievances suffered by IPP prisoners as a group. These include the misfortune of having been sentenced under a regime long since discredited and now abolished. Their frequent inability to access offending behaviour courses, usually a necessary condition for release – one such course, indeed, later being assessed as actually damaging and therefore counter-productive. And above all the lengthy, and always indeterminate, nature of their imprisonment, usually extending well beyond due punishment into what can only be regarded as preventive detention and sometimes, indeed, beyond even the maximum terms otherwise provided for their offending. It is hardly surprising that the incidence of serious self-harming amongst those serving IPP sentences exceeds that amongst any other group of sentenced prisoners.

That then is the general background to this report, a hugely impressive research report on IPPs, focussing in particular upon the great and growing problem of the scheme's recall provisions. The three authors – PRT's head of research and his two expert colleagues – reveal total mastery of the legislation and its operation in practice. Having interviewed in depth not only a number of

recallees but also several prison, probation and Parole Board staff, their report casts a great deal of illuminating fresh light upon the many real problems and injustices of the continuing position. Above all it highlights, discusses and suggests a number of appropriate ways to overcome the scheme's many and various deficiencies.

The case for reform is in truth irresistible and indeed long overdue. In measured and balanced language that I myself would have found difficult to maintain in the face of this continuing scandal, the report carefully and thoroughly exposes the nightmare situation in which still, eight years after the ending of this whole sorry sentencing scheme, over three thousand of our fellow citizens continue to exist, with thousands more now out in the community on an indeterminate licence, ever at risk of recall to yet further incarceration.

We are in a shocking and shaming position and, unpropitious though the present time might appear to be, it is imperative that this compelling report now be widely read, digested and fully acted upon. Our reputation as a just nation demands that this IPP stain be at last eradicated.

Lord Brown of Eaton-Under-Heywood  
Justice of the Supreme Court 2009-2012

# Executive Summary

## The IPP sentence

This report explores the experiences of recall for people serving sentences of Imprisonment for Public Protection (IPP). The IPP was introduced through the Criminal Justice Act 2003 and intended to apply to dangerous people convicted of violent and sexual offences who did not merit a life sentence. People would serve a minimum term in prison (their tariff), during which time they would undertake work to reduce the risk they posed. Once their tariff expired, the Parole Board would review their case. They would only be released when their risk was considered manageable in the community.

People released on an IPP remain subject to recall indefinitely. If they are returned to prison, they must remain there until the Parole Board is satisfied that custody is no longer necessary for public protection. Ten years after their initial release, they can apply to have their licence terminated.<sup>1</sup>

Problems with the sentence emerged. In practice, the IPP was often given to people convicted of low-level offences. The criminal justice system was ill-equipped to deal with the large number of people receiving IPPs. There were insufficient spaces on offending behaviour programmes for people to reduce their risk of reoffending and the Parole Board was over-stretched, meaning people remained in prison long after their tariff expired.

The criteria for the IPP were tightened in 2008, and the sentence was abolished in 2012. However, people sentenced to an IPP continue to face the same release requirements, remain on licence indefinitely, and are subject to indefinite recall.

A total of 8,711 IPP sentences were issued. On 30 September 2020 there were still 1,895 prisoners serving IPPs who had never been released. There remains a growing problem of IPP recall. In September 2020 there were 1,357 people back in prison having previously been released – a 13% rise on the previous year. Those recalled must again convince the Parole Board that they are safe to be re-released. Recalled IPP prisoners who were re-released between July 2019 and June 2020 had spent on average 18 and a quarter months in prison post-recall.<sup>i</sup>

## This study

This research, which was generously supported by The Persula Foundation and Kowitz Family Foundation (UK), had four main objectives:

- To provide an accurate and detailed picture of the number of people on an IPP in custody and on licence
- To gather new data from recalled IPP prisoners to help understand their experiences on licence and in custody, and their high recall rate
- To gain the perspectives of prison and probation staff and Parole Board members about why people on IPPs are being recalled and how they are prepared for re-release
- To make recommendations relevant both to reducing recall and accelerating re-release.

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<sup>1</sup> The Parole Board told us that they are not aware of any individual having exercised their right to apply to have their licence terminated.

HMPPS kindly provided us with access to two relevant data sets. One contained all recalls of people serving an IPP since 2015, and the other detailed the re-releases of 1,140 individuals.

Between April and December 2019, we conducted in-depth interviews with 28 men and three women who had been recalled to prison while serving an IPP. Participants had spent on average four years, 10 months in prison post-tariff expiry before their initial release. The time between their most recent release and latest recall ranged from one month to over six years.

We conducted focus groups with National Probation Service staff and members of the Parole Board, and interviewed staff from Offender Management Units, including offender supervisors,<sup>2</sup> and lawyers with expertise in prison matters.

## Key findings

### Statistical analysis of HMPPS data

Between 2015 and 30 September 2019 a total of 4,095 people serving IPPs were released, 1,760 of whom were subsequently recalled.<sup>3</sup> Several were recalled more than once, with the total incidences of recall amounting to 2,342. Almost two-thirds of recalls listed multiple official reasons, the most common being non-compliance (36%) and further offence/charge (25%).<sup>4</sup>

The second database documented 1,140 individuals who had been recalled and then re-released. For this cohort, the length of time they remained in the community before being recalled again varied. One in ten were returned to prison within one month, while one in five had been out for over two years.

### The interviews: experience of prison pre-release

All 31 participants had been held in prison post-tariff. They cited various reasons: long waits to complete programmes, the slow pace of the Parole Board process, assessments that they continued to pose a risk, and their own problematic behaviour, often brought on by the IPP sentence itself. Being held post-tariff often had negative effects on their wellbeing and mental health, as well as on their families. Many felt ill-equipped for release, lacking work opportunities and being released to hostels, sometimes in locations entirely unknown to them.

### Life on licence

Almost half noted their licence conditions were impractical, or unnecessarily restrictive. Some said their conditions increased their risk of reoffending. Many described inadequate support from, and a lack of trust in, probation officers. A profound fear of recall meant some participants felt unable to be open with probation about their problems. It also led many to social isolation and undermined their wellbeing.

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<sup>2</sup> 'Offender supervisors', or 'prison offender managers' are prison-based staff who support prisoners in completing sentence plans or offending behaviour programmes.

<sup>3</sup> Data correct as of 30 September 2019. Owing to changes in recording systems, January 2015 was the earliest date from which HMPPS was able to provide reliable data. Approximately 2,300 IPPs had been released prior to this date.

<sup>4</sup> The HMPPS dataset listed the following reasons for recall: alcohol, relationships, drugs, failed to keep in touch, fail to reside as required, further offence/charge, non-compliance, travelling outside the UK, breach of exclusion zone, failed home visit, and failed to work as approved.



Participants experienced a wide range of problems in the community. Approximately half reported problems with accommodation, including stresses associated with living in approved premises (AP) or being located far from home. More than half reported drug misuse and/or mental ill-health. Some said problems with relationships or negative peer influences contributed to their recall. Other common challenges were unemployment, financial instability, and the lack of a supportive network.

## **Recall**

Many IPP interviewees suggested that recall decisions were taken too lightly, made without exploring alternatives or sufficient oversight. Most (23/31) of the participants had not been convicted of a subsequent offence when they were recalled. Participants were often recalled for poor behaviour which fell short of illegal activity, and often disputed the facts of their alleged actions, or the fairness of recalling them based on such behaviour. Several Parole Board members expressed the view that some people were recalled unnecessarily for minor issues of compliance, or in response to serious mental ill-health, which should have been treated in hospital.

Several prisoners and professionals suggested there should be a more robust review mechanism for recalls, and fixed-term recalls as an alternative.

Interviewees often suggested that probation officers should have provided more support with tasks like finding work, setting up bank accounts, and accessing mental health services.

Most interviewees took some responsibility for being recalled. Fatalism was a common theme: almost half felt that recall was inevitable.

## **Back in prison**

Prisoners struggled to cope with the indefinite nature of recall and the loss of family relationships they had rebuilt. Recall often cost people their jobs, housing and family support, leaving many feeling that their prospects of successful reintegration had been damaged. The prospect of a never-ending cycle of prison, release, recall, and prison left many hopeless.

Post-recall, prisoners often lacked motivation to engage, distrusting the probation officers who had recalled them and the wider system. They were intensely aware of their dilemma: required to prove they were safe while held in a negative environment rife with drugs and violence.

Many participants reported not knowing what was required of them to gain re-release and some had not been given targets for reducing their risk.

Most interviewees were frustrated by the slow process for re-release, and having no release date, which made it hard to plan for the future. They often lacked faith in the risk assessments that could keep them in prison indefinitely. The fact that the IPP had been abolished made people feel particularly aggrieved.

At its worst, the system: recalled people to indefinite custody for behaviour that appeared to fall well short of the tests set in official guidance;<sup>5</sup> defined needs (e.g. mental health) as risk factors; ignored the impact of the unfairness of the sentence on wellbeing and behaviour; could not provide the necessary support; and provided no purpose to time back in custody or a plan for re-release. Not all IPP prisoners experienced all of these, but they were common enough to reveal a system in need of radical improvement.

## Recommendations

### Good and bad practice

This study identified aspects of the process for people serving IPPs that support or undermine reintegration.

#### In the community

##### Helpful

- Licence conditions being fully explained and understood.
- Continuity of probation officers.
- Meaningful activities like work, volunteering or caring responsibilities that provide positive structure.
- Somebody to speak with openly about problems, without fear of recall.

##### Unhelpful

- Licence conditions that prevent positive aspects of normal life (e.g. family ties and work).
- A lack of financial security (e.g. delays to first payment of benefits).
- Licence conditions being unaccompanied by adequate support.
- A lack of safe accommodation. A fear of recall leading to social isolation and disengagement from probation.

#### Recall decisions

##### Helpful

- Exhausting other options before resorting to recall (e.g. more frequent appointments or curfews).

##### Unhelpful

- A lack of opportunity for people to put their side across to their probation officer before being recalled.
- Decisions to recall based on insufficient evidence, a lack of knowledge of the individual, or hearsay.
- Recalling people rather than enabling them to access necessary services (e.g. mental health care) in the community.

<sup>5</sup> The criteria are discussed on page 34 of this report.

## Recall decisions

### Helpful

- Providing mental health support to deal with the impact of recall.
- Clear sentence plans that enable prisoners to progress towards re-release and feel a sense of control over their futures.
- Facilitating treatment programmes and interventions in the community wherever possible.

### Unhelpful

- Interpreting negative behaviour provoked by recall as evidence of continued or heightened risk.
- A lack of clear targets or structure to work towards re-release.

## Policy changes

Consistently implementing the helpful practices listed above will improve the management of people currently subject to an IPP. However, wholesale changes to the IPP sentence are needed. Our first three recommendations would require legislation.

1. The abolition of the sentence should apply retrospectively. This is likely to require a process of judge-led reviews of individual cases to identify those in which, but for the IPP sentence being available, a discretionary life sentence would have been imposed.
2. There should be a phased programme of releases, with properly resourced preparation, and post release support for all those affected.
3. All IPP prisoners should have a fixed date on which their liability to recall ends.

If the government rejects these changes, we urge them to implement the following steps to facilitate the eventual termination of all IPP sentences.

4. The current requirement that people serving an IPP wait 10 years from their initial release before they can apply to have their licence terminated should be reduced to five years. A review of whether the licence is needed should be automatic, not dependent on the person applying.
5. Once people serving an IPP have passed the five-year point since their initial release, there should be annual reviews to determine whether it remains necessary for them to be on licence.

To prevent the current situation in which people on an IPP licence are at risk of far more severe punishment than their behaviour would otherwise justify, we also recommend the following measures:

6. The test for recall should be that there is an imminent risk of the person committing an offence likely to cause serious harm, and that that risk cannot be managed in the community. Alternative measures should be required for any actions falling short of this threshold, such as arrest or conviction in relation to less serious offending, failure to reside at an agreed address and failure to maintain contact. Such measures might include adjusted reporting requirements, use of electronic tags, and curfews.

7. Where a person has been charged with a further offence, the normal criminal justice processes should apply, with a court considering whether remand in custody is appropriate for the new alleged offence.
8. If a person is convicted of a further offence and sentenced to custody whilst on licence, the court should decide whether they should also be recalled under the provisions of their IPP sentence.
9. If a person is convicted of a further offence, and the court decides to recall them under the provisions of their IPP sentence, the Parole Board should be required to consider release alongside any consideration of discretionary release that attaches to the new sentence (for example an extended determinate sentence). Any review must coincide with the end of the custodial period in a fixed determinate sentence.
10. IPP prisoners who have been recalled, not having received a new custodial sentence and not being re-released 'on the papers' by the Parole Board, should have the right to an oral hearing, if they so wish. They should be informed orally and in writing of their right to a hearing to take place within two months of their request. They should be entitled to free legal representation, and the probation service must attend the hearing to explain their recall decision.
11. If the Parole Board panel upholds the decision to recall, it must set a fixed date for a further review (also at an oral hearing with free legal representation), no longer than 12 months from the date of recall.
12. All recalled prisoners should be entitled to annual reviews of their continued detention at an oral Parole Board hearing with free legal representation.

# Section 1

## Chapter 1: Background

### Introduction

#### The IPP sentence

Sentences of Imprisonment for Public Protection (IPPs) were introduced by the Criminal Justice Act 2003 for offences committed on or after 4 April 2005. They were designed to ensure that dangerous violent and sexual offenders stayed in custody for as long as they presented a risk to society. Under the system, a person who had committed a specified violent or sexual offence would be given an IPP if the offence was not so serious as to merit a life sentence.

People sentenced to an IPP would serve a minimum term in prison (their tariff), during which time they would undertake work to reduce the risk they posed. The tariff signified a punishment proportionate to the offence committed, and any post-tariff detention was a means to incapacitate people who still posed an unacceptable risk to the public. Once they served their tariff, the prisoner's case would be reviewed by the Parole Board. The prisoner would be released only when the Board was satisfied that they were no longer dangerous and could be managed safely in the community. Release is never automatic and prisoners can be detained indefinitely if the Parole Board decides it is not safe to release them.

Once released, people remain subject to an indefinite licence. On licence, probation can initiate recall for breaching licence conditions, concerning behaviour, or reoffending. Those recalled to custody can submit representations to the Parole Board within 28 days, after which a Parole Board member decides whether to instruct re-release, continued imprisonment or to defer to an oral Parole Board hearing. Recalled IPP prisoners can be detained indefinitely, until the Parole Board determines it is safe to re-release them into the community.

People can apply to terminate their licence 10 years after their initial release from prison, irrespective of whether they have been subsequently recalled and re-released, by applying directly to the Parole Board, or via the National Probation Service (NPS). The NPS responsible officer can make contact with the person on licence to suggest making an application, but this is not mandatory. The NPS will produce a report to inform the Parole Board's decision as to whether it is no longer necessary for the protection of the public that the licence should remain in force. The Parole Board can terminate the licence, amend it, or refuse the application. If refused, the licensee can reapply after 12 months. Once the licence has been terminated, all licence conditions are cancelled and cannot be reimposed, and the person is no longer subject to recall.<sup>ii</sup>

The IPP sentence was revised in the Criminal Justice and Immigration Act 2008 (CJIA). Before the CJIA, it was mandatory in certain circumstances to sentence people to an IPP, and people could be given an IPP with a tariff of any length. In one case, someone was given an IPP with a tariff of just 28 days. The CJIA gave judges the discretion not to impose IPP sentences, greatly reduced the number

of ‘specified offences’ for which IPPs could be awarded, and required that IPPs only be given when the person would have received the equivalent of at least a four-year determinate sentence.

A House of Commons Briefing highlights the main criticisms of the IPP sentence:<sup>iii</sup>

- Some less serious offenders, given very short tariffs, have been kept in prison for a long time after these have expired.
- The capacity of offending behaviour programmes was wholly inadequate for the number of people sentenced to an IPP.
- The administrative delays resulted in uncertainty and perceived injustice for prisoners and litigation.
- The rapid increase in the numbers of those on IPPs contributed to prison overcrowding, which in turn exacerbated the problems with providing rehabilitation.

In 2010, Crispin Blunt, the then Prisons Minister, stated that the treatment of IPP prisoners was “not a defensible position”:

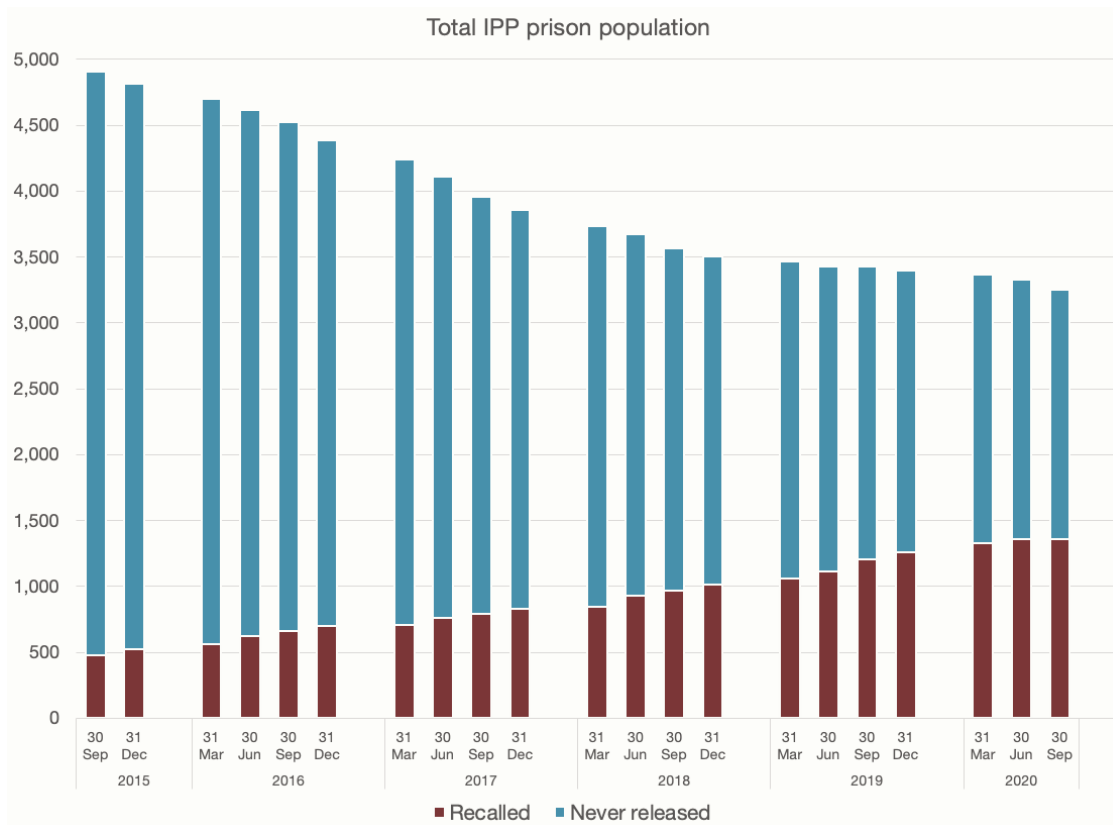
*We inherit a very serious problem with IPP prisoners. We have 6,000 IPP prisoners, well over 2,500 of whom have exceeded their tariff point. Many cannot get on courses because our prisons are wholly overcrowded and unable to address offending behaviour. That is not a defensible position.*<sup>iv</sup>

The Legal Aid Sentencing and Punishment of Offenders Act 2012 abolished the IPP sentence from 3 December 2012. A total of 8,711 IPP sentences were issued by the courts.<sup>6</sup> However, the abolition was not applied retrospectively; no provision was made for sentence conversion or automatic release for people already on the sentence, meaning that those still in prison remained there subject to Parole Board-approved release only.

On 30 September 2020 there were 1,895 prisoners serving IPPs who had never been released.<sup>v</sup> Of these, one hundred and ninety nine had received a tariff of less than two years, but remained in prison 10 years or longer after their tariff had expired.<sup>vi</sup> Up to 31 December 2019, 194 people serving IPPs had died in prison, including 63 recorded as self-inflicted.<sup>vii</sup>

Over the past five years (from 30 September 2015 to 30 September 2020) the number of never-released IPP prisoners has fallen by 57% from 4,431 to 1,895. However, because those in the community remain subject to an indefinite licence, the system faces a growing problem of recalls to custody. Over the past five years the number of recalled IPP prisoners has grown by 184% from 477 to 1,357.<sup>viii</sup>

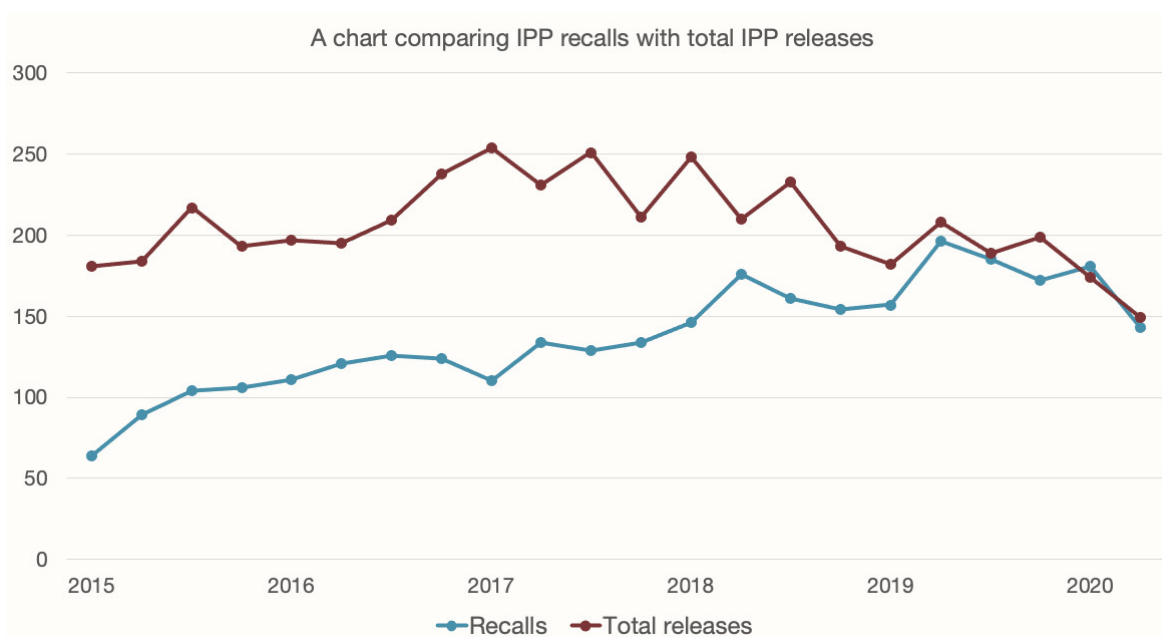
Between 30 June and 30 September 2020 there was a negligible change in the recalled IPP population, reducing from 1,359 to 1,357. This apparent change in trend should be treated with caution, given its occurrence during the Covid-19 pandemic.



Source: Offender management statistics quarterly ending June 2020 and previous editions

Recalled IPP prisoners who were re-released between July 2019 and June 2020 had spent on average 18 and a quarter months in prison post-recall.<sup>ix</sup>

The total number of IPP releases from prison (both initially and as re-release) has been on a steady downward trend since the second quarter of 2017 while the number of recalls of people on IPPs has been climbing during the same period. Between January and March 2020, for the first time, the number of recalls (181) was higher than the total number of releases (174). (The latest figures for April to June 2020 show lower numbers released and recalled, probably due to the Covid-19 pandemic).



Source: Offender management statistics quarterly ending June 2020 and previous editions

Our analysis of these data demonstrates that the “IPP problem” is not diminishing over time. Rather, the indefinite nature of the IPP licence means that it is quite possible that the number of people on IPP sentences in prison remains the same or even increases for the foreseeable future, even though the sentence itself was abolished in 2012.

### **Building on previous research**

Research demonstrates the barriers to release for people serving IPPs, and the frustrations that this can cause. A 2008 report by the Sainsbury Centre for Mental Health discussed the impact of the IPP sentence. In 2010, Jessica Jacobson and Mike Hough examined how the sentence was being applied. In 2012, Paul Addicott reported on the prison experiences of people on IPPs. A 2013 report by the Howard League for Penal Reform highlighted the situation for people who had been given short tariffs. A 2019 report by the Independent Advisory Panel on Deaths in Custody described the impact of the sentence on rates of self-harm and self-inflicted deaths in custody. Also in 2019, the Griffins Society reported on the IPP as experienced by women.<sup>x</sup>

There is, however, a lack of research on how people serving IPPs experience life in the community, why they are recalled to prison at such a high rate, how being recalled affects them, and how they prepare for re-release. We hope that this research will address some of these gaps in knowledge.

This research study was driven by four main objectives:

- To provide an accurate and detailed picture of the numbers of people on an IPP in custody and on licence in the community through official data.
- To gather new data from people who have been recalled while on an IPP which might explain why they are being recalled at a high rate, including the reasons given for their recall, and their experiences while on licence and in custody.
- To gain the perspectives of prison, probation and Parole Board staff about why people on IPPs are being recalled and what is being done to prepare them for re-release.
- To make recommendations relevant both to reducing recall and to accelerating re-release.



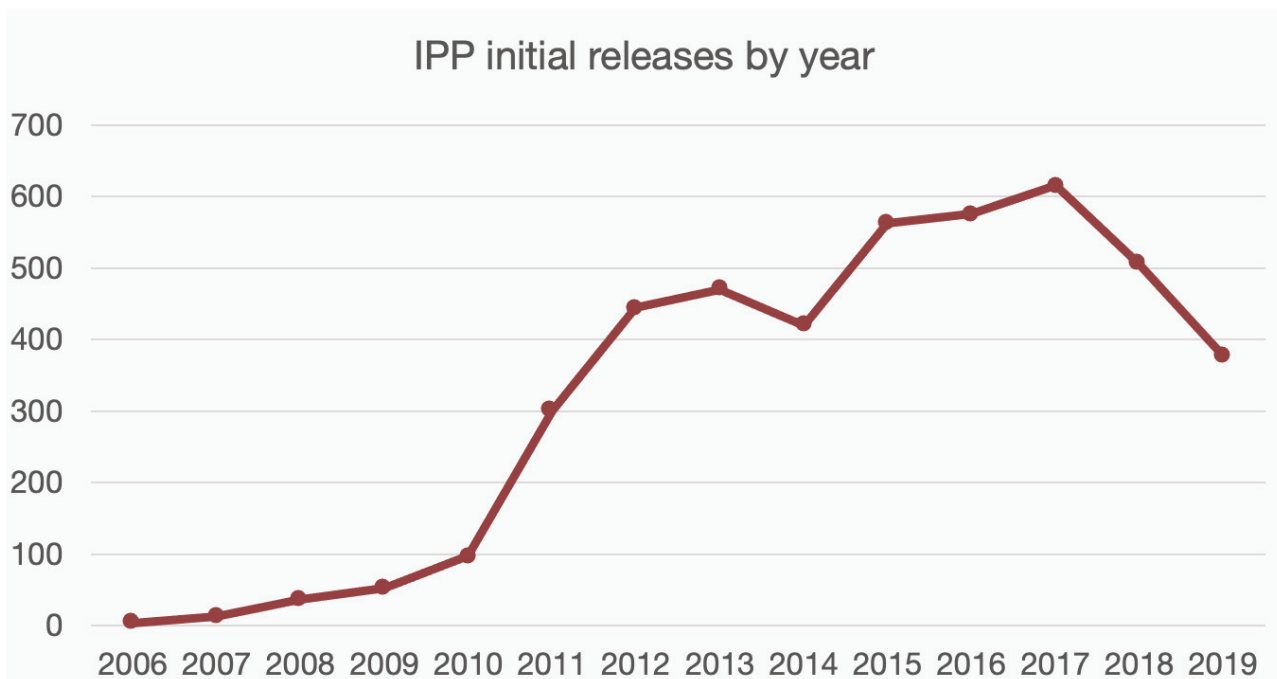
## Chapter 2: What we know about people serving IPPs who have been recalled

The data presented here are based on the best available information, drawing on a detailed, anonymised data set of all IPP prisoners who have been recalled between the 1st of January 2015 and 30th of September 2019.<sup>7</sup> Unfortunately, it was not possible for HMPPS to provide us with a complete list of everyone sentenced to an IPP in order to compare people who have been recalled to the overall IPP cohort. We present a demographic and offending profile of IPP prisoners who have been recalled between 2015 and 30 September 2019, and provide details about their release and recall.

### What is the current status of people serving IPPs?

As we know, a total of 8,711 IPP sentences were passed by the courts, although an unspecified number of individuals were subject to more than one IPP sentence. There were 1,895 IPP prisoners who had never been released as at 30 September 2020. As of 30 September 2020, 94% of IPP prisoners who had never been released had served longer in custody than the tariff set by the sentencing court.<sup>xi</sup> The number of IPP prisoners who have been recalled to custody continues to increase; in the past year the recalled IPP population has grown by 13% (to 1,357).<sup>xii</sup>

The government publishes data on the number of people serving IPPs released from prison in each year.<sup>8</sup> As of 30th June 2020, a total of 4,612 people serving IPPs have been released. As can be seen from the graph below, only a small number of people were released in the first five years after the introduction of the IPP sentence, with numbers increasing sharply from 2011 onwards, before dropping from 2018.



Source: Table 3.1 Offender management statistics quarterly ending December 2019 and previous editions

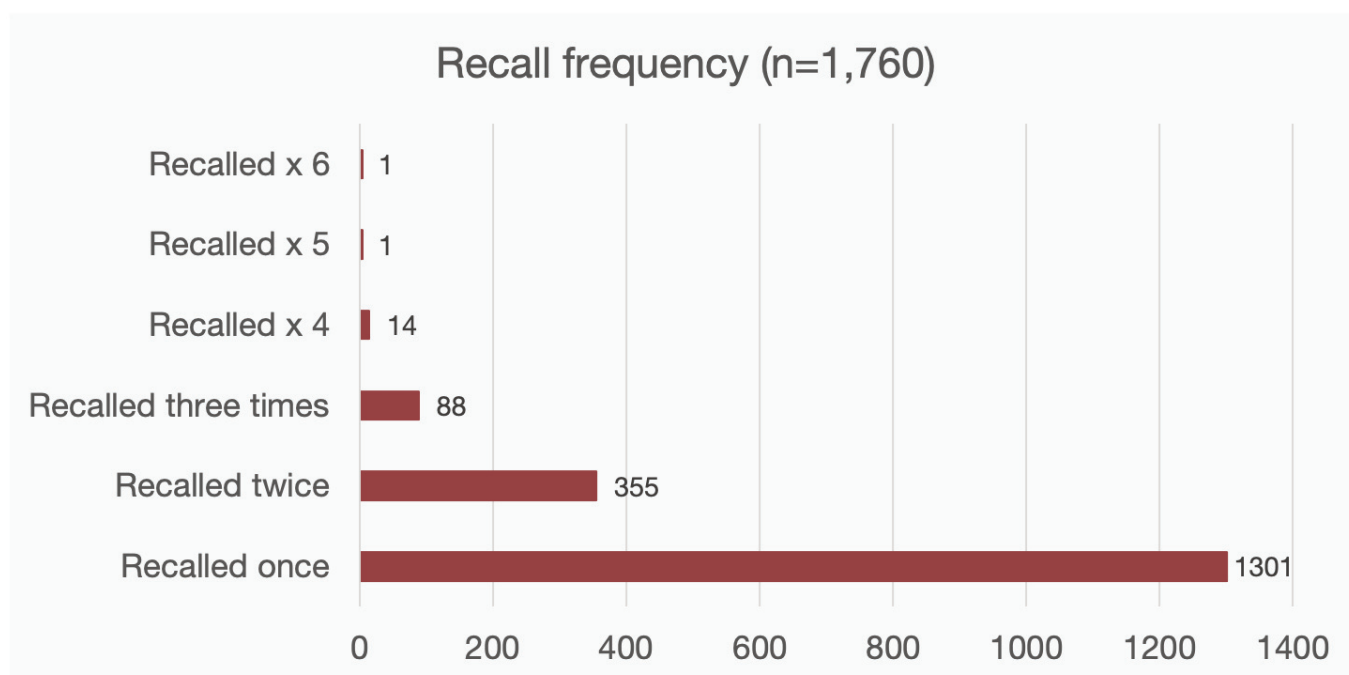
<sup>7</sup> Special thanks go to Her Majesty's Prison and Probation Service for providing us with these data. Data correct as of 30 September 2019. Prison Reform Trust and Russell Webster want to clarify that we take sole responsibility for the analysis of the data and that HMPPS' role was only to provide the core data set.

<sup>8</sup> Please note these data refer only to the first occasion on which an individual is released; people serving IPPs who have been re-released are not counted in the figures.

Between April and June 2020, only 55 people serving IPPs were released from prison for the first time. This is 45% less than the number released between April and June 2019. According to the Ministry of Justice, “this likely reflects the effect of COVID-19 disruption on the normal Parole Board hearing process – which included a decision to suspend all in-person oral hearings”.<sup>xiii</sup>

### The recall population: numbers and demographics

Between January 2015 and 30 September 2019, a total of 1,760 individuals were recalled to prison.<sup>9</sup> While the vast majority of people have been recalled only once in this time period, several have been recalled on more than one occasion, with the total incidences of recall amounting to 2,342:



The next section provides a demographic overview of the IPP prisoners who have been recalled between January 2015 and 30th September 2019.

#### Gender

The vast majority of the IPP offenders recalled were men, with just 38 women (2.2%) recalled. This gender split is similar to that of the overall population made subject to IPPs of whom just 2.7% were women.<sup>10</sup>

#### Age

The age of this cohort on their date of sentence ranged from 15 – 65 years<sup>11</sup> with the average (median age) being 27 years.

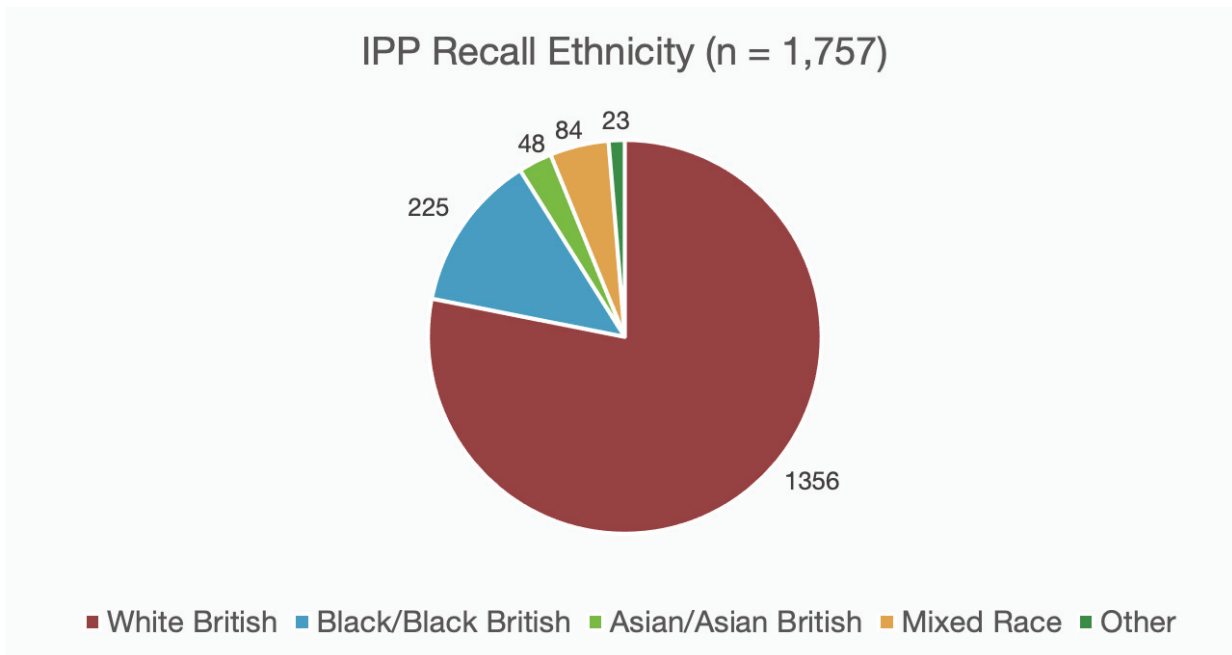
<sup>9</sup> Data correct as of 30 September 2019. Owing to changes in recording systems, January 2015 was the earliest date from which HMPPS was able to provide reliable data. Approximately 2,300 IPPs had been released prior to this date.

<sup>10</sup> On 17 April 2020, just 4.3% of the prison population in England and Wales were women (Ministry of Justice (2020). Population bulletin: weekly 17 April 2020. Prison population figures: 2020). Women are also less likely to commit violent offences; between April 2019 and March 2020, 79% of women received into prison were convicted of a non-violent offence (Ministry of Justice (2020) Table 2.5b. Prison Receptions: January to March 2020. Offender management statistics quarterly: January to March 2020, London: Ministry of Justice). Approximately 99% of people with sexual convictions are male. (Ministry of Justice. (2019). Criminal Justice System statistics quarterly: December 2018).

<sup>11</sup> Technically those aged under 18 years on the commission of their offence were sentenced to DPPs – Detention for Public Protection, the IPP equivalent for those not yet adults.

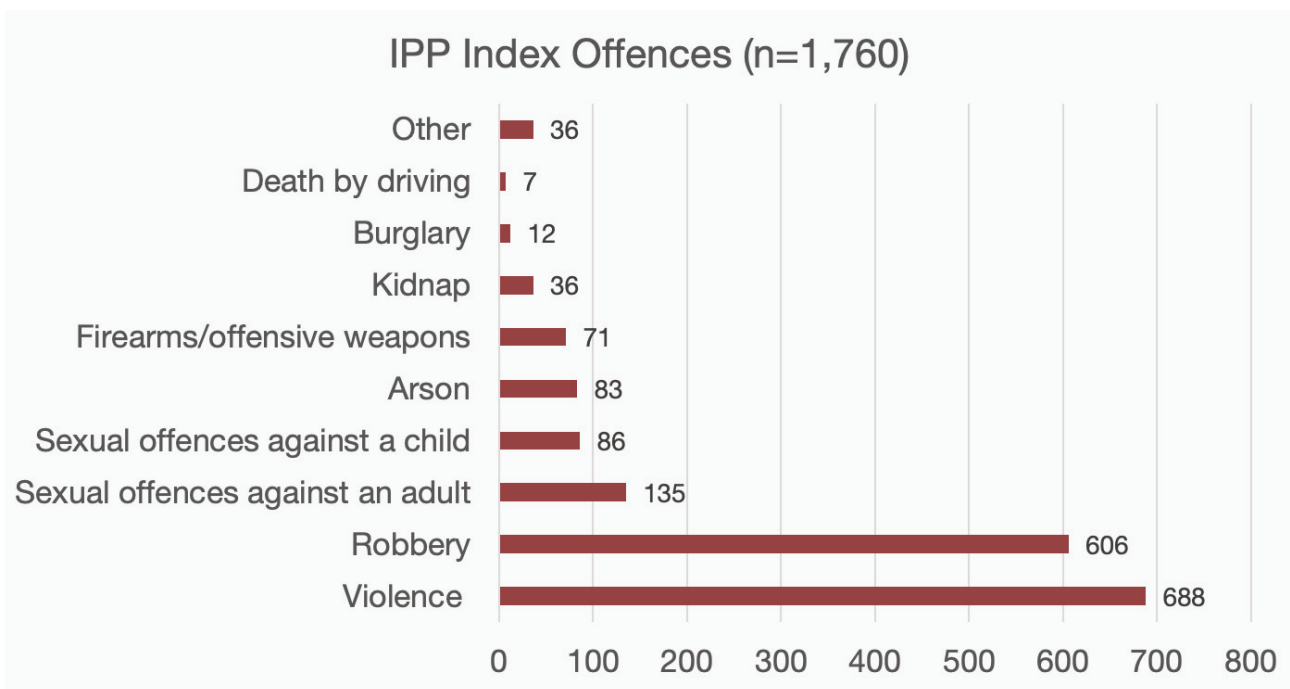
## Ethnicity

Over three quarters (77%) of people recalled were White British, one in eight (12.8%) were Black or Black British, with smaller numbers of individuals recorded as mixed race (4.8%), Asian or Asian British (2.7%), or other (1.3%).<sup>12</sup>



## Index offence

This cohort of people had various types of index offence (the proven offence that led to them receiving an IPP sentence). The most common were offences of violence (39.1%) and robbery (34.4%), which together accounted for almost three quarters (73.5%) of the recall cohort. Full details are given in the charts below:



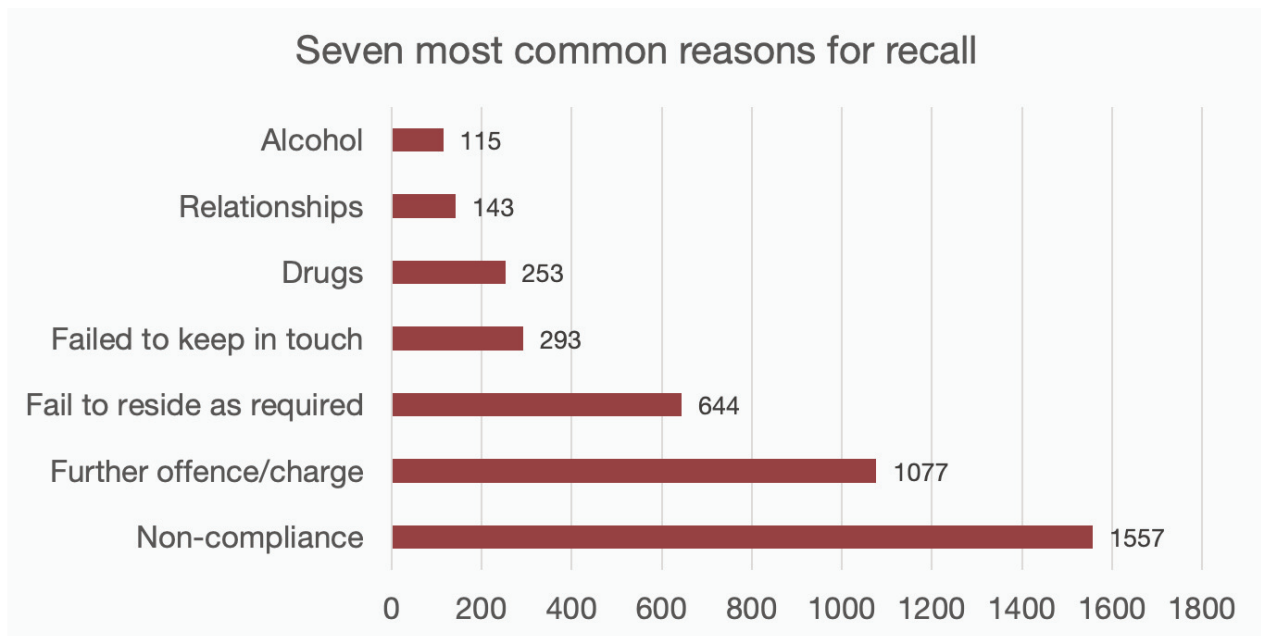
<sup>12</sup> Data were available for 1,757 out of 1,760 IPP recalls, with just three individuals refusing to declare their ethnicity. Unfortunately, because data are not available for the ethnic composition of the whole cohort of people sentenced to IPP, it's not possible to analyse whether there is any racial disparity in the recall rate.

The average minimum tariff of all IPP prisoners who have been recalled between January 2015 and the 30th September 2019 is 2.93 years. This relatively short mean tariff indicates that a significant proportion of this group had committed offences that would otherwise have attracted a determinate sentence of six years or less.

### Reasons for recall

The official reasons for these recalls are available for this entire cohort, and are shown below. It is important to note that in most cases there are multiple reasons for recalls. Almost two thirds (64.4%) of people who were recalled, were recalled for more than one reason. 879 (49.9%) were recalled for two reasons, 201 (11.4%) were recalled for three reasons, 47 (2.7%) for four reasons, and 10 (0.6%) for five reasons. A total of 4,288 reasons were given for these 2,342 recalls.<sup>13</sup>

The most common reasons for recall were: non-compliance (1,557), further offence/charge (1,077) and failure to reside as required (644).



Other less common reasons recorded were:

- Travelling outside the UK 11
- Breach of exclusion zone 8
- Failed home visit 5
- Failed to work as approved 4

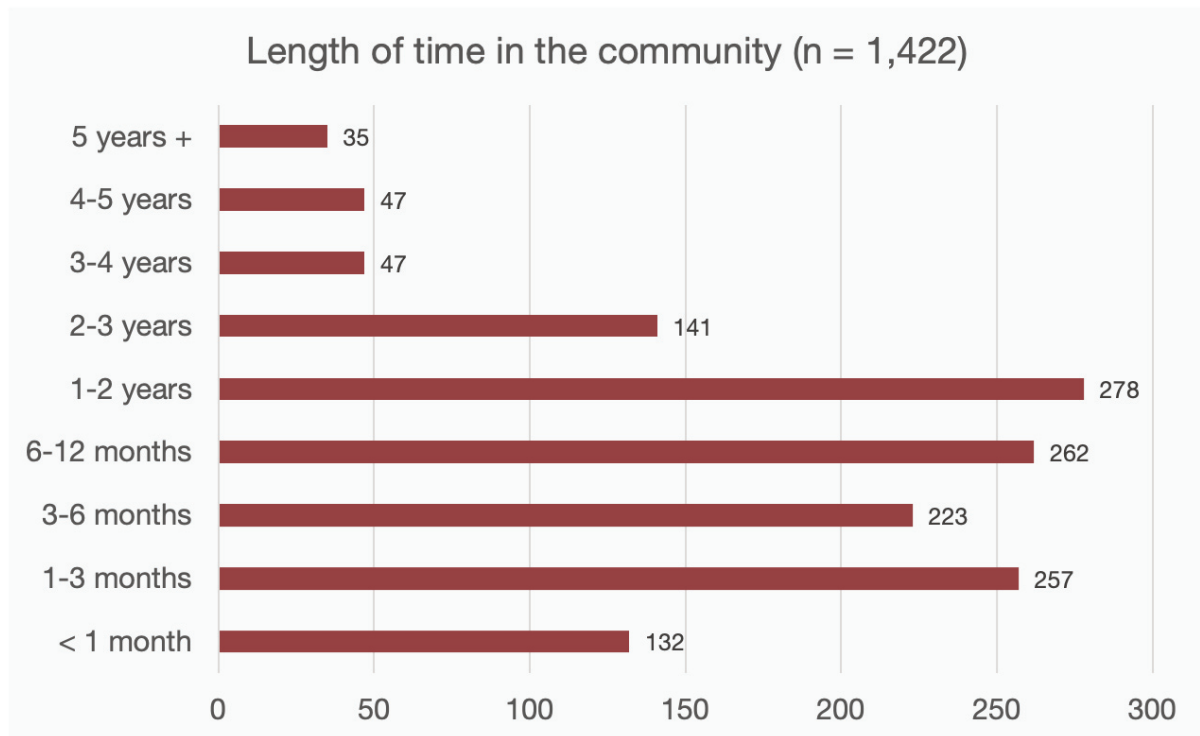
### Time in the community

HMPPS also provided a separate database with details of 1,447 episodes of re-release, relating to 1,140 individuals.<sup>14</sup> From this database it was possible to calculate how long this cohort of IPPs who were re-released remained in the community before being returned to custody. The length of

<sup>13</sup> The category “other” when not specified has been disregarded. “Other” was never recorded as the sole reason for recall.

<sup>14</sup> Data were available for release date and return to custody date for 1,422 episodes of re-release in this dataset, which also only covers re-releases from 2015.

time in the community varied from one day to eight years, five months. As can be seen from the chart below, almost one in ten (9.3%) episodes of re-release lasted less than one month, and over two in five (43%) lasted less than six months. On the other hand, almost one fifth of people were in the community for more than two years before being recalled to prison.



This profile of all those serving IPPs who have been recalled between January 2015 and 30th September 2019 sets the context for this report.



## Chapter 3: Methodology: evidence gathered through this study

This research was based on the triangulation of information from three principal sources:

1. An analysis of official data on IPP prisoners who have been recalled (set out in the previous chapter).
2. The lived experiences of IPP prisoners who have been recalled.
3. The accounts of criminal justice professionals based predominantly in the Parole Board and the prison and probation services.

The research was formally approved by the National Research Committee of Her Majesty's Prison and Probation Service.<sup>15</sup> We provide further details of how we went about gathering this information below.

### Getting the views of prisoners

We interviewed 31 people in prison who had been recalled on an IPP sentence. We conducted interviews between April and December 2019 in one women's prison and six men's prisons.

We sent a letter to people who had been recalled on an IPP, explaining the purpose of the study, limits of confidentiality, and what taking part would entail. Interviews were conducted one-to-one in private, except in one establishment which insisted staff were present.

Interviews covered release preparation, licence supervision, recall decisions, the impact of recall, and the re-release process.

### The profile of our interviewees

This section provides a brief profile of the individuals we interviewed.<sup>16</sup> They were aged between 26 and 60 at the time of interview with an average age of 41. Most (28) were male and three were female. Two thirds described themselves as White British.<sup>17</sup> They had been convicted of a range of different index offences, the most common being wounding (12) and robbery (11).<sup>18</sup> Their average tariff length was three years. They had spent between one and ten years longer than their tariff in prison, with an average of four years, 10 months before being first released, as shown in the chart below.

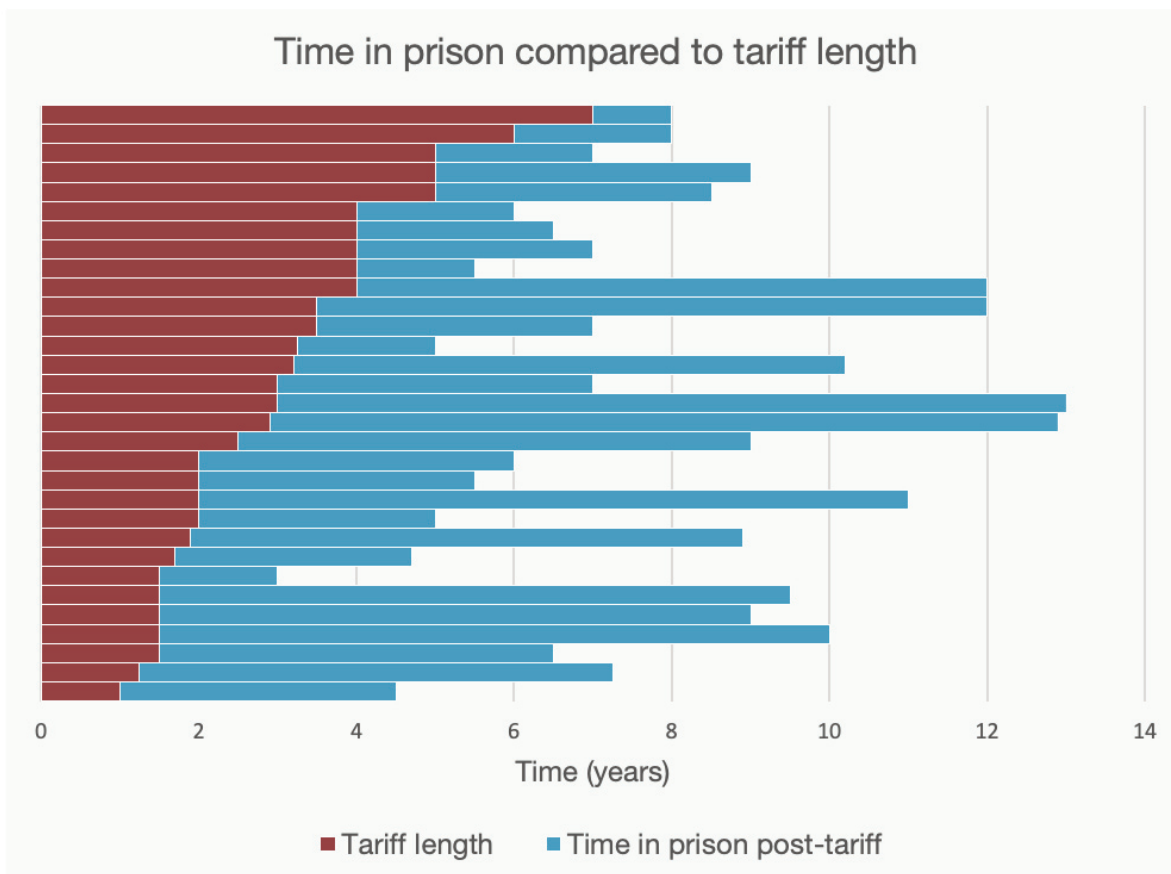
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<sup>15</sup> (Ref: 2018-303).

<sup>16</sup> Demographic data was not collected for one participant.

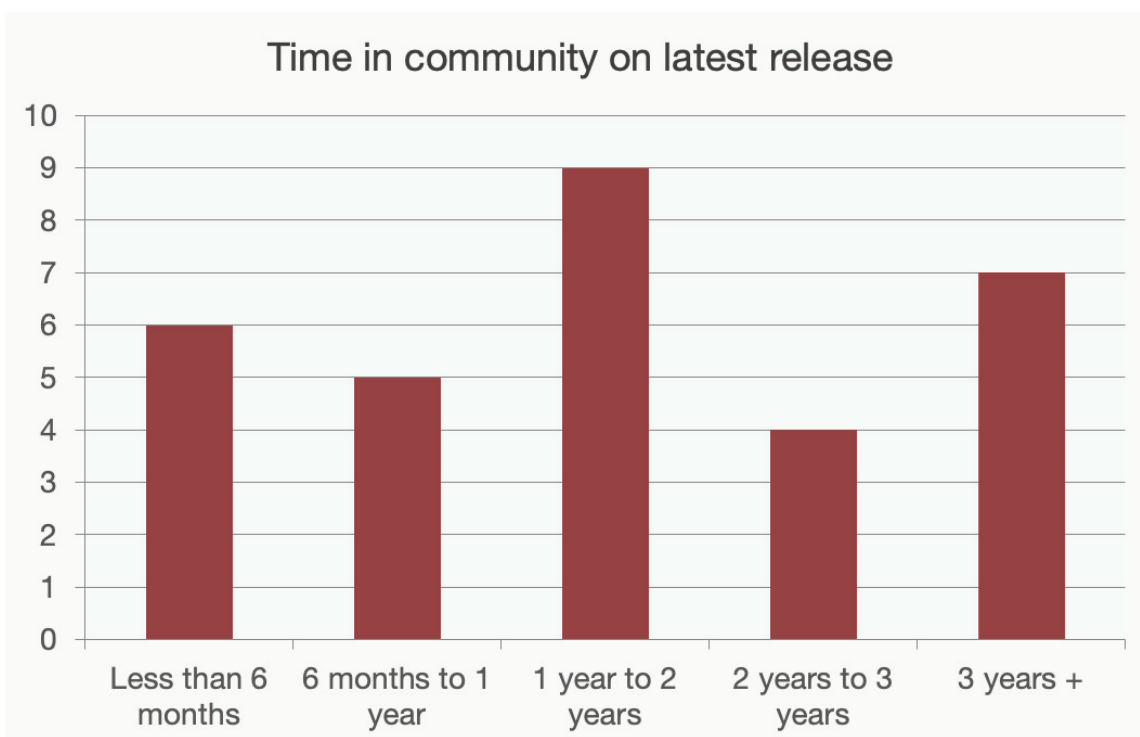
<sup>17</sup> Interviewees described themselves as being from the following ethnic backgrounds: Black British (2); Black Caribbean (2); Mixed: White/Black Caribbean (2); Mixed other (1); White British (20); White British (half Irish) (1); White Scottish (1); White other (1)

<sup>18</sup> Armed robbery (1) Arson (2) Assault (1) Attempted robbery (1) Blackmail (1) Burglary (2) Criminal damage (1) GBH [section not specified] (3) Kidnap (2) Manslaughter (1) Possession of firearms (1) Possession and distribution of illegal images (1) Robbery (9) Section 18 wounding (7) Section 20 wounding (2) Sexual offences against children under 13 (1) Sexual grooming (1) Threat to Kill (1) Violence (1). There are more than 31 offences listed because some interviewees stated more than one offence.



All 31 of our interviewees had been recalled to prison after being released. Most (19) had been recalled once, nine individuals had been recalled twice, two people had been recalled three times and one person had been recalled on four occasions.

They had spent between one and 75 months in the community before their current recall, with an average time on release of 21 months, as shown in the chart below.





Participants had spent between two months and six years back in custody at the time of their interview, with an average of seven months.<sup>19</sup>

When asked what reason they were given for their recall, they reported a range:<sup>20</sup> non-compliance (14), further charge (11), failed to reside “at an agreed address” (6), failed to keep in touch (2) or drugs/alcohol (2).

## **Getting the views of professionals**

We interviewed a small number of criminal justice professionals, including staff from various Offender Management Units (OMUs), and lawyers with expertise in prison law. These discussions shed light on how they viewed the IPP sentence, and the systems of recall and re-release.

## **Getting the views of probation service staff**

HMPPS were extremely helpful in enabling us to assemble a focus group of National Probation Service staff with extensive experience of working with released IPP prisoners. The focus group was comprised of three senior probation officers, three offender managers and an Assistant Chief Probation Officer. The focus group discussion explored the following key issues:

- Whether offender managers supervised people serving IPPs differently to other people on licence.
- The level of contact that offender managers had with IPP prisoners prior to their release.
- The range and appropriateness of licence conditions for people serving IPPs.
- The challenges of risk assessment for this cohort.
- The recall decision-making process.
- The re-release decision-making process for those who have been recalled.
- Inter-agency communication around release and recall decisions.
- The termination of the IPP sentence.
- Overall views and suggestions for improving the supervision and support of people serving IPPs.

## **Getting the views of Parole Board members**

The Parole Board was extremely generous in the time and support it provided to this research study. We provided the Board with information about the study, which they communicated to all Parole Board members, inviting their participation in a focus group.

Nine Parole Board members, in addition to the Parole Board’s head of policy, attended the focus group. The focus group discussion explored:

- Members’ perceptions on whether there are particular pressures and/or considerations when reviewing parole for people serving IPPs.

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<sup>19</sup> The median is the most appropriate average to use, given that five interviewees had been in prison for three years or longer since their recall, skewing the data. Three of these interviewees had received prison sentences for further charges. Two had not received further charges, yet were still in prison three years post-recall.

<sup>20</sup> These are interviewees’ responses when asked what reasons they were given for being recalled. Some cited more than one reason. We have not seen their official recall documents.

- A discussion on how (if at all) parole reviews differ for those being considered for re-release.
- Members' expectations of what people serving IPPs themselves, and prison/probation authorities, will do to prepare for re-release.
- The effectiveness of the communication between the IPP prisoner, Parole Board, prison and probation systems.
- Overall views and suggestions for future reviews of people subject to an IPP.

## Section 2

The next four chapters follow the course of a person serving an IPP, covering:

- Their prison experience, before release
- Life in the community under supervision
- Being recalled
- Their experiences back in prison, leading up to re-release.

### Chapter 4: The experience of imprisonment post-tariff

In this section we explore why people were held in prison so long after their tariff expired. We then discuss the impact that this had on the prisoners and their families and friends.

Before sharing our findings, it may be helpful to state the test by which Parole Board members decide on whether to recommend release:

*The Parole Board must not direct release unless it is satisfied that it is no longer necessary for the protection of the public that the offender should be confined in prison.*

#### Why people were held in custody after their tariff dates

As we reported above, the interviewees served an average of four years, 10 months beyond their tariff before being released for the first time:

*The government didn't know what they were doing with this sentence. The first time I was released was four and a half years later, on a 13-month tariff. Judge said, 'In normal circumstances I would have given you three years.' My nan heard 'one year IPP'. My solicitor said, 'He'll be out in 18 months.' My family were going, 'Why are you not out? They can't give you a 13-month sentence and keep you in there forever!'... I served four years straight.*

The interviewees offered four main explanations for being held long after their tariff:

1. Waiting times to complete programmes
2. The pace of the Parole Board process
3. Assessments that they continued to pose a risk
4. Their own behaviour.

#### Waiting times to complete programmes

People sentenced to an IPP were almost invariably required to complete offending behaviour programmes to show a reduction in risk. But as Her Majesty's Chief Inspector of Prisons highlighted in 2016, there were significant, and sometimes insurmountable, barriers to accessing these courses.<sup>xiv</sup>

Around a third of our interviewees described how delays in accessing programmes kept them in prison past their tariff dates:

*When they assessed me, they said I had to do quite a lot of courses. There's suitability, waiting list, periods of reflection – you can't go straight from one into the next.*

*Some of the courses was a five-year waiting list. There was people doing a five month IPP and had to wait three and a half years for courses.*

*At the start I was told I had to do the Healthy Relationships Programme. One prison sent me to another one, which didn't have the programme. I was stuck there two or three years. Every time I went for parole, they said, 'You didn't do the course.' So I was sent to another jail and meant to do the course. They closed that prison and I got moved to another prison. I did the course in 2014. [Seven years after sentencing.] It was a good course.*

The criminal justice professionals that we interviewed confirmed that people serving IPP sentences faced difficulties in accessing programmes, corroborating a large body of previous research.<sup>xv</sup> An interviewee with experience of IPP risk assessments suggested that for post-tariff prisoners, further treatment should be accessed in the community, where possible:

*We should consider the justice element and whether we can support [them] in the community... We don't think of it in terms of whether it's just or unjust, we just think of it in terms of 'how risky do we think this person is?'*

### **The pace of the Parole Board process**

A second theme was that the Parole Board schedule delayed releases. If release was rejected, the prisoner would normally be required to wait at least a year before re-applying.<sup>21</sup>

The prisoners we spoke to reported contradictory messages from the Parole Board about the completion of programmes as well as scheduling problems:

*I went on the SOTP [Sex Offender Treatment Programme] course at the earliest opportunity... I'd completed it less than a year into a two and a half year tariff. So, I basically sat there and twiddled my thumbs cos there was no further work recommended. I sat my parole. Nobody supported my release and I was given a two-year knockback, on the grounds that it was 18 months since I'd done the course, so I needed some refresher work... Came up to parole time, I'd completed the course, went to my parole hearing requesting release, but got told that cos of the time I'd spent in custody, I'd need to do some rehabilitative time in D Cat [an open prison]. So I got my D Cat status and went to Leyhill. Very shortly after I arrived at*

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<sup>21</sup> The legal requirements are that all indeterminate sentence prisoners must have their continued detention reviewed periodically by a court-like body, and (in England and Wales) this must not be more than two years. If the Parole Board denies release, the Board has no further role in the case until it is referred for its next review by the Secretary of State for Justice. The date of the next review is set by the Public Protection Casework Section (PPCS), who take into consideration the circumstances of the case. IPP prisoners could therefore wait longer than 12 months for their next review. In some circumstances a prisoner can, via their offender manager, seek an early review, and submit a request to PPCS.

*Leyhill I had a parole hearing. They said, 'No we're not releasing you, you've not been here long enough'.*

*My first parole [hearing] was one year late because of the backlog. I went from here [a closed prison] to open conditions. I was there 15 months. Then they shipped me to a closed prison. So my parole hearing was cancelled.*

Previous research shows that the Parole Board lacked the resources to cope with the quantity of people serving IPPs, often resulting in long waits and postponed hearings.<sup>xvi</sup> Some Parole Board members voiced frustration at an assumption that people needed time in prison after completing courses to 'consolidate' their learning.

### **Continuing risk**

Broadly, to show a Parole Board panel that public protection concerns can be met when a person is released entails two aspects: a reduction in the person's risk level, and plans for managing them in the community. (The latter is the basis of licence conditions, which we discuss in the next chapter.)

Around a third of interviewees suggested that they were held in prison post-tariff due to assessments of the risk they posed.

*They said the anti-depressants I was on were too serious for me to be in open conditions.*

*I abided by the rules and done everything they wanted me to, and they kept making up excuses for knocking me back. Previous convictions, positive reports: 'You're lying and manipulating cos you want to get out of jail, that's why you've got no negatives' [negative comments from staff]. Courses: 'Oh you were lying on the courses to manipulate us.' The lawyer said in the coursework there's no evidence [of him lying]. It wasn't fair at all.*

The probation staff we consulted agreed that assessments of risk can differ regionally and from one offender manager to another. They also acknowledged that probation staff might classify borderline cases as higher risk in order to secure access to more resources and better support for IPP prisoners upon their release:

*If they are medium, you won't get them an AP place, so in some ways it's better for them to be high risk.*

For their part, Parole Board members observed that the turnover of offender managers often resulted in changes in risk assessment. One Parole Board member described a case in which the same individual had been assessed by four different offender managers, each deciding on a different level of risk of harm.

## Behaviour

Around one in six respondents said that their own behaviour had delayed their release.

*I was messing about, taking drugs, getting involved in fights, assaults on staff, taking the blame for people who were involved in drugs. I think because I was hit hard by IPP. I saw it said, 'Licence: 99 years'...even though it was a small tariff, I knew it weren't gonna go right. I've done 13 years, my [tariff] was under two.*

An offender supervisor<sup>22</sup> agreed that the IPP sentence itself can cause behaviour that hinders chances of release:

*There seems to be a bit of a cycle for them in their sentence, and their behaviour over time changes because of frustration and lack of hope... It causes them to have negative behaviour... At the Parole Board they say, 'you've had an adjudication, we're not going to release you'.*

Later in the report we discuss in more detail how feelings of futility and frustration lead many to disengage.

## The impact of being held over tariff on the person and their loved ones

Interviewees described the impact of being held in prison beyond their tariff. Some explicitly explained how their wellbeing had been harmed:

*Stress...very stressful, withdrawn...just not having no light at the end. I just went in myself. I think I'm suffering from PTSD to tell you the truth.*

*You start to lose a bit of hope. . . . You're not allowed to have bad days. If you have a bad day, that's you finished. You might as well add another year. The system doesn't allow for that.*

*It really affected me, I started slipping under with my mental health, I started self-harming really bad. They transferred me to a medium secure unit for five and a half, six years. They got me on the right medication. Not knowing when I was going to get out and that. Anxiety levels can be high and anxiety can bring aggression.*

About a quarter of the respondents reported feeling fatalistic about their indefinite imprisonment:

*It is what it is, get on with it, what's the point in feeling bad, it ain't gonna change nothing is it?*

*The IPP sentence is not really a sentence – it's a psychological thing. You never know when you're getting out. That's a lot playing on your mind. There is not an IPP who hasn't been affected. Mentally, you just give up.*

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<sup>22</sup> 'Offender supervisors', or 'prison offender managers' are prison-based staff who support prisoners in completing sentence plans or offending behaviour programmes.

This corroborates previous research findings that the indeterminacy of the IPP sentence can make prisoners feel hopeless that they will ever be released.<sup>xvii</sup>

Interviewees often mentioned the negative impact of their post-tariff detention on their families, a reminder that the pains of imprisonment extend beyond the person in prison:

*When a few years pass you just get used to it. I kind of just accepted it. It's more my family and that, and my girlfriend, it affects them more than it affects me. It's the family really that don't understand it, I kind of get it.*

*My wife really struggled with why I wasn't being released: 'You must be not doing the courses, or fighting'. This stressed her and stressed me to the point where I did hang myself. I was totally lost. An officer happened to walk past my door and cut me down. They revived me.*

Annison and Straub's recent study of the impact of IPPs on families found that alongside the emotional strain, relatives had become case workers on behalf of the prisoner, always ready to present and explain the individual's case files in painstaking detail.<sup>xviii</sup>

## **Preparedness for release**

Preparation for release, or a lack thereof, might determine the likelihood of a person succeeding in the community, or being recalled. More than half of interviewees gave examples of help they received prior to release:

*D Cat helped, coming off a long time inside. I had town visits, I worked in a charity shop. Taking my daughter out to the park was rebuilding that relationship. I got work. The prison cleared it.*

*The thing for me was getting into work. I qualified as a telescopic forklift driver, so when I got out, I walked straight into a job.*

Others described a lack of preparation regarding employment or social support.

*I was made to say I was prepared, but actually I wasn't prepared, no. You've got to put on an act like everything's all hunky dory to get out – I had nowhere to live, no job, stuck in a hostel miles from home. Both times I got released I had a positive mindset but you're up against it. There's a lot of pressure, there's no agencies that help you with the housing.*

*I got released off the wing. I'd had no home visits, no town visits, no nothing. They should have offered people more help, especially on this sentence. What lifers are entitled to, we don't get. They should have given me town visits. I was dumped out there, in a new town, where I didn't know a soul.*

*I did [feel prepared] but I wasn't, but I only found that out after being out for a certain amount of time. I was institutionalised...it affects you badly.*

This participant had spent 11 years in prison and secure units before his first release, on a two year tariff.

The Parole Board members also expressed concern about a lack of support, in particular, with accommodation. Several felt that the support which was offered was too short-term and insufficient for people who had little experience of living as independent adults. Some regions, Humberside for example, were judged to provide much better support than others.



## Chapter 5: Life in the community on release

This chapter focuses on life under supervision, in the community. After people on an IPP are released, they are subject to a range of licence conditions and liable to recall indefinitely.<sup>23</sup> First, we discuss licence conditions, then we turn to the problems that people serving IPPs encountered while in the community.

### Licence conditions

A central component of post-release supervision, and therefore also of a decision to recall, are the licence conditions a person is expected to meet. There are standard conditions, with others added to cover individual risk factors.

The Ministry of Justice sets out the purposes of licence conditions:

*The aim of a period on licence is to protect the public, to prevent re-offending, and to secure the successful reintegration of the individual into the community. They are not a form of punishment and must be proportionate, reasonable and necessary.<sup>xix</sup>*

There is a potential that setting too many restrictive licence conditions might make it difficult for the person to comply with them all and still achieve a reasonable quality of life. Additionally, some conditions require ongoing support (for example, an individual required to abstain from alcohol may need access to treatment).

A probation officer from our focus group mentioned the presumption that more restrictive conditions would persuade Parole Board members to direct release:

*I try to give them a load of conditions to get them released... A really robust risk management plan.*

Imposing stringent licence conditions might help people serving IPPs to gain release. However, they might also increase the chances of being recalled for breaching their licence conditions.

This research gathered evidence on what IPP licence conditions meant for the people serving this sentence. Recalled IPP prisoners expressed a range of views on licence conditions, describing them as:

- Impractical
- Contentious, vague or arbitrary
- Beneficial, because they provided structure and
- Counter-productive because they increased risks.

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<sup>23</sup> People serving IPPs for non-sexual offences may apply to have their probation supervision suspended after four years from their initial release. All people serving IPPs can apply to have their licence removed after a period of 10 years after their original release. The probation officers in our focus group were unsure of the length of time that people had to wait before they could apply for their licence to be removed – some believed it to be four years. Furthermore, some probation officers incorrectly assumed that if somebody was recalled to prison, the ten-year period before which they could apply to remove their licence would start again on their re-release. The Parole Board told us that they are not aware of any individual having exercised their right to apply for their licence to be terminated. Only a small number of people would have been in a position to do so: 105 IPP prisoners had been released by the end of 2009, making them eligible by the end of 2019 to appeal for their licence to be revoked. (Ministry of Justice, 2010, Offender Management Caseload Statistics 2009).

## Impractical licence conditions

Almost half of the respondents told us that their licence conditions made it difficult to find work and/or maintain family ties:

*In the D Cat I had a job. But they wouldn't let me stay in that area. I had to go back to Manchester. My probation officer insisted I leave my full-time job. I became unemployed because I had to go return to Manchester.<sup>24</sup>*

*When I first got released, my family's home wasn't in it, but six weeks later my exclusion zone got extended. My dad gave me lifts, I had a designated route with probation, but cos my dad had a stroke he's become fragile, forgetful. So there's a couple of times where he didn't remember.*

The Ministry of Justice states that one aim of licence conditions is to support reintegration. However, several prisoners described how licence conditions created obstacles to stable employment and maintaining family ties, both of which are important enablers of desistance from crime.

Some interviewees said that their licence conditions failed to take account of their personal needs. For example, a woman with mental and physical health problems found it difficult to attend probation meetings in person:

*I can't get on a bus, I'd have a panic attack, but they don't care, I've got to get to that appointment. It was too far from my sister's for me. I've got an issue with my walking... It was at least a 30 minute walk from my sister's; I can't even walk 10 minutes... They knew about my illnesses, she knows about my anxiety and depression, she knows my mobility's bad. Just do a telephone call.*

## Contentious, vague or arbitrary licence conditions

Almost half of our interviewees disputed certain licence conditions, viewing them as unrelated to their offending or too restrictive:

*Too strict. I come out of the hostel nine a.m. I had to sign back in at three. Sign in again at six. And then back in to stay at nine.*

*I'm on a licence forever, but I've got to stay at one address. It's unreasonable that you've got to inform probation every time you want to stay somewhere for a night. They should not get the control to say that.*

While most interviewees said they understood the terms of their licence conditions, others said they lacked clarity, which may have contributed to their recall:

*I had to declare all developing relationships. On the day I was released the officer explained what each and every one meant. The relationships, he never once mentioned friendships. And that's one of the reasons I'm back in. The officer told me it only meant boyfriend,*

*girlfriend, civil partner or married. During the time I was out of prison my probation officer never mentioned it neither. I've asked 20 to 25 officers since I've been here, 'Did you know it meant friendship as well?' They said, 'No, it doesn't'. But I said, 'It does, that's what probation says'... [Probation] never explained it to me in detail. We never sat down and went through the whole lot. I guess she presumed, 'he must understand them'. The way my Asperger's affects me is I do what I'm told down to the word. I do everything literally.*

People serving an IPP are particularly vulnerable to ambiguity in licence conditions, as the impact of a recall is so profound. The threat of recall, without specifying what behaviour is prohibited, imposes an unreasonable burden.

Some interviewees were frustrated by changes to their licence conditions, often due to the replacement of their probation officer:

*My mum lives away from where my hostel was. I weren't allowed to go see her... They thought if I visited her, I could go to where I was banned from. My previous probation allowed it.*

*She started adding more licence conditions when I was out, which I thought was wrong. I thought they were set by the Parole Board.*

### **Beneficial licence conditions**

Seven interviewees said that their licence conditions provided a helpful structure:

*They was trying to help me because they could see how I messed up in the past.*

*Not to go back to my home area where every single one of my family were. I understood why that was, that's where my criminal history was.*

*I wasn't allowed to drink in public premises... I understood. Every time I've come to prison, it has been alcohol-related.*

### **Licence conditions which increase risk**

Several interviewees suggested that licence conditions or requirements from their probation officers actually increased their risk of reoffending, and sometimes ultimately contributed to their recall:

*I got my own property... It was too far from my sister's... My anxiety and depression got bad... I was used to looking after four children. I had nothing to fill my time and I felt I got pushed into that. Probation pushed me to stand on my own two feet and it failed. She was trying to say that I relied on my sister too much... I'm back at square one again. I was doing really well.*

*One night in the hostel, I heard screaming. I opened the door, and there was a bloke getting done with a hammer. That shook me... I were the only lifer – the rest were smoking crack, spice. The staff don't care... I lost stuff in the laundry there. I had my phone stolen. And they were always begging off me. You step outside and they are on you: 'Give us a smoke.' 'Let me use your phone to score.' 'Can I have some drugs?' I'm surprised I lasted as long as I did... Why put someone with drug problems in a drugs den?... I started self-isolating. To befriend any of them would have been a risk factor for me. You have to wait six weeks to get social [benefits]. Point me in the right direction, and I could do it. But there was no support. The world had changed and I wasn't helped to get my ID, a bank account, a job. After five weeks, the energy had sapped out of me... I dreaded going back to the hostel... The night I stayed away, by then I didn't care if I were recalled or not... I got recalled straightaway.*

The offender managers we spoke to tended to feel that licence conditions were appropriate and proportionate. However, licence conditions alone are not sufficient to manage risk, especially if they depend on the person receiving support which is, or becomes, unavailable. The offender managers also commented that carefully developed support packages could sometimes not be delivered. An example was when a vacancy in a local AP could not be sourced upon release and the person had to be allocated an AP in a different area. This effectively made the support package unavailable since there had been no planning or co-ordination with services local to the area where the person was actually released.

## **Common problems in the community**

During the interviews, we asked an open question:

*Please describe the time between your release from prison and being recalled to custody. What were the main things that happened from the time you first reported to probation until you were recalled?*

The purpose was to give the person a chance to tell their story, without imposing our ideas about what might have contributed to the recall decision. Analysis of the narratives brought to light the problems people encountered while under supervision.

We will discuss the most common problems below. For every individual, situations became complicated, as difficulties that had appeared early on were amplified by others. For example, homelessness and unemployment could trigger a return to drug misuse, then further offending, contact with the police, and a recall. When we discuss discrete factors, it is vital to bear this amplification in mind.

Here, then, are three narratives of sequences leading to recall:

*I went straight to the hostel. Been there before, know what to expect. It's a little way from home. I was looking for work. All I was finding was night work, but the hostel wouldn't let me work them hours. I was applying for absolutely everything... [Then] I was working with my brother's pal. He's given some lad a lift. This lad has tried pinching alcohol from Aldi's. I*

*was implicated in a theft. [They said] I've walked in to basically assist him. I got arrested for theft... Probation found it very concerning that I was with a criminal associate. I can't foresee the future. I don't know what other peoples' intentions are. I was in the police station and the hostel recalled me for not being in the hostel.*

29-year-old White British man. Served two years over a five-year tariff.-Recalled twice. Spent one year in the community before his first recall. Spent two months in the community before current recall.

*I was working on and off as a joiner. I've split up with my girlfriend, stopped working. I rented my mate's attic, but that weren't approved by probation, but it was that or a park bench. They said, 'You'll have to be there.' I ended up going doctors, got diagnosed with depression. I ended up sat about, drinking with my mate. After that, I was arguing quite a lot with my ex-partner. I ended up moving back to my dad's, got another job, but I was still suffering depression. Probation weren't happy with that address cos I'd been recalled from there. Ended up losing that job; I've ended up arguing with my Mrs. It was a domestic with my ex-Mrs... She's hit me, I hit her back and she's phoned the police. Police came a couple of days after. I knew they were coming. Straight recall back to prison.*

34-year-old White British man. Served two years over a four-year tariff. Spent one year in the community before being recalled.

*I was released to an AP. It was fine, I didn't have no problems.... Two days after leaving the hostel I got a job. A self-employed plasterer was willing to give me a chance as a labourer. It suited me well... [But I started using drugs again.]... I rang my probation and said, 'I need out of here man, cos it's going downhill. I need back in an AP.' .... They put me back in an AP, but they could only find me one for a week. It was in a whole new area, and it was only for a week so I didn't know where I was going next. .... When the week passed, I was directed to Sheffield. Probation said, 'Maybe that'll give you that link for the council to help you.' They couldn't do nothing for me. I was homeless for three days. I was directed to go back to Derby. I was just getting moved left, right and centre. So I go back, and for about five or six weeks I was homeless. They excluded me from where my family live, cos I'd had hiccups with my family.... Eventually they found me a place in an AP. ...I still hadn't been paid because it changed to universal credit. She said, 'You'll be paid in about seven weeks' time, so that's going to be in debt to the hostel.' So one night I said 'Right, I've had enough.' I rung my mum up and said 'I'm gonna come say bye to you all, I'm going back to jail', and I just left the hostel and didn't go back. I'm in a hostel for bloody Christmas, was away from my family. I felt quite lonely, and I thought, you know what, sod it, I'll go back to prison and sort my life out from there...*

36-year-old white British man. Served three years over a four-year tariff. Recalled three times. Spent seventeen months in the community before his first recall. Spent nine months in the community before current recall.

The problems people cited most frequently were:

- Difficulties with probation and meeting licence conditions
- Drug / alcohol misuse
- Unemployment

- Mental health needs
- Relationship problems
- Hostel tensions
- The negative influence of others
- Homelessness or location.

### **Difficulties with probation and meeting licence conditions**

Many of our interviewees reported that they had a good relationship with their probation officers. However, almost two-thirds struggled with this relationship, had changes in probation officer, or experienced a lack of support.

*They're looking at you like you're a liar. If I said, 'The sun's shining and the sky's blue,' she'd go and check it... I try to be honest with my probation officer; at times I find it really difficult building relationships and things. I've been telling you what I'm doing, then all of a sudden it's like, 'How've you been funding your lifestyle?' ... All they do is tick their boxes. They don't help you.*

For some participants, anger at the injustice of their post-tariff imprisonment negatively affected their relationship with probation:

*I was pissed off with what had happened to me [in the criminal justice system]. As I'd done six years over my sentence, I didn't want help from the system; they terrorised me. I went to probation, but I kept my distance. [I thought] the less talking to them the better, because they can recall me.*

Several participants noted experiencing difficulties following a change of probation officers:

*My probation was off on maternity leave. I got a hostel worker as a probation worker. She didn't understand IPP at all and it went downhill pretty rapid cos I didn't have the support I should have had.*

The probation officers at our roundtable agreed that it could be difficult for people serving IPPs when their supervision arrangements were changed:

*One of mine had nine officers in a year, with people leaving and going off sick or whatever. He's very reliant, and I think, 'If I get another job, how's he going to cope?'*

One participant explained that he needed “more contact, more supervision”:

*Initially I was on weekly signing, which was great. Because half an hour every week I could chat in a safe environment. Then it went down to fortnightly signing. I did say to probation at that time I'd like it to continue weekly if I could. But she had to cut it down. And eventually they cut it down to four weeks. And that didn't work for me. Basically it cut me off.... I decided to get an internet enabled smartphone...with the intent of looking at dating*

*sites, chat rooms, just to get that contact... But of course once you've got a device that's not monitored, slipping back into old ways is very easy.*

## **Alcohol or drug misuse**

Self-reported misuse of drugs and alcohol arose in approximately half of the narrative accounts.

*I bumped into old associates who I hadn't seen for 10, 11 years and that's it. Downhill. At first it was the excitement of not seeing them for so long. They were still mixing in drug circles. I thought I was strong enough to not get involved but found myself having quite a few lapses. After a couple of weeks I told my mum I was using.*

*I got arrested. I had a blip. I had a drink. I was on my own. I had a fry-up in a bar; had a cold beer; had a few. I was having a laugh with some people. We went onto spirits. Then I was outside. I was giving a homeless guy some money, talking to him, trying to give him some inspiration. But there were other guys outside, laughing at him. I told them they were no better. They got frightened and rang police. I got arrested for public disorder.*

Some Parole Board members expressed frustration that people on IPPs with long histories of drug dependency had not been considered for residential rehabilitation in the community upon their release from prison.

## **Unemployment**

Around half of the interviewees referred to being out of work during their narratives.

Unemployment could cause financial stress, but it also meant the person lacked structure.

*I was making good money, but I got laid off... Now we were struggling to pay the bills.*

*I was working in a gym, but I got injured... Then I was just stuck in the hostel.*

*Getting a job turned out to be more difficult than I hoped. I signed on at the local job centre. I was applying for work all week. I must have had three or four interviews... I've always taken the view that I'll disclose at interview... The upshot of that is I hadn't managed to get a job... I have suffered some form of depression... I need to be doing something.*

*I was let out with no ID... There was no support. No advice... I wasn't helped to get my ID, a bank account, a job... I had a chance of getting a CSC. All I needed was an ID... Just give me that ID and I would flourish.*

## **Mental health problems**

Approximately half of interviewees disclosed mental health problems they experienced while in the community. These encompassed depression, anxiety attacks and post-traumatic stress. Some people self-harmed.

*I was seeing my dad. He has dementia. I saw how bad my dad was, and that hurt my mental health. And then my sister had a still-born birth. I suffer PTSD – that triggered it... I was just stuck in the hostel. They're not my type of people, crying for attention. I can't be around others with mental health [problems] or it pulls me down. I was stuck. I had no friends. I isolated myself because I was terrified of being recalled, and that affected my mental health.*

*The relationship [with a girlfriend] went downhill pretty fast, my head started playing tricks on me. I know what it is now cos I've been diagnosed with schizophrenia, but at the time I didn't. I turned up at A and E... I tried getting myself sectioned cos I was having a breakdown.*

*Probation were a bit up and down cos of my suicidal thoughts... [They are] just a part of my everyday life since I was eight years old... I've been on and off anti-depressants for the past 10 years.*

Beyond diagnosed mental health problems, several interviewees noted the mental strain of the ever-present potential of indefinite recall:

*You are terrified to do anything normal, to go out with your friends. I can't control what other people do. So it's really scary, worrying what you can and cannot do. You're terrified. Anyone who dislikes me for anything can ring the police.*

*As you know you're IPP, put a foot wrong and go back to prison... I lived in total fear of police and fear of other people. I never once went on a bus. If I had to go to the shops it was eyes down, and in and out and back home. At work I was in fear to make new friends and tried to keep the ones that tried to become friends with me at arms' length, as I know any disagreement or upset will put me back into prison. I was a prisoner in the community, living in utter and total fear... The amount of times I wet myself due to the sounds of an ambulance or police siren, and being with my wife and/or child and trying not to let them see I've wet myself... The only way to try to avoid a recall is by having as little contact with other people as possible. Even ending friendships and contact with all family, as when anyone is willing to take a dislike or gets upset or jealous they can make any kind of allegation and put you into trouble with probation or police, and all are quick to recall, be allegation true or false... Living in fear in the community is worse, much worse, than being in prison.*

Some of the professionals we interviewed recognised this belief that living under an IPP licence in the community could be worse than imprisonment:

*I think some of them are quite relieved to come back in because they don't know how to deal with some of the strains of life in the community... They just feel they're defeated, like [recall] is going to happen anyway.*



## Relationship problems

Almost half of the interviewees cited strained personal relationships while they were under supervision. For some, they were directly linked to their recall.

*Things happened in my home life. Her previous partner had abused her. She was going through problems.e... Sometimes we'd row. She'd go ballistic and scream and shout. I could cope, because I've lived in jail. But there were police call-outs. Probation were trying to make out I was in an abusive relationship.*

*My girlfriend and me had split up, but after release we were still texting. She reported me to the police for harassing her. Police arrested me at the hostel. Then they bailed me. But they told me, 'Your probation officer wants you recalled'.*

*I got involved with a young lady. She was a very heavy drinker. I decided to cool it down. She decided to call my probation and say I'd hit her, which I hadn't.*

Several participants described being recalled on the basis of false allegations. Early research documented IPP prisoners' fears that, upon their release, people could purposefully get them recalled to prison by feeding false information to the police or probation services.<sup>xx</sup>

## The negative influence of others

The negative influence of other people arose in about a third of the narratives.

*I went off the rails. It was the people I was with on the street... If I drink, it makes me anti-social. I started drinking. I got myself involved in a situation... I was in a house, a big fight broke out. I had to jump out the window.*

*In June, I got in trouble again. I committed an offence. It started out as a night out, but a friend of a friend got us involved in an offence. I made a wrong choice.*

## Hostel problems

Most of the people we interviewed were required to live in a hostel upon release. Over a third of the interviewees noted problems living at a hostel. Arguments with other residents, tensions with staff, and drug misuse in the hostel were commonly reported.

*The hostel staff refused to let me out. I explained I just wanted fresh air. Still wouldn't let me out... I told him, 'Old me would threaten you. New me will explain.' He rang the police. So I left. I done a runner. 10 days later, the police picked me up.*

*They placed me in a hostel. I was staying clean. I didn't use methadone. All the girls there were taking crack. I went out next door and knocked on the door. The lady gave me some heroin. I ended up back on it.*

*They put me in an AP. They said, 'You're not allowed to mix with known offenders and drug addicts'. The place was full of drug addicts. I couldn't take the place. You can't really go far anyway, you couldn't work. I was in there for nearly six months. I couldn't wait to get out.*

Participants often commented on how inappropriate approved premises were for people who had problems with drug misuse.

A specific concern, at the time of our interviews, was that residence at an approved premises had to be paid for, and people did not receive universal credit for weeks after their release:

*We pay weekly. If I've got no employment, we depend on Universal Credit. But that takes six weeks. So will I be in debt to them?*

One of the professionals that we interviewed explained that recalled IPP prisoners frequently noted the difficulty of living in hostels:

*I think probably one of the most common complaints is around the housing situation and hostels being a fundamentally not helpful place for IPPs to put in place the great stuff we've been teaching them.*

### **Homelessness or location**

Around one third of interviewees mentioned difficulties with accommodation. For many, licence conditions interfered with their ability to find housing:

*The council said they can't get me nowhere in Northampton, but Corby Council could have done, but probation wouldn't allow it.*

Others described accommodation arrangements that left them unsupported or poorly equipped to deal with the practical challenges they were facing.

*My partner moved out into her own place – a council place. Then probation suggested that I move in with her. But I wasn't on the tenancy, so probation put me in a hostel.... There was no attempt to put me into the hostel that was near my place of work. Then, at work, I fractured a bone, so couldn't work. And ironically, while the bone healed, they put me in that hostel next to my work.*

*I had a really good probation officer and I got on really well with her, but that was one thing I didn't agree with her. I wanted a new future. Being back in the same area, it brings back memories.*

*They wouldn't let me stay in that area. I had to go back to London...My probation officer insisted I leave my full-time job. I became unemployed because I had to return to London... I did say, 'I'll go anywhere. Just don't put me in Peckham.' So, where did they put me?*

Similarly, a professional familiar with IPP risk assessments felt that too often people on IPPs were required to return to the area that had given rise to their offence:

*I can think of guys who were really dreading going back to their area. You're putting them back into where they have their old identity. When someone's recreated themselves from the ground up I think it's very harsh on them to put back in an area where they've been someone different.*

Due to a lack of approved premises spaces, some people are released to unsuitable areas where they have no connections, as a probation officer recognised:

*When they get released to an area where we're just using that area for a bed, that fills me with dread. I think there's a certain inevitability of writing the end at the start.*

## **Protective factors**

The narratives also revealed sources of support that helped people stay out of trouble longer. Many of these were the flipside of the problems we have discussed (trust with their probation officer, help from family, or a stable job).

*I met my girlfriend. She moved in the second day I met her, she was homeless, but she was working and everything. I got a job literally three weeks after I met her. I was doing labouring. I enjoyed it. I felt like I was ready, I was saving up a bit of money to get me and my girlfriend a place to live.*

*I built my relationship with my family, I think that's why I stayed out so long.*

*Probation was brilliant. Within five weeks, I got my own place to live. I had a change of probation officer, still quite good. I got into a relationship. I got together with my partner and we moved in together. She sold her property and moved in with me. I became father to her child, plus seeing my own daughter. Income was good and we had support from her family.*



## Chapter 6: Recall

This chapter presents the experiences of being recalled to prison, the reasons given, and what might have prevented the recall.

Recall is very common under the IPP sentence. As noted above, our statistical analysis of HMPPS data shows that between 2015 and 2019, 1,760 people were recalled to prison on a total of 2,342 occasions. People serving IPPs who had been recalled to prison, and subsequently released between July 2019 and June 2020, had spent on average 18 and a quarter months back in custody.<sup>xxi</sup>

People on an IPP can be recalled to prison for breaching their conditions several years after they were released. In a majority of cases, they have committed no further offence.<sup>25</sup>

### The process for recall

Many IPP interviewees expressed the view that recall decisions were too easily and swiftly made without any apparent due process:

*Your licence conditions are to decrease your risk to the public. It says you should only be recalled if you pose an imminent threat to the public or to commit a crime. It also states that before recall, probation should take all other approaches. It's always recall. It's not, 'Let's put you back in an AP, let's give you a curfew'. It should be taken out of probation's hands. It should be given to the judge. Probation are the judge, jury and executioner. If you have a bad relationship with your probation officer, they can recall you without any scrutiny.*

Several Parole Board members expressed frustration when people serving IPPs were recalled for what they described as “minor issues of compliance”. From their perspective, many recall decisions reflected low tolerance of bad behaviour, rather than actual risk.

As stated earlier, offender managers may see a proliferation of strict licence conditions as a means of convincing the Parole Board to grant release. We have also seen that sets of conditions which offenders struggle to meet make it more likely that they will be recalled for non-compliance.

The Parole Board members also expressed concern about the use of recall when people with serious mental health relapses were returned to prison instead of being provided with mainstream mental health treatment in hospitals. They described good practice in applying policy as ‘a rarity’ and characterised probation reliance on recall as ‘out of balance’.

The offender managers in the focus group acknowledged that, across the NPS, the thresholds for recall varied. However, they said that they were very aware of the consequences of prison recall for those subject to the IPP and that they only instituted recall when they were seriously concerned about the risk of reoffending. They explained that due to changes in policy and practice, recall was now typically a last resort.

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<sup>25</sup> In our cohort described earlier in this report, 46% of recalls were related to a further offence or charge.

Indeed, in October 2017, the then Minister for Prisons and Probation, Sam Gyimah, stated:

*There is a perception that, if an IPP prisoner misses a meeting with a probation officer because he is hiding under his mother's bed or something, he gets recalled to prison. That is not the case. For them to be recalled to prison, the nature of the breach would have directly to relate to what makes them risky and to their original offending.<sup>xxii</sup>*

According to the government guidance, before recalling someone subject to an IPP offender managers must 'ensure that there is evidence of increased risk of harm' and 'demonstrate a "causal link" in the current behaviour that was exhibited at the time of the index offence'.<sup>xiii</sup>

One of the following criteria must be met when assessing whether to request the recall of someone serving an indeterminate sentence:

- i. exhibits behaviour similar to behaviour surrounding the circumstances of the index offence;
- ii. exhibits behaviour likely to give rise (or does give rise) to a sexual or violent offence;
- iv. exhibits behaviour associated with the commission of a sexual or violent offence; or
- iv. is out of touch with the offender manager and the assumption can be made that any of (i) to (iii) may arise.

Even if there is evidence of further offending, the offender manager is not always required to request a recall.

Once an individual has been returned to prison, they are given an initial recall pack which includes a Part A report, setting out the reasons for the recall (this should be done within five days of recall). The Offender Manager then produces a Part B report about the risk posed (which should be provided within 10 days of recall). The Public Protection Casework Section (PPCS) in Her Majesty's Prison and Probation Service (HMPPS) then has 28 days from the return to custody in which to prepare a full recall dossier to submit to the Parole Board. This should also include a Part C report from the Offender Manager, setting out what has happened since recall and plans to manage risk if re-released. During these 28 days the recalled person can instruct a solicitor and prepare representations which can address the appropriateness of the recall as well as reasons arguing for re-release. The recall dossier is required to be submitted to the Parole Board by day 28, after which it is put forward to be reviewed by a Parole Board member, usually within two weeks. That member can decide on the basis of the dossier whether the person who has been recalled should stay in prison or be re-released, or they may defer the decision to be taken at an oral Parole Board hearing. As at any oral Parole Board hearing, the recalled person and/or their legal representative can make their case to the hearing.

## Reasons given for the recall

According to our analysis of HMPPS data, almost two-thirds of people recalled to prison listed more than one reason.<sup>26</sup> Multiple reasons were given for most recalls amongst our interviewees.

### Further charges

Fifteen interviewees were returned to prison for a further offence. Of these, seven had been convicted, two stated that their charges had been dropped, and the remaining six were still outstanding. A majority of those convicted of a further offence agreed that it was fair that they be recalled.

*My situation – committing an offence – I’m a risk to the public so I should be recalled.*

Although interviewees who had reoffended usually saw their recall as legitimate, some questioned the length of time they had to spend in prison before re-release:

*There wasn’t really an option for probation with recall because I’d reoffended. I suppose I still feel the punishment of the criminal offence would be 20 months, serve 10... I’ve served 20 months, I still can’t get out of prison til the Parole Board say I can.*

If someone received a custodial sentence for a new offence, they would remain in prison after serving the new sentence. Once again, their release would depend on being assessed as safe to release under the terms of their original IPP sentence.

Those who were not convicted resented being recalled indefinitely for unproven charges:

*They dropped my case, but I’ve got to go through the process of sitting parole... As soon as the case got dropped, they should say, ‘Let him go, he ain’t done nothing’.*

*They’re too quick to recall people with nothing to back it up, nothing. Why couldn’t I, if anything, be recalled for 28 days while they make their decision whether to charge me or not? I don’t understand why I can’t be recalled like anyone else for 28 days.*

*I was recalled without any chance of even putting my side to said allegations made by others. As we know, it’s meant to be innocent until proven guilty. However, it now seems to be guilty until you prove you’re innocent....My probation [officer] did not want to recall me at the time, but the managers did, saying, ‘It’s the law, any new charge or any new allegation is recall, innocent or not does not come into it’, I was told.*

Several of our Parole Board interviewees said that it was common practice to recall people on IPPs following a police arrest, even when no further formal action (such as being charged with an offence) has been taken. Some Parole Board members suggested that when police did not prioritise prosecuting a case, the person could spend a long time back in custody, not knowing what will happen with their case.

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<sup>26</sup> See data on reasons for recall, above, page 8.

Only a very small number of released prisoners serving IPPs have committed Serious Further Offences (SFOs): 32 individuals who were released while serving an IPP had been convicted of an SFO by 15 September 2019.<sup>xxiv</sup>

### **Non-compliance with licence conditions**

The people who had been recalled without having committed a further offence tended to feel aggrieved.

*I haven't been arrested, I haven't committed another crime... On the recall pack, 'Do you think Mr Pittfield is a risk to the public?' 'No'... So why am I in jail?*

Some contested the accuracy of the behaviour they were accused of:

*[I was recalled] because I didn't disclose the relationship... Probation thought I was still in the relationship. But I wasn't; the girl said in the police reports that we'd split up.*

*It is disgusting. I have not breached anything, so how can you justify putting me back inside? I just feel like giving up.*

*They said I was, 'violently aggressive and refused to go to the hostel'. They have since changed that on the paperwork. I got recalled for reasons I disagreed with.*

Others contested the fairness of the reasons given for their recall:

*The two licence warnings that I know about were out of my control, unless they want me to jump out of the car when it's moving.*

*They put me in a hostel the same day. First night I've come back at 12:20. Their curfew is 11pm. I had to get a change of clothes. By the time I made it back to the hostel I'd missed my curfew. But I shouldn't have had a curfew cos I'd already done that part. The night staff thought I'd just been released and I'd absconded... The police rang and said, 'You're getting recalled for missing your curfew.'*

The members of the probation focus group recognised that AP rules, especially curfew, were a common reason for recall. From the perspective of probation staff, a missed curfew meant they could not verify the person's location, so they could not be certain the person was not a risk to the public. Thus, missing a single curfew could lead directly to a recall. We note that this would not be the case if the person had other accommodation. For people on an IPP, knowing that missing their curfew could result in a recall, there was a temptation to stay away from the hostel, although this was likely to increase the seriousness of the breach and make it harder for probation officers to justify not recalling them.



Endorsing the view of some Parole Board members, a professional with IPP risk assessment experience suggested that people were sometimes recalled for minor incidents:

*Occasionally you get one when it's clearly been a clearly cautious probation officer who's recalled them too quickly.*

A prison lawyer agreed that recall was sometimes used too quickly:

*Sometimes there's a lot of alternatives [to recall] that haven't been properly assessed... There's some times where it's definitely not proportionate.*

Conversely, the head of a prison OMU told us that it is very hard to get recalled. This respondent dismissed claims that people could be recalled for, for example, missing a couple of appointments. Likewise, an offender manager stated, "Prisoners minimise why they get recalled."

## **What could have been done to prevent being recalled?**

We asked what might have been done differently to prevent the recall. This was one way of exploring their ideas about why current arrangements result in too many people being returned to custody. The main themes were that probation officers could have provided more support, that they could have tried alternatives first, and that people serving IPPs could have sought help. However, a major theme was fatalism: almost half of the prisoners felt that recall was inevitable, and nobody could have done anything that might have made a difference.

*Once you pass a certain stage, I think there's no going back, so I'd already set my sights on getting recalled, to get some better help inside.*

### **Probation could have provided more support**

Needing more help and support was a frequent response. Interviewees suggested that probation should have offered more support.

*[Probation] could have helped me get a bank card. Get me a job. There is none of that going on... Probation won't help.*

*Probation used to be able to help you get flats and help you furnish your flats, now it's all gone – funding and that.*

*They let me down with my mental health, no-one got in touch, and probation didn't chase it.*

However, some suggested they should have been quicker to ask for help.

*The help was there, I just wasn't accessing it. I think pride got in the way as well. They did have a lot of things on tap for me; groups and that. I've always lived like 'just blank everyone around you til it comes to a stop'.*

A majority of our Parole Board interviewees felt that individuals who had complex needs might be able to keep to conditions for a short period of time, but not indefinitely – especially without adequate support.

Probation officers saw a need for more investment in support services for people serving IPPs in the community:

*The amount of money spent on keeping IPPs in prison, if a fraction of that money could go to each case to keep them out of prison, that'd be helpful.*

### **Probation could have used alternatives to recall**

Several interviewees believed that probation officers were too quick to use the recall option.

*I reckon they could have worked with me a bit more to understand what was going on. I'd have tried to get down to the bottom of their problem, say, 'Look, we know you've been on it. Be honest and then we can work with that. If you don't, there's going to be consequences.' I wouldn't have recalled them straight away. Try to find out what's going on.*

*Put them on a tag, you don't have to recall them.*

*Maybe a bit more direct... A bit more clear: 'If you do this, we will recall you.' I got one written warning in six years.*

Our probation interviewees acknowledged that there were different attitudes and practices relating to risk management and recall in different probation areas. For example, an alternative to recall is a final warning letter from the Secretary of State for Justice, but our probation interviewees said these warning letters were rarely used. Not everyone in our focus group was aware they were an option.

The head of an OMU agreed that more could be done to stop people being recalled:

*People could have additional licence conditions, they could be moved to an AP, their monitoring could be increased.*

Nick Hardwick, then Chair of the Parole Board, suggested that the high proportion of people serving IPPs who were recalled and then subsequently released by the Parole Board indicated that the test for recall was set too low.<sup>xxv</sup>

To reduce the high rate of recall for people serving IPPs, in 2017, Sam Gyimah, then Minister for Prisons and Probation, indicated that alternatives were being used, including the use of electronic monitoring and readmission to approved premises.<sup>xxvi</sup>

The government issued guidance to probation officers in 2017 about alternatives to recall. They are prompted to assess 'whether it is safe and appropriate to use an alternative to recall, or whether

the breach of licence is so significant, or the increase in assessed level of risk of serious harm is such that the only defensible option is to revoke the licence and return the offender to custody’:

*Once you have received all the available information, you should consider whether additional support or further restrictive measures could be added to the risk management plan, to continue the ongoing effective management of the offender in the community.<sup>xxvii</sup>*

Some respondents suggested that fixed term recalls should be an option:

*They could have recalled me but just say 28 days.... If it isn't violent natured, it should be a fixed term recall.*

Others believed that probation officers should be able to pause a recall decision until they could check the accuracy of any assessments, and verify the legitimacy of their decisions:

*They didn't have to put the recall in. They didn't even speak to me. They should have talked to me and found out what happened rather than jumping to assumptions.*

*Before they actually decide to recall someone, make sure that their risk actually has been increased... I wouldn't have been recalled on normal licence for that, for getting arrested.*

*Probation told me managers didn't want me recalled, they were on the phone trying to get it rescinded, but it had already gone through the system.*

A prison lawyer agreed that there should be a review mechanism before recalls are fully implemented:

*If [recall] isn't proportionate, and on reflection, the head probation officer thinks 'ok maybe we shouldn't have', that person doesn't have the option then for executive release... Some sort of review mechanism should be in place... Prior to any recall maybe there are some other options... someone from that area to review the recall before it happens...someone that's involved in the parole process.*

She referred to a particular case:

*Calls were made out of hours when no probation officers were in and he was recalled... If there was somewhere we could have put representations into, maybe if it was reviewed by someone separate, we may not have ended up where we are... His actual probation officers were both satisfied that the threshold for recall hadn't been met ... Now he's in prison, there's very little you can do.*

The Parole Board focus group raised the problem of recall decisions being taken on weekends by duty senior managers, which was particularly the case when individuals broke curfew conditions at APs. Often these professionals did not know the individual concerned and so were unable to assess their behaviour in the context of their individual circumstances and progress (or lack of) since release.

The probation group also pointed out that 'the appetite for risk' tended to vary over time and could be influenced by local events, such as a recent high-profile SFO committed by a released prisoner on parole (whether on an IPP or not). More generally, probation officers were concerned at the prospect that someone they had decided not to recall could go on to commit an SFO. This weighed on their minds and could result in their being more cautious in assessing risk.

*If you get that wrong and you under-risk, who's going to be there for you?*

*If someone turns around and does something, you'd be on far shakier ground if you under-risk than if you over-risk.*

*If someone's not come back [to a hostel], essentially they're AWOL. You have no idea of what they're doing, or where they are. Once you get to the 11 o'clock curfew you're out of time. If we don't recall and something happens you'd be slated.*

Both probation and Parole Board focus groups supported: more flexibility, more time for reflection, and – where a recall was needed – the option of short, fixed terms.

### **What licencees might have done differently**

One interviewee suggested that recalled prisoners tried to blame other people for their own poor behaviour:

*A lot of people moan and blame their recalls on their hostels, their probation officers, their victims. You only end up back in this situation down to your own doing. Them lapses was my first chance; one more mess up they got a right to make that decision to recall.*

However, most interviewees took some degree of responsibility for being recalled.

Several people said they should have avoided people who increased their risk of getting in trouble.

*[I should have] stopped being an idiot, fighting with people...taken my mum's advice, hung out with my mum more... All my friends are a bad influence on me, all my friends are big fighters, drug users, they ain't positive role models.*

*There were DV callouts, when she'd ring the police... I could have been a bit stronger and recognised it was a bad relationship. I kept getting back with her for the kid's sake... My issues were around the relationship. This time I am going to focus on what is right for me.*

Some suggested that they might have avoided recall by seeking support.

*I could have accepted the Circles<sup>27</sup> application... I could have gone to probation and told them some of what was going on.*

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<sup>27</sup> Circles of Support and Accountability is a charity assisting people released from prison having served sentences for sexual offences.

The head of an OMU suggested that people on licence would benefit from being more open with their offender managers, but recognised that a lack of openness often sprung from fear of recall:

*When things have gone wrong, when really they should have been talking to their community offender managers, they haven't. It's got so bad that they've ended up being recalled, when maybe if they engaged with their community managers earlier on it could have prevented a downward spiral... There's something about that relationship that needs some work to be honest. People need to be able to speak to them without fearing they'll be recalled straight away.*

This head of an OMU suggested that there should be more continuity between prison and the community, so that people on licence could speak to staff they had productive relationships with in prison:

*If anybody contacted us here and said, 'Would you come and have a word with Joe Bloggs?', we'd do that in a heartbeat... You have to use the person they have a good relationship with.*

Contact usually ends between offender supervisors and people serving IPPs when they are released. However, at a Category B men's prison, we spoke to an offender supervisor who had met a man she had previously supported in prison, and who was now struggling in an approved premises, at the request of him and his offender manager.

### **What families could have done to prevent the recall**

The most common comment on what loved ones could have done to help them avoid recall was that they had done as much as they could.

*They did try helping me; my friend put me up. The only one who could do something was me, but I wasn't ready.*

*My family gave me some money, people helped, everyone tried encouraging me to do the right things.*

However, some interviewees said that they lacked people to turn to for support:

*I left myself vulnerable because I let my support network fall apart.*

*"That's just it. I've got no friends. I've been in prison that long I've lost all my friends. My parents had to move out of our home cos of why I've been to prison. Probation say you have to tell anyone you make friends with what you've gone prison for within 30 minutes of knowing them. It's like they want you to walk around with a sign saying what you've been prison for."*

None of our interviewees suggested that others close to them should have done more to help them. Those who mentioned actions by others all suggested that their personal support networks did everything they possibly could to help them.



## Chapter 7: Back in Prison

Our interviews concluded with reflections on being back in prison. The length of time the interviewees had spent back inside varied greatly, and for some, this was not their first recall. These two factors may have influenced the responses, as we were chiefly interested in the impact of being recalled (a recent event for some and long ago for others), and what was needed to gain re-release.

For many, being back in prison was painful; for some, it was overwhelming:

*Interviewer: How has being recalled affected you?*

*Prisoner: I don't want to talk about this anymore.*

[Respondent terminates the interview].

### Being recalled

#### Beneficial impact of recall

Several respondents noted that being recalled to prison enabled them to access programmes and treatment to address underlying problems. Some interviewees believed that if they were not recalled, they would have ended up dead, or committing an SFO:

*I was glad they recalled me cos if not I would have ended up getting a bigger charge cos I was just going off the rails. [I would have ended up] stabbing someone.*

*I've been given so much help it's unreal. It's my first time in custody where I've not self-harmed or been put on an ACCT... It weren't a good impact, being recalled. But it probably saved me; innit? Cos the road I was going down was a path of destruction... I needed a wakeup call and I was given that... Recall has made me a stronger person... The support from the prison officers and therapists has been immense. I've been fully prepared for my release... If this had been done years ago, I would not have been recalled.*

Another participant praised the prison's mental health support:

*I've got the help I needed from the prison. I get support from the others who are on an IPP here.... When I came back I did a lot of therapy.*

However, she questioned why she couldn't have received this support in the community instead:

*They could have got in touch with mental health services. They just put me back in prison where I give up. My life is wasted in here.*

## Harm to mental health and wellbeing

While a minority of participants described good mental health care in prison, the overwhelming sense of the impact of recall was of serious harm to wellbeing:

*It's just made me suffer from panic attacks. I've got anxiety now..... My sleeping pattern. I'm stressing about this parole thing.*

*You've got the mental battle again of not knowing when you're going to get out. You've got the emotional battle of just trying to keep going, each step of every day. The emotional side with your family, especially when they're not well.*

*I think it's psychological torture to be honest with you.*

*It fucks your head up, all these years that they keep putting people away. I'm depressed. I'm on medication now, missing all my family. After all them years in prison, missing out, then being snatched off the streets again. It ain't good for your mental health, is it?*

While some participants described being on medication, others felt unable to ask for help, corroborating previous research.<sup>xxviii</sup>

*I think I need anti-depressants but if you ask for them, as an IPP, it goes against you.*

Recall can have damaging consequences for mental health. According to the Prison and Probation Ombudsman, a man who had been recalled to prison, and later took his own life, told prison staff that the IPP sentence was “killing him”.<sup>xxix</sup>

## Loss of family relationships

Several interviewees explained their distress at being taken away from their families:

*Took away from my children. I don't have visits, I don't have nothing. That hurts. My brother will come up and see me when he can.*

*My sister has two kids. I adore them. I'm really close to my nephews. I am missing out on time I will never get back.*

While they were on licence, many interviewees had been looking after their children or caring for elderly parents. Recall not only deprived them of such positive roles, it took that source of support away from family members:<sup>28</sup>

*My parents are 88. They've lost their helper. You know, something as simple as changing lightbulbs. Dad is fairly immobile. They have to wait for half-terms when my son goes to visit... They're too old to travel and my son's too far away.*

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<sup>28</sup> Their responses echo the findings of Annison and Straub (2019).



*While I've been inside, my five year-old was taken ill. I've been with him every day of his life. I'm his world.*

*A lot of IPPs look for positivity in rebuilding family relationships. And it is just disappointment piled on disappointment for them... Families are members of the community, so why are they not protected from the pain of an IPP? Where is their emotional support?*

Several interviewees described losing loved ones during their IPP sentence:

*I lost my dad, lost my mum, lost my nan, lost my gramps. It just hurts that I didn't say 'bye', and I'm never going to get over the guilt of that. I'm getting too old now to keep getting recalled. A lot of my life's gone before me cos I've been in jail.*

*Last time [I was recalled] I had my dad. But he's died and I haven't been able to grieve. With him, I had some money coming in. When I got depressed, I could phone him and he'd talk me through it.*

## **Desistance**

Looking to the future, some interviewees explained that being recalled had interfered with their prospects of leading a positive, crime-free life:

*I've lost my job, I've lost the chance of getting a council house, my girlfriend's mental health has suffered. I feel pissed off. I was actually trying to get on with my life. Now I've got to start again. Work aren't going to take me back cos they said I've let them down. I'm going to be back in a hostel again for another six months. I've got to find somewhere to live.*

*I was just getting my relationship back with my family, nieces and nephews. Getting my head around being outside again, getting into a routine of being a normal person.*

*I was trying to get my life together and now due to the recall I've lost out on work and a home, and yet again, if released starting with nothing and being in a worse position than I was before recall. It's like the system makes money and jobs by filling the prisons up at all cost to human life, as more and more prisoners are forced to suicide.*

## **The prospects of re-release**

When we interviewed them, the 31 prisoners on IPPs had: served much longer than their tariff (an average of almost five years), earned their release, faced difficult challenges in the community, and been recalled to prison. Now, they were serving another indefinite period of imprisonment, and expected once again to demonstrate a reduction in risk. Most of those who are recalled on an IPP are eventually re-released. But the prospect of a never-ending cycle of prison, release, recall, and indefinite prison was bleak for most of our interviewees.

*So long as I'm under IPP I have no life, no freedom, no future. I fear IPP will force me to commit suicide. I have lost all trust and hope in this justice system... Each day I feel more and more fear and dismay and I am starting to dislike life... I have to suffer in prison in silence. Accept it or suicide. That's my only options left.*

### **Risk and the consequences of being recalled**

One of the prison-based criminal justice professionals we spoke to believed that recalling someone on an IPP was often counter-productive for reducing risk, observing that, once back in prison, people could lose motivation to engage, express their frustration in disruptive behaviour, and be negatively influenced by the prison culture.

### **Loss of motivation to engage**

Some participants were reluctant to engage with probation officers after being recalled:

*She's an idiot, she just listens to anything. I need to get rid of her.*

*I've said [to probation] 'if you say I should stay in closed conditions I'm not going to work with you anymore'... Why should I work with someone who wants me to stay in prison?*

*The probation I've got now, I can't trust them no more. I'm gonna ask for a new probation officer. Why should I trust someone who can't trust me?*

The head of an OMC corroborated that when people were recalled, this could often damage their relationship with their probation officer:

*When people come back to prison that relationship becomes very fractured, feeling 'I can't trust this person'... I think the community offender managers really need to rebuild that relationship as soon as possible after they've recalled somebody.*

She explained that this distrust and reluctance to engage extended beyond their offender manager:

*People feel very angry, very demoralised, very hopeless, very distrustful of the system. That anger and that mistrust then gets spread across all other professionals. They don't want to engage... I think you just have to keep rolling with the resistance... You can't give up hope on people, even though people themselves may feel very hopeless.*

Two offender supervisors corroborated this problem:

*These guys are frustrated, they're lost, they're very angry, there's no hope. So in that comes the violence, the mistrust, because we're part of the system they think we're part of the reason they're not being released.*

*When they get recalled it's like, 'I can't do this process again'. They're demotivated. They come in quite negative, and it takes months then to build them back up.*

Disengagement was noted in the Fitzalan Howard study of recalled prisoners serving determinate sentences:

*Some prisoners believed that only in disengaging from OMs and the re-release process would they protect themselves from further punishment, or from being viewed or assessed negatively.<sup>xxx</sup>*

An interviewee with expertise in IPP risk assessment explained that, in particular, the frustration at serving an unjust sentence might result in behaviour perceived as demonstrating heightened risk:

*I think [being recalled] undermines their trust in the whole process, almost getting into that cycle of thinking, 'I've been through this whole process before and it didn't work, so what's the point this time?' Risk assessment instruments weren't validated on people serving a legally banned sentence... Factors cited as evidence of continuing risk, like hostility, aggression, poor coping or refusing to cooperate with professionals, could be viewed quite differently when assessed in the context of wrongful detention. But IPPs feel these things are judged as evidence of risk rather than effects of the sentence. Yet every IPP knows they're serving a sentence no longer deemed legal, and that's going to affect their behaviour.*

## **Disruptive behaviour**

Many prisoners described self-destructive reactions to their recall:

*Broke me. I started getting involved with drugs... I've never felt such hopelessness.*

*When I first got recalled I was angry, I was frustrated. I've been getting into issues with other prisoners. Because of the anger I had, I get frustrated with the system, with the officers, with the prisoners.*

This was reflected in a comment by the head of an OMU about people who felt unfairly recalled:

*The resistance is then borne out in prison itself. That's not helping them towards their next release.*

## **The influence of the prison environment**

Parole Board members noted that conditions in prison have deteriorated over recent years. They recognised that when a prison is unsafe or provides inadequate support for people on IPPs, the setting undermines efforts to demonstrate that one is safe to release.

The prisoners described pressures inherent in prison culture that affect their chances of re-release:

*You can get bullied because you can't protect yourself. Others have nothing to lose, so they'll take advantage.*

*I've seen a lot of lads get started on in here... There's no such thing as self-defence in prison. We can't have a blow out, have a little scrap. ... If you've hit the lad back once, it's a fight, you've put your risk back up. He's gonna get a week's loss of privileges. You're gonna get two to three years on your parole. You're scared of coming out of your cell some days, for fear of spending years in prison. Just cos you're violent in prison doesn't mean you will be out there. It's a violent environment.*

*Prison is a violent place. When you get recalled you get put in a local jail. It's full of juveniles. The wings are mad. People get stabbed and slashed. If you don't stand up for yourself you're going to be a victim.*

A prison lawyer corroborated that the prison environment is not conducive to good behaviour, and therefore re-release:

*For IPPs, everything is analysed in so much detail for the parole hearing... They get recalled to a local prison, and they're trying to be on their best behaviour, but there's drugs everywhere.*

A professional with experience of IPP risk assessment agreed that people are asked, "to prove themselves under conditions not conducive to change".

## **Requirements for re-release**

Probation staff said that people returned to prison on an IPP should have a clear roadmap, knowing what they need to do next to earn re-release. They cited as good practice specialist programme managers undertaking one-to-one work on key issues with recalled IPP prisoners. But they pointed out that while offender managers could prescribe a course of action, it was the Parole Board which had the decision-making powers.

## **A clear plan after recall**

The IPP prisoners did not all have a good idea of what would be required of them. Some noted specific conditions for their re-release, such as taking particular programmes or forms of treatment.

*They've just had a hearing on the papers for me. Probation want me to do some courses – 'building better relationships' and 'anger management'.*

*As long as the course isn't recommending anything else to do, I'm hoping round about Easter time I'll get my release. If I do get a knockback, they'll have to come back with more work for me to do.*

Others were unaware of any plan to prepare them for re-release. One, who had been back in prison for five months when interviewed, said:

*I haven't got a sentence plan, but I don't see what they're gonna want me to do.*

Some people were given no target work to secure their re-release:

*They don't want me to do anything, there's no target work or anything, I just have to sit here, and I don't see where that's going to get me.*

Several of the interviewees tried to be pro-active.

*Making myself employable. Staying drug free. If the Parole Board is satisfied I no longer pose a threat, hopefully, they'll release me... I've made my own sentence plan – taking courses I thought would benefit me, so I've gone beyond what was asked... I do what they ask me to, and then I do more.*

*I've put in to do my counselling, therapy, everything.*

*They haven't said [what I need to do]. I'm doing every programme. It's the way to progress.*

## **A waiting game?**

Interviewees were often frustrated at the slow pace of their ability to make progress towards release:

*Probation are telling you, 'You're not getting released till you've done this course'. They've had three months to move me, and I'm still here. They need to work on putting you where you need to be asap.*

When asked how long it would take to be re-released, some interviewees felt they had no influence on the pace of the process:

*How long's a piece of string? I don't know. I think they're on about D-Cat-ing me, so it's going to be at least a year or two.*

*It's up to them, isn't it? They don't stick to the dates they give you. Even the Parole Board changes the dates.*

An offender supervisor corroborated that there are lengthy waits for parole hearings:

*There should be some other way of doing it more quickly. The length of time it takes to organise a parole hearing; they're delayed because there's such a huge backlog. It can take someone 18 months, two years to get a hearing... [One person's hearing] has been deferred now for six months because a parole member had a bereavement, instead of finding a replacement.*

An offender supervisor at a local prison explained that there was little there for recalled IPP prisoners:

*This prison doesn't have enough support for IPPs and lifers... They've nothing they can do here, apart from be stuck.*

## **Uncertainty**

The uncertain time frame for their release made it difficult to plan for release or obtain help with practical preparations:

*I'm trying to get them to help me set up a bank account and get my CSC card renewed but they can't help me til I have a release date.*

*You can't make any plans for anything. [They ask] 'What've you got in place for when you're being released?' How am I supposed to get something in place when I don't know when I'm being released?*

## **Scepticism**

Some interviewees expressed doubts about what they were required to do to be re-released. For example, some programmes could have been done in the community:

*She said she'd like me to see a psychologist in here. I don't know why. I've put in here to see psychology and I've not heard back. All the things she wants me to do could be done easily outside.*

*Probation said I had to do this course in prison. My new probation said I could do it on release. So, are the Parole Board going to look at this and say, 'What has changed?' Why was I recalled if I can do the course outside? It's a bit conflicting.*

Others did not believe the work that had been recommended was necessary:

*When I got knocked back, [the Parole Board] said they want me to do another course. Psychology said, 'He doesn't need to do the course. Because he's not committed another crime, his risk hasn't increased'. The prison said, 'Yes, we believe his parole hearing should be brought forward'. So now I'm going through the judicial review process.*

*They want me to do all these courses. I find them impossible. They are trying to teach you right and wrong. I am a grown man. I find them very patronising. But if I don't do them, I won't get released.*

An offender supervisor suggested that there is a tendency to over-prescribe interventions for people recalled on an IPP sentence:

*You've got the automatic assumption that because you've been recalled any of the work you've done to reduce your risk doesn't count for anything... and that leads onto the questionable area of over-treatment... It always seems to be that they identify further work to be done.*

A professional with experience of IPP risk assessment explained that some interventions in prison may be of limited use in the communities that people return to:

*We can't recreate the community in prison, and... a lot of times people who are delivering programmes don't come from the same communities as the men, so we don't know what it's like really. All of the stuff we do in programmes like, 'Talk assertively to people'... that only works in a middle-class environment. We're there saying, 'Let's try being polite to him'. It's so ridiculously uninformed, and the guys know that as well... We're trying to impose a particular vision of a citizen onto these guys, in order to prove they're safe to be released.*

The differences in background identified by this professional are supported by previous research.<sup>xxxix</sup>

Some interviewees were not eligible for the courses that had been recommended:

*They wanted me to do TSP [Thinking Skills Programme] in here... I ain't suitable to do it.*

*There's nothing apart from go to the PIPE [Psychologically Informed Planned Environment] unit, for work on my personality... but they said, 'You don't qualify for that'. I don't know what they want anymore.*

This participant had been in prison for over three and a half years since being recalled for breaching his licence conditions, not committing a further offence.

Other IPP prisoners were unconvinced by the process for deciding whether they were safe to release:

*It's such a mess, isn't it? It's like looking at clouds – you can see any shape you want. My past behaviour gets examined. You could look at it and see literally anything.*

Previous research reported IPP prisoners' perceptions that risk assessments were sometimes based on misinterpretations that could make them appear more dangerous.<sup>xxxix</sup>

A professional with experience in the risk assessment of IPPs acknowledged that the nature of the IPP sentence could make it very difficult to secure re-release. For people serving IPPs, disclosing their needs is fraught with the tension between getting help and having their

problems affect risk assessments. While they are encouraged 'to open up and be really vulnerable and really honest', their freedom depends on whether such disclosures are perceived as asking for help, manipulative, or a risk factor:

*You could see the toll on them of treading this line between trying to be as honest as they felt they could be, but not too much.*

Several professional interviewees agreed that the process of demonstrating reduced risk was uncertain, and that it was sometimes difficult to provide conclusive evidence for their judgement about the person's suitability for re-release.

### **The fairness of the re-release process**

Most interviewees believed that the process for re-release was unfair. For many, this stemmed from feeling that the initial decision to recall them was unjust:

*I asked him to review the CCTV. ... Probation said 'no'... [A recall would have been fair] if it had been for 28 days, to gather evidence, make a decision.*

*I was never charged with anything. I committed no crime, I was working, I would have had a council place in a few weeks... I could end up in jail for another three years. For what? For nothing.*

Interviewees often felt aggrieved by the significant (and indefinite) length of time they had to spend in prison post-recall:

*It's inhumane to leave someone sitting there without a release date and not knowing what's going on.*

*I think it's way too long, minimum six months, especially with no charge. The longer they're leaving you in here, the more risk they're putting you at, because you're losing all hope that you had.*

*The thing I disagree with is the time I have to do recalled. I've done six years over tariff, and now another three years – that is nine years over for that offence ... There should be an end date.*

Several interviewees contrasted their treatment to that of people serving determinate sentences:

*Had I not had IPP, I would not have been treated in such a negative manner. Police, CPS and the judge were still using IPP like I had committed an extremely violent offence.*

*I was sentenced in April 2006. If I'd committed the offence 13 months earlier, it would have been before the Criminal Justice Act of 2003 was implemented. If I'd been sentenced a couple of years later, they changed it, in 2008 I think, that you had to be sentenced to a*



*custodial term of a minimum of I think four years. So, in a little narrow three-year window, I became sentenced to a life term... One year one way, and two years the other, I'd have a determinate sentence... What annoys me is the scale of punishment and the fact it's so transitory. If you scrap it, you've got to deal with the people who are under that scheme.*

In 2019, the Griffins Society reported that women serving IPPs felt 'disenfranchised, frustrated and distressed' at serving a sentence that had been abolished, but not retrospectively.<sup>xxxiii</sup> People serving IPP sentences for relatively minor offences, that would usually result in short, determinate sentences, feel especially unfairly treated.<sup>xxxiv</sup>

Perhaps contributing to feelings of injustice was a lack of awareness of their ability to challenge their recall. We asked, 'What do you understand your rights to be?' Two prisoners stated they were appealing their recall, and a small number of others knew this was an option:

*You can appeal against it. But it doesn't make sense appealing against an offence.*

*There's them kind of pages with it, like, 'If you wish to appeal'... I don't appeal nothing... I don't have the energy to argue anything. The amount of people I see go through that process and not get anything from it, and then be devastated from it. Nah, I'm not going to put myself through that.*

The vast majority, however, seemed unaware of their rights to appeal their recall:

*We don't have no rights, do we? I've tried everything, there's nothing available.*

*No one's ever said anything about that.*

*I didn't know I had up to 28 days to appeal.*

As stated above, recalled IPP prisoners have 28 days to instruct a solicitor and prepare representations which can address the appropriateness of the recall, as well as reasons arguing for re-release.

## **Avoiding future recall**

We asked people serving IPPs how they planned to avoid recall after their next release, in order to discover any learning they could share, and what they might try to do differently. A majority described changes they intended to make to prevent a subsequent recall. In broad terms, these were:

- Addressing practical problems of resettlement
- Asking for help
- Avoiding certain people
- Improving their relationship with probation.

Interviewees discussed the importance of finding accommodation, a job, and a legitimate means of filling their time.

*I'll try to get a job so I get released into a job and don't fall back into that situation.*

*To not offend, I need to broaden my social network... And I need to find some form of occupation.*

Some interviewees believed that they needed to be more willing to ask for help in the future.

*I will seek help. Take each day at a time. This time, I'd make it work. I've told my family I need their advice.*

*The main thing is not to let my support structure fall apart.*

*I'm gonna access all the therapies out there. I've got a curfew, exclusion zone, which is good because that's where I messed up last time. Not to go to my ex-partner's. Engage with a psychiatrist and take my meds.*

Several interviewees planned to avoid particular people and types of relationships next time.

*I want to avoid my old associates... have a little bit more confidence and faith in myself getting a job.*

Three said they would try to establish a better relationship with their probation supervisor.

*Be open and honest and set ground rules. Say, 'These are the issues I had last time. I don't want these issues this time'.*

Conversely, others intended to avoid recall by shutting probation out:

*Maybe not be as open and honest with probation as I was, cos I wouldn't be recalled. That's what I feel. I just don't know no more.*

Around one fifth said they did not plan to make any changes. This often reflected their sense of being wrongly recalled:

*I never did anything. So why do something differently? What do they want me to do? Stay in my house, go probation, come back, be a hermit? IPPs have to be on tiptoes and that shouldn't be the case. Give us a chance.*

*Being myself, doing what I was doing out there, keeping motivated, going to the gym, being with my family. I couldn't have done one thing different.*

*Same as it was before, find a place to live, settle down, find a job, help my family. Because before the exclusion zone got extended, I was there all the time helping them out. Doing the shopping, taking the dogs for a walk. After 10 years you can apply to be taken off licence. I've been told the clock restarts every time. Every time you come back to prison it restarts. If I don't come off, I might as well stick a gun in my mouth and pull the trigger. Because that's the only definite way to get off licence.*

As stated previously, people can in fact apply to have their IPP licence removed 10 years after their initial release from prison irrespective of whether they have been subsequently recalled. However, the recalled IPP prisoners, and even some of the probation officers who we spoke with, were unsure of the rules surrounding the termination of the IPP licence.

There were also misconceptions regarding the suspension of probation supervision:

*I only had a year left on my licence before I could apply for it to be removed, now I've got to start from that four year target point again.*

Overestimating how long they must wait before applying to suspend their supervision or terminate their licence added to the hopelessness many experienced.



## Conclusions

The Prison Reform Trust was motivated to undertake this research to gain an understanding of why so many people serving IPPs are recalled to prison, and to amplify the voices of those people who have lived through that experience. We hope that relevant stakeholders can learn from this report, so that people serving IPPs receive better support enabling them to stay out of prison.

This section of the report summarises our findings. We start with the views of all the people we consulted in the course of the research (both the people on IPPs and criminal justice professionals) on the IPP sentence itself. We then organise the rest of our findings in chronological order from the perspective of people subject to IPP sentences, starting with their initial imprisonment and the process of being released; going on to their lives in the community; the experience of recall; and then what it is like to be returned to prison and the process of seeking re-release.

### The IPP sentence

The IPP sentence provokes strong emotions in both people who are subject to its strictures and the criminal justice practitioners involved in the administration or implementation of its requirements. The fact that the government acknowledged that the legislation was unfair when repealing it has left almost all the people still serving IPP sentences with a strong sense of injustice. The majority of criminal justice professionals we interviewed felt the same way, whilst still being bound by their duty to fulfil their legal responsibilities to the best of their ability.

This sense of unfairness has been aggravated by the fact that the vast majority of individuals served (typically several years) longer than the tariff prescribed by their sentencing judge and that people on IPPs who are released from prison are subject to recall for a minimum of ten years.

### Getting out

The two main structural issues which prevented people serving IPPs from being released in the first place were difficulties in being able to access prescribed accredited programmes in order to demonstrate a reduction in risk, and delays in the parole process.

Many people serving IPPs talked to us about their difficulty in getting a clear set of expectations to meet in order to prove that they should be released. When these expectations were clear, it was still often the case that meeting them – especially the core requirement of completing specified offending behaviour programmes – was outside their control. Individuals spoke to us of the challenge of feeling that they were under constant scrutiny and that any, even minor, infraction of prison rules could set their release back in a way that it wouldn't for their peers serving determinate sentences. A number of people also spoke to us about getting different messages from different criminal justice professionals involved in their case. This was described as partly attributable to a difference in perspective between different occupational groups – prison, probation and Parole Board staff. However, we were also told that different members of the same occupational group could set different expectations.

This perspective appeared to be validated by our criminal justice interviewees who acknowledged that different members of staff often came to different judgements – particularly around perceived risk – on the same individuals. The professionals we interviewed held (or reported) conflicting opinions on whether and how an individual can demonstrate a reduction of risk in a custodial environment. Our criminal justice interviewees expressed different professional viewpoints on the appropriate timing of interventions, whether an individual can or should be released directly from closed conditions, and the degree of support that should be provided on release – in particular for individuals with long-standing substance misuse and/or mental health concerns.

Therefore it was not surprising that a number of people serving IPPs complained that the task of proving their eligibility for release was rarely straightforward and often confusing, subject to constant change and, above all, a disproportionately lengthy process.

### **Surviving in the community**

People serving IPPs told us that they often experienced the number and range of conditions attached to their licences as onerous and that they frequently made normal life – seeing family and finding work – problematic. This was particularly true for those living in approved premises, many of whom felt that their daily lives were more restricted than they had been in prison.

Many of those we interviewed were frustrated at not being able to challenge the legitimacy of licence conditions, which were often added or modified after release. While people on IPPs generally understood that probation staff were empowered to alter conditions, depending on an ongoing and dynamic assessment of risk, many felt particularly aggrieved if they had been recalled for a breach of conditions which have not been imposed by a court of law or the Parole Board in an open forum, especially when that breach had not involved any criminal behaviour.

Most of the people serving IPPs whom we interviewed were clear that they needed support as well as supervision. They told us of a range of problems with accommodation, employment, personal relationships, mental health, and drug and alcohol dependency. While many individuals reported that they had a positive relationship with their probation officer, a majority experienced the relationship as difficult and found the (sometimes frequent) change of supervising officer unhelpful. In some instances, individuals told us that they had not received the level of support they expected from the probation service.

Similarly, a number of the criminal justice professionals we spoke to said they found it difficult to provide the level of prolonged support that many people released from an IPP sentence needed in order to facilitate desistance from crime and a decent quality of life

Many people talked to us about the emotional and psychological stress of being on an IPP and feeling constantly at risk of being returned to prison. Several people told us that they felt unable to live a normal life. They described a fear of intimate relationships or of spending time with anyone outside their immediate family in case they ended up in a conflict situation resulting in circumstances which prompted a recall to prison. Our interviewees were only too aware that this restricted life made it extremely difficult for them to build fulfilling and law-abiding lifestyles and develop a supportive social network to help them stay on the right side of the law.

## **Getting recalled**

Most of the people we interviewed serving an IPP who had been recalled for a further offence accepted that it was right and proper for them to be returned to prison. However, some questioned the legitimacy of having to remain in prison under the IPP after their new prison sentence had ended. A particular issue of concern was when people were recalled because they had been arrested on suspicion of committing a further offence, but were not subsequently convicted. In these cases, several of our interviewees said they felt that they should have been subject to no more than a short, fixed term period of recall and re-released when not convicted of a further offence. Besides further charges, many individuals felt frustrated and angry when they were returned to prison on the basis of poor behaviour, proven or alleged, that would not otherwise be illegal.

Overall, neither people serving IPPs themselves nor our professional interviewees were happy with the current recall system, and Parole Board members felt that a sizeable proportion of recalls could be avoided. An area of particular concern was the frequent recall of people from approved premises for missing a single curfew or minor non-compliance with hostel rules. The lack of flexibility in the recall system, rather than the behaviour of individual supervising officers, was felt to be the main cause of unneeded recalls.

## **Back in prison**

Many of the people we interviewed said that their recall had left them feeling angry and frustrated, with a large number saying that they had lost all hope. For many individuals, the IPP sentence felt simply unjust due to the combination of serving many years longer than their original tariff and being recalled indefinitely to prison (especially if they had not committed a further offence). Several said it was not clear what they had to do to be re-released and many felt apprehensive that even if/when they were released, they could be recalled to prison yet again. Our professional interviewees agreed that for many recalled IPP prisoners, there was no clear roadmap in terms of expectations as to what they should do to secure re-release. They understood why many people recalled on IPP sentences held strong feelings of futility and frustration about their lack of power to influence whether they would be released and, as a consequence, often disengaged from the system.

## **Overall impact**

Perhaps the biggest recurring theme in our conversations with people subject to IPPs was the effect that living with that sentence had on their wellbeing both in prison and while on licence in the community.

Many individuals spoke to us about the consequences of the indefinite nature of the IPP sentence for their mental health; sharing feelings of anxiety, frustration, depression, self-isolation and despondency. Life in the community under an IPP can make people very anxious. Many people spoke to us of being in a constant state of fear about recall, either due to their own behaviour, or circumstances beyond their control. Some people adapted to this situation by limiting their social contact with others which tended to compound negative feelings and denied

them the support of families and friends. Many of our interviewees were acutely aware that symptoms of mental illness might be interpreted as a risk factor and a reason to prompt recall; this meant that some did not seek the help they knew they needed. Distressingly, some of our interviewees reported finding life in the community more stressful than being in prison.

For many people, life became harder after they were recalled to prison. Recall often led to interviewees losing the progress they had made in the community with rebuilding relationships and securing work and housing. Many told us that recall resulted in them “giving up” and resigning themselves to a life in prison. Some people told us that they expressed their feelings of hopelessness and anger by different forms of self-harm (including relapsing into drug use) and/or aggression towards others. Of course, these behaviours made it difficult for criminal justice professionals to recommend re-release.

Several of our interviewees told us that they had completely lost confidence in the justice system and their own capacity to survive the IPP sentence and rebuild some semblance of normal life.



# Recommendations

## Good and bad practice

This study identified aspects of the process for people serving IPPs that support and undermine reintegration.

### In the community

#### Helpful

- Licence conditions being fully explained and understood.
- Continuity of probation officers.
- Meaningful activities like work, volunteering or caring responsibilities that provide positive structure.
- Somebody to speak with openly about problems, without fear of recall.

#### Unhelpful

- Licence conditions that prevent positive aspects of normal life (e.g. family ties and work).
- A lack of financial security (e.g. delays to first payment of benefits).
- Licence conditions being unaccompanied by adequate support.
- A lack of safe accommodation. A fear of recall leading to social isolation and disengagement from probation.

### Recall decisions

#### Helpful

- Exhausting other options before resorting to recall (e.g. more frequent appointments or curfews).

#### Unhelpful

- A lack of opportunity for people to put their side across to their probation officer before being recalled.
- Decisions to recall based on insufficient evidence, a lack of knowledge of the individual, or hearsay.
- Recalling people rather than enabling them to access necessary services (e.g. mental health care) in the community.

### Recall decisions

#### Helpful

- Providing mental health support to deal with the impact of recall.
- Clear sentence plans that enable prisoners to progress towards re-release and feel a sense of control over their futures.
- Facilitating treatment programmes and interventions in the community wherever possible.

#### Unhelpful

- Interpreting negative behaviour provoked by recall as evidence of continued or heightened risk.
- A lack of clear targets or structure to work towards re-release.

## Policy changes

Consistently implementing the helpful practices listed above will improve the management of people currently subject to an IPP. However, wholesale changes to the IPP sentence are needed. Our first three recommendations would require legislation.

1. The abolition of the sentence should apply retrospectively. This is likely to require a process of judge-led reviews of individual cases to identify those in which, but for the IPP sentence being available, a discretionary life sentence would have been imposed.
2. There should be a phased programme of releases, with properly resourced preparation, and post release support for all those affected.
3. All IPP prisoners should have a fixed date on which their liability to recall ends.

If the government rejects these changes, we urge them to implement the following steps to facilitate the eventual termination of all IPP sentences.

4. The current requirement that people serving an IPP wait 10 years from their initial release before they can apply to have their licence terminated should be reduced to five years. A review of whether the licence is needed should be automatic, not dependent on the person applying.
5. Once people serving an IPP have passed the five-year point since their initial release, there should be annual reviews to determine whether it remains necessary for them to be on licence.

To prevent the current situation in which people on an IPP licence are at risk of far more severe punishment than their behaviour would otherwise justify, we also recommend the following measures:

6. The test for recall should be that there is an imminent risk of the person committing an offence likely to cause serious harm, and that that risk cannot be managed in the community. Alternative measures should be required for any actions falling short of this threshold, such as arrest or conviction in relation to less serious offending, failure to reside and failure to maintain contact. Such measures might include adjusted reporting requirements, use of electronic tags, and curfews.
7. Where a person has been charged with a further offence, the normal criminal justice processes should apply, with a court considering whether remand in custody is appropriate for the new alleged offence.
8. If a person is convicted of a further offence and sentenced to custody whilst on licence, the court should decide whether they should also be recalled under the provisions of their IPP sentence.
9. If a person is convicted of a further offence, and the court decides to recall them under the provisions of their IPP sentence, the Parole Board should be required to consider release alongside any consideration of discretionary release that attaches to the new sentence (for example an extended determinate sentence). Any review must coincide with the end of the custodial period in a fixed determinate sentence.

10. IPP prisoners who have been recalled, not having received a new custodial sentence and not being re-released 'on the papers' by the Parole Board, should have the right to an oral hearing, if they so wish. They should be informed orally and in writing of their right to a hearing to take place within two months of their request. They should be entitled to free legal representation, and the probation service must attend the hearing to explain their recall decision.
11. If the Parole Board panel upholds the decision to recall, it must set a fixed date for a further review (also at an oral hearing with free legal representation), no longer than 12 months from the date of recall.
12. All recalled prisoners should be entitled to annual reviews of their continued detention at an oral Parole Board hearing with free legal representation.

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This report explores the experiences of recall for people serving sentences of Imprisonment for Public Protection (IPP), providing an accurate and detailed picture of the number of people on an IPP in custody and on licence.

It gathers new data from recalled IPP prisoners to help understand their experiences on licence and in custody, and their high recall rate. It also gains the perspectives of prison and probation staff, and Parole Board members about why people on IPPs are being recalled and how they are prepared for re-release.

This report calls for implementing good practices gathered in the research to improve the management of people currently subject to an IPP. And it recommends wholesale changes to the IPP sentence relevant both to reducing recall and accelerating re-release.