the Howard League for Penal Reform

News release

‘Trying to build an ark after the flood’: serving prisoners give their views on the Indeterminate Sentence for Public Protection

The Howard League for Penal Reform has today (Friday, 21 September) published a report on the Indeterminate Sentence for Public Protection (IPP).

The first report to interview prisoners on the IPP, it reveals the chaos at the heart of an ill-conceived and fundamentally flawed sentence that has recently faced successful challenge in the High Court. A series of judgments have ruled that detention beyond the term of sentence is unlawful, if prisoners sentenced to the IPP are not provided with the appropriate behaviour management courses and assessments in order to present evidence to the Parole Board as to whether or not they still present a risk.

Prisoners give a damning testimony to Howard League for Penal Reform about the systemic failings of the IPP. One describes the government’s attempts to manage the sentence as “*trying to build an ark after the flood.”*

Another said: *“When I first arrived I didn’t know what was happening, the Prison Service didn’t know, probation didn’t know, nobody knew what to do. After two years still no-one seems to know what they are doing.”*

One prisoner described the uncertainty the IPP has created for those inside: *“I have found it really hard to adjust to my sentence. I was told that IPP means ‘indefinite’ which is quite scary. I’m not justifying what I done but why do I need life? I would have preferred a fixed sentence that is longer, but at least I would have a light at the end of the tunnel.”*

Director of the Howard League for Penal Reform, Frances Crook, said: “The IPP is a disastrous example of the government failing to plan for the consequences of an ill-thought out policy.

“With official estimates that the number of IPPs will reach 25,000 by 2012 – almost a third of the current prison population – this sentence threatens to overwhelm a prison system that is already on its knees.

“If the government’s attempts to appeal the recent High Court judgments fail, then hundreds of prisoners classified as ‘dangerous’ will be released from custody.

“Either way, the public is not being well served.

“The Howard League for Penal Reform opposes the IPP as a matter of principle. It is wrong to imprison a person for they *might* do rather than what they have actually done. This report does, however, include a number of specific recommendations to improve the IPP if does remain on the statute books.”

While insisting the IPP remains fundamentally flawed, the report makes the following practical recommendations:

- Discretion and a fact-sensitive approach to sentencing must be emphasised. The legislation should be amended so that the IPP is used in exceptional circumstances, rather than as a standard prescription. The Sentencing Guidelines Council should provide guidance on the criteria for exceptional circumstances. Courts should also have discretion to impose a licence of *up to* ten years, rather than the standard application of ten-year licences, as is currently the case. To summarise, courts should be given discretion so that where ‘there is a significant risk to members of the public of serious harm’ the IPP *may* be imposed, rather than *must*.

- In relation to the assessment of ‘dangerousness’, the courts should be provided with a consistent assessment process for all cases where an IPP is considered.

- In order to be meaningful, courts should ensure that the IPP tariff allows sufficient time for an application for parole to be prepared. Short sentences that do not provide sufficient time indicate that the IPP may not be appropriate in the first place.

- There should be a dedicated officer responsible for those receiving indeterminate sentences in every prison, probation area and youth offending team region. These officers would oversee sentence planning, ensuring that an ongoing risk assessment process is commenced from the beginning of the sentence. Staff with responsibility for IPPs would have a duty to help these individuals understand the nature of their sentence and to ensure access to offending behaviour programmes and other obligations that must be met. Clearly this has implications for the provision of resources, resources that are currently not there. Resources must be secured and ring-fenced to ensure that the means on which to base IPP assessment are in place. The Howard League for Penal Reform is very clear that the resources should not be taken away from other sections of the prison population, for instance lifers, for whom courses and assessments are equally needed and important. Once again, we return to our initial point – whatever changes are wrought to the IPP sentence, the Howard League for Penal Reform believes it is essentially unworkable in the long term.

- Resettlement issues for IPPs should be investigated, with a view to a multi-agency approach to formulating and monitoring a release package that reduces the chances of IPPs reoffending. Any review should consider how a new release package for all IPPs will work with existing, complex arrangements, such as the Prolific and Priority Offender (PPO) programme and the Multi-Agency Public Protection Arrangements (MAPPA) for violent and sexual offenders. Crucially, IPP status - and the dangerousness it implies - should automatically engage the assistance of other agencies, such as social services and housing authorities, upon resettlement.

Further information

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Prison Bulletin 3: Indeterminate Sentences for Public Protection is available via www.howardleague.org

A product of the 2003 Criminal Justice Act, the Indeterminate Sentence for Public Protection (IPP) must be imposed upon individuals who are convicted of a serious offence (that is a specified sexual or violent offence carrying a maximum penalty of 10 years imprisonment or more) where 'the court is of the opinion that there is a significant risk to members of the public of serious harm.' The IPP applies to offences that were committed on or after the 4th April 2005.

There are 153 specified offences eligible for an IPP, compared to just 11 for an automatic life sentence, which the IPP replaced. The offences range from manslaughter and sexual assault, to affray and exposure. The court of appeal has held that courts should presume that anyone convicted of one of these offences who has previous convictions is dangerous unless this conclusion would be 'unreasonable'.

The IPP is similar to a life sentence in that those sentenced are told by the court that they must serve a minimum prison term ('the tariff'), before being considered for release. All minimum terms are set by the trial judge in open court.

Individuals subject to IPP are released from custody by the Secretary of State at the discretion of the Parole Board, on grounds of public safety. The offender is then subject to supervision on licence by the Probation Service for a period of *at least* ten years; after which time the licence may be terminated by the Parole Board if it considers it safe to do so. If the licence is not terminated, supervision will continue indefinitely, although further applications can be made to the Parole Board at yearly intervals.

During licence supervision, those sentenced to the IPP are subject to the same recall arrangements as those on life licences. The decision to recall an IPP licensee is made by the Post Release Section (Public Protection Unit, NOMS) on behalf of the Secretary of State, where there is considered to be a risk to public safety.