In the dark

The mental health implications of Imprisonment for Public Protection

a better way
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N.B. All statistics used in this report are previously unpublished, unless otherwise stated.
The prison population in England and Wales has risen dramatically in recent years, from 50,000 in 1995 to more than 83,000 earlier this year. This has led to increasing pressure on the criminal justice system to accommodate and manage prisoners, both in prison and in the community following release.

At the same time, we know that mental health problems are very prevalent among prisoners – research has shown that up to 90% of prisoners have at least one mental health problem. Funding for mental health services in prisons has increased somewhat in recent years, and the quality has undoubtedly improved since the NHS gained control earlier this decade. But services are still overstretched and under-resourced, and prison mental health care falls well short of what is equivalently available in the community.

Imprisonment for Public Protection (IPP) is a sentence that has been the focus of a great deal of political and public attention. Most of the attention has been on the systemic problems that IPP has created for the criminal justice system. These have been discussed in Parliament, between government departments, in the appeal courts, and in the wider public domain. So far, however, the mental health implications of IPP have not been systematically examined. This report aims to fill that important gap.

More IPP sentences have been issued by judges than was forecast and the Prison Service has struggled to provide enough offender behaviour programmes to meet the demand. The Parole Board has been stretched by the numbers of IPP prisoners appearing before them, many of whom have little or nothing to show for their time in custody. The Court of Appeal has twice declared the IPP sentence ‘unlawful’, and further appeals and legal action are still to come. Politicians have now reconfigured IPP legislation in the latest Criminal Justice Act in an attempt to reduce the numbers who are given this sentence.

Some have perceived a growing relationship between IPP sentences, the management of ‘risk’ and ‘dangerousness’, and mental health. Our findings suggest IPP has converged the worlds of criminal justice and mental health and has sharpened concern about the availability of mental health treatment in prisons. With the introduction of the new Mental Health Act 2007, the convergence may continue at an increasingly accelerated rate.

This report is the culmination of research on the IPP sentence and its mental health implications. We hope that our findings, which are based on a combination of 55 interviews with IPP prisoners across three prisons, previously unpublished government data for more than 2,200 IPP prisoners, detailed policy analysis, and discussions with experts in the field, will be a useful and authoritative addition to the ongoing discussions about IPP. More broadly, we hope that it can frame future debates about how government, practitioners and society should respond when the domains of criminal justice and mental health converge.

Foreword

The prison population in England and Wales has risen dramatically in recent years, from 50,000 in 1995 to more than 83,000 earlier this year. This has led to increasing pressure on the criminal justice system to accommodate and manage prisoners, both in prison and in the community following release.

At the same time, we know that mental health problems are very prevalent among prisoners – research has shown that up to 90% of prisoners have at least one mental health problem. Funding for mental health services in prisons has increased somewhat in recent years, and the quality has undoubtedly improved since the NHS gained control earlier this decade. But services are still overstretched and under-resourced, and prison mental health care falls well short of what is equivalently available in the community.

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We found clear evidence that IPP prisoners have multiple and complex needs, often combining alcohol and drug additions with a myriad of mental health problems. The criminal justice system and prison health services are struggling to cope with these needs.

Our recommendations are based on advice and discussions with key experts and senior policy makers and they may help to ease some of the systemic problems that IPP sentences have created for the criminal justice system and improve the lives of prisoners.

Sean Duggan, Director of the Prisons and Criminal Justice Programme, Sainsbury Centre for Mental Health
The sentence of Imprisonment for Public Protection (IPP) was created by the Criminal Justice Act 2003, and implemented in April 2005. It is an ‘indeterminate’ sentence issued to offenders who are identified by the courts as ‘dangerous’ but whose offences do not carry a life sentence.

People sentenced to IPP are given a minimum term they must serve in prison (the ‘tariff’). After that they can be considered for release by the Parole Board if it can be shown that they no longer pose a risk and that they can be managed safely outside prison. Released IPP prisoners are on a ‘life licence’ and subject to recall to prison if they breach the terms of the licence.

By July 2008, there were 4,619 prisoners serving IPP sentences. Just 31 IPP prisoners had been released out of more than 880 who have been considered.

Sainsbury Centre spoke with IPP prisoners and staff in three prisons as well as analysing government data on the mental health of people on IPP sentences. This report sets out our findings and makes practical recommendations to deal with the problems we have identified. It is the first national study of the mental health implications of the IPP sentence.

Levels of mental distress are higher among IPP prisoners than among either the general prison population or prisoners serving life sentences. Government statistics show that:

- More than half of IPP prisoners have problems with ‘emotional wellbeing’ compared with two-fifths of life prisoners and one-third of all prisoners.
- Nearly one in five IPP prisoners has previously received psychiatric treatment, while one in ten is receiving mental health treatment in prison and one in five is on mental health medication.
- One IPP prisoner in 20 is or has been a patient in a special hospital or regional secure unit.

The prisoners and staff we interviewed discussed the practical difficulties created by the IPP sentence and the effect this had on the mental health of prisoners and their families. The main practical problems that we identified were:

- Too little information and too much misinformation is provided to IPP prisoners about their sentence. This can cause frustration and distress to the individual and members of their family.
- There is a significant shortage of accredited offender behaviour programmes for IPP prisoners, especially in local prisons. Many IPP prisoners attend their Parole Board hearing with little or nothing to show for their time in prison.
- There are serious and volatile tensions on prison landings because of IPP. It is hard for IPP prisoners to live alongside prisoners with fixed sentences who know when they are getting out of prison regardless of how they behave. Life prisoners, who are also being held in long queues for programmes, blame IPP prisoners for the perceived delays to their sentence progression.

Indeterminacy damages IPP prisoners’ mental health:

- Many IPP prisoners told us they were emotionally distressed because they had no release date and believed that indeterminacy was eroding any sense of hope.
Indeterminacy damages relationships with family and friends, particularly for prisoners with children.

Being refused release by the Parole Board was very difficult to cope with, especially for prisoners who believed they had done everything they could in prison to demonstrate that they were ready to be freed.

Access to offender behaviour programmes is especially difficult for prisoners with mental health problems. Prisoners whom staff consider to be unsuitable to participate because of mental illness or emotional instability are often excluded from taking part in programmes entirely.

Prison mental health staff told us they were over-stretched and insufficiently resourced to manage IPP prisoners' mental health needs. Prison inreach services are mostly focused on medication, with little or no provision for other services such as talking therapies or counselling.

Few IPP prisoners said they had received helpful support from prison mental health services:

- Some IPP prisoners refuse mental health services or medication because they fear it will prevent them from completing their sentence plan, and that this might mean that they would never be released.
- Several said they needed help but had been inadequately assessed or needed medication but did not receive it.
- Some received informal support from other prisoners, family and friends.

The report concludes that changes are needed to the entire IPP process and to the way health services are responding to the needs of IPP prisoners.

The recommendations in this report include:

For the criminal justice system:

- Sentencers should curb their use of IPP sentences and reverse the increase in numbers of new IPP prisoners arriving in prisons each month in line with the legislative amendments.
- Clear information must be provided to IPP prisoners about their sentence.
- Sentence planning should be proportionate to the tariff.
- Short-tariff prisoners should be prioritised for offender behaviour programmes.
- Increased attention and focus should be given to risk management planning and resettlement packages.
- Careful consideration should be given to the management of licence breach, to avoid large-scale recalls.
- Multi-Agency Public Protection Arrangement (MAPPA) panels should have senior psychiatric representation when focusing on an IPP prisoner with mental health needs.
- The Department of Health and Ministry of Justice should create clear guidance to sentencers on how and when they should use mental health legislation rather than criminal justice legislation, and emphasise that careful consideration should be given before combining the two.

For health services:

- The Department of Health should ensure that commissioners are aware of the mental health implications of IPP sentences, and are prepared for the predicted increase in numbers.
- Primary care trust commissioners of prison health care should be aware of the presence of IPP prisoners, and understand how their health needs will affect the commissioning of services.
EXECUTIVE SUMMARY

- All mental health teams in prisons should be particularly aware of the need for assessing and care planning with IPP prisoners.
- All released IPP prisoners who are on the Care Programme Approach (CPA) should be referred automatically to a community mental health team (CMHT) and, if necessary, to an assertive outreach team.
- Secure hospitals should be prepared to receive transfers of IPP prisoners who require specialist treatment, and step-down plans should be in place.
Introduction

Imprisonment for Public Protection was created by the Criminal Justice Act of 2003. It was implemented in April 2005, and in mid July 2008 there were 4,619 prisoners serving IPP sentences. IPP is an indeterminate sentence, and so does not provide those serving it with a fixed release date. Instead, the court sets a minimum term (referred to as the tariff) that the prisoner must serve in custody before they can be considered for release on life licence by the Parole Board.

Other organisations have produced short briefing papers looking at the IPP sentence, including the Prison Reform Trust and the Howard League for Penal Reform (both in 2007). The Government conducted an internal review into IPP (The Lockyer Review, Ministry of Justice, 2008b), and several organisations submitted written evidence to the Home Affairs Select Committee in early 2007 to the report Towards Effective Sentencing. The memoranda of particular note are those submitted by Nacro, Her Majesty's Inspectorate of Prisons (HMIP) and the Parole Board (see House of Commons, 2007). A forthcoming thematic review by HMIP will shed further light on the IPP sentence.

However, this report by the Sainsbury Centre for Mental Health is the first to explore in detail the mental health implications of the IPP sentence and to present original research mapping the IPP process, from sentencing to release, using qualitative interviews from IPP prisoners across more than one prison. We spoke to 55 IPP prisoners in three prisons, sought the views of prison staff, and analysed previously unpublished government data and statistics.

The research project

Our primary aim was to gain an insight into the systemic working of the IPP sentence and explore the mental health implications. A number of secondary aims were also explored, including:

- Mapping the IPP process from sentencing, through offender behaviour programmes, to the Parole Board and resettlement on licence;
- Identifying any problems caused by IPP both for the individual and for the criminal justice system;
- Investigating the release process for IPP prisoners, including the Parole Board process and resettlement stage;
- Identifying discharge and aftercare arrangements.

Initial focus groups were conducted in two prisons that both have large numbers of IPP prisoners. The focus group data were used to assist the construction of a semi structured interview schedule for data collection with the main prisoner samples.

All prisoners interviewed during the course of this project were adult men. There are also a small number of women serving IPP sentences, and around 50 people aged under 18. The forthcoming HMIP IPP thematic will include data on women IPP prisoners, and for under 18s serving the sentence of Detention for Public Protection (the equivalent of IPP for young offenders, which becomes an IPP sentence at age 18; see Youth Justice Board, 2006).
The first prison we visited is a first-stage ‘lifer’ prison with a Category B security level with large numbers of IPP prisoners. The prison was asked to provide a list of the IPP population which was then divided into tariff groups: 0-12 months; 13-24 months; 25-36 months; 37-48 months; and 49 months and above. These groups were not of equal size but were a means to interview prisoners with different tariff lengths at different stages of their sentence (i.e. covering those who were pre-, near-, or post-hearing).

Within each tariff group, eight prisoners were selected at random. The prison provided information sheets to 40 identified prisoners which explained the project and invited them to take part. The prison then arranged for interested prisoners to attend an interview with the researchers. The aim of the project was explained again and there was an opportunity for the prisoners to ask any questions. Informed consent was obtained before each interview, along with permission to tape record the interview.

Of the 40 prisoners who were identified, 25 took part in an interview. Some prisoners declined to participate, while others were unable to attend because of work or course commitments, a change of mind, or because the prison deemed them unfit for interview (e.g. they were detoxifying or in segregation). Of the 25 prisoners who took part, 19 were white British, the mean age was 34 years old, tariff lengths ranged from four to 83 months, and half of the prisoners had a tariff of less than 24 months.

Prisoners took part in a semi structured interview which lasted approximately 45 minutes. Interviews were conducted by Sainsbury Centre researchers who worked either individually or as a pair, and in those interviews where prisoners did not want their interviews recorded detailed notes were made by the researchers. The interview was based around five themes:

1. The sentencing process
2. Offender behaviour programmes
3. Management
4. Release
5. Mental health.

All interview transcripts were read by the researchers and a set of themes were developed that best represented the prisoners’ views and experiences.

One interview was excluded from the analysis because the prisoner was appealing against his guilty verdict and sentence and did not want to talk about the IPP sentence, so the content of the interview was therefore deemed inapplicable to the research.

Within the first prison an IPP co-ordinator, an offender management officer, a psychologist, and the prison’s mental health team took part in an unstructured interview. These interviews were led by an external clinician who provided detailed notes to the research team.

The second prison we visited is a first and second stage lifer prison with a Category B security level. Prison staff randomly selected 20 prisoners to take part in interviews, which were conducted similarly to those in the first prison.

Of the 20 prisoners who were identified, 14 took part in interviews. Eight were white British, and the mean age was 31 years old. Tariff lengths ranged from 10 months to 78 months, and two thirds had a tariff of more than 24 months.
All IPP prisoners start their sentence in a local prison before being moved to a first stage lifer prison. We therefore also spoke to 16 IPP prisoners from 25 selected in a local prison which holds around 50 IPP prisoners. Tariff lengths ranged from 4 to 192 months (16 years) and two thirds had received a tariff of over 24 months.

In this prison, community psychiatric nurses (CPNs) working in the mental health inreach team spoke to the prisoners. Their questions focused on the mental health implications of the IPP sentence, and the prisoners’ mental health histories and needs.

**Report structure**

Chapter 1 sets out briefly the high levels of mental distress in all prisoners in England and Wales. Chapter 2 describes the policy background to IPP, starting with its conception in the Criminal Justice Act 2003, through to its implementation in April 2005, its legal challenges and media attention in 2007, and the legislative amendments to IPP in the Criminal Justice and Immigration Act 2008. It also details the latest unpublished statistics on the numbers of IPP prisoners, and examines what is projected for the future.

Chapters 3 to 8 describe the IPP sentence in detail, focusing on the sentencing process, information provision, management and release, guided throughout by the views and concerns of the prisoners interviewed. This report uses unprecedented numbers of interviews with prisoners to understand in greater detail the issues and concerns that are most pressing for them and for prison staff.

Chapter 9 sets out what is known about IPP prisoners’ mental health needs based on previously unpublished data from the Government’s Offender Assessment System (OASys), a risk measurement tool used to assess the needs of prisoners across ten domains including education, accommodation, drugs and alcohol, employment and emotional wellbeing.

Chapters 10 to 14 detail the mental health implications of IPP. They are based on interviews with both prison mental health professionals and prisoners. They identify instances where the IPP sentence has caused high levels of emotional distress to prisoners, including the impact of indeterminacy, confusion, and lack of progression towards release.

We conclude the report with recommendations, based on both the research findings and on consultations with leading experts on IPP, including government policy makers, academics, forensic mental health practitioners and senior operational staff.
The prison population of England and Wales on 30th June 2008 reached a record high of 83,667 (Ministry of Justice, 2008a). In 1995 the figure was 50,000, yet the Government has forecast that the prison population could reach more than 100,000 by 2014 (see Figure 1).

The Social Exclusion Unit (2002) found that compared with the general population prisoners are:

- Thirteen times as likely to have been in care as a child;
- Thirteen times as likely to be unemployed;
- Ten times as likely to have been a regular truant;
- Two and a half times as likely to have had a family member convicted of a criminal offence;

Figure 1: The prison population of England and Wales, 1995-2008, with Ministry of Justice projections for 2009-2014 (high scenario)

(Sources: Ministry of Justice, 2007 & 2008a)
Six times as likely to have been a young father;
Fifteen times as likely to be HIV positive;
Twenty times more likely to have been excluded from school.

In addition it found that:

- Two-thirds of prisoners were using drugs before imprisonment, yet 80% have never had any contact with drug treatment services;
- Half of prisoners had no GP before they came into custody;
- A third of female sentenced prisoners have attempted suicide in the past;
- Four in five have the writing skills, two-thirds the numeracy skills and half the reading skills at or below the level of an 11-year-old.

Prisoners have vastly higher rates of mental health and substance use problems compared with the general population (see Table 1).

There are real dangers that prison will cause a person’s mental and physical health to deteriorate further, that life and thinking skills will be eroded, and that prisoners will be introduced, or have greater access, to drugs (see Durcan, 2008):

- One-third of prisoners lose their home while in prison;
- Two-thirds lose their job;
- Over a fifth face increased financial problems;
- Over two-fifths lose contact with their family (SEU, 2002).

These stark figures illustrate the dramatic level of complex needs that prisoners, and those managing them or treating them, face. In addition, the rising prison population means that the myriad of problems has to be faced by an increasingly stretched criminal justice workforce operating on more and more limited resources.

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**Table 1: Rates of mental health problems among prisoners**

<table>
<thead>
<tr>
<th>Mental health problem</th>
<th>Prevalence among prisoners</th>
<th>Prevalence in general population (adults of working age)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Psychosis (such as schizophrenia and bipolar disorder)</td>
<td>8%</td>
<td>0.5%</td>
</tr>
<tr>
<td>Personality disorder</td>
<td>66%</td>
<td>5.3%</td>
</tr>
<tr>
<td>Neurotic disorder (such as depression and anxiety)</td>
<td>45%</td>
<td>13.8%</td>
</tr>
<tr>
<td>Drug dependency</td>
<td>45%</td>
<td>5.2%</td>
</tr>
<tr>
<td>Alcohol dependency</td>
<td>30%</td>
<td>11.5%</td>
</tr>
</tbody>
</table>

(Sources: Singleton et al., 1998; Singleton et al., 2001)
Imprisonment for Public Protection (IPP) has become the fastest-growing custodial sentence in the England and Wales prison estate. It has, in just three years since its implementation in April 2005 as part of the Criminal Justice Act 2003, attracted more controversy and attention, and arguably had a greater impact upon the criminal justice system, than any other sentence in recent times.

The IPP sentence

IPP is an indeterminate sentence issued to offenders when the court deems them to be ‘dangerous’, where they have been convicted of a ‘serious’ offence. IPP can be given for a first offence, and the assessment of dangerousness is all but mandatory when the offender has a previous conviction for a violent or sexual offence (see Chapter 3).

If sentenced to IPP, the prisoner will be given a tariff proportionate to the seriousness of the ‘index’ offence (the offence that the court is considering), which is the minimum period they must serve in custody.

When they reach the end of their tariff, the prisoner is considered for release by the Parole Board. In the case of an IPP or life sentence, the parole assessment is carried out by a panel that takes the form of a three-person panel chaired by a judge. The Parole Board must consider what evidence there is that releasing the prisoner is appropriate. Their decision is based on both an evaluation of risk and predicted future offending. Careful consideration is also given to plans on how the prisoner would be managed in the community if they were released. A robust risk management plan for the life licence, constructed by external probation services, forms a crucial part of the Parole Board’s consideration.

If an IPP prisoner is released they will remain on licence (meaning that they are subject to being recalled to prison) for the rest of their life, but they can apply to the Parole Board to have their licence cancelled after 10 years. If denied release, the prisoner is subsequently reviewed on an annual basis. Potentially, a prisoner serving an IPP sentence might never be released.

Number of IPP prisoners

When the Criminal Justice Bill 2003 was debated in Parliament, the Government anticipated that the number of additional prison places required as a result of IPPs in the first few years after implementation would:

“Depend on how the courts, having regard to the trigger offences and the thresholds that we have set, operate the assessment of ‘significant risk to members of the public of serious harm’. That is quite difficult to know. However, we have assumed in our modelling that over time – because it would take time for the effect to develop – there would be an additional 900 in the prison.”
population. That is only modelling, of course, and the honest answer is that it is difficult to assess the effect, because it depends on the courts’ interpretation of the provision.

(Hilary Benn, House of Commons, 2003)

By mid July 2008, three years after implementation, there were 4,619 prisoners serving IPPs in England and Wales and in 2007 the Government forecast that there would be 12,000 IPP prisoners by 2014 (Ministry of Justice, 2007). They attributed the recent increases in the prison population and soaring custody projection figures to the introduction of IPP, noting:

“The rate at which IPP sentences are issued has stabilised at around 145 per month and this rate is assumed to be constant over the time period of the projection. Those who are now getting an IPP would previously have received a relatively long determinate sentence. However, IPP sentences are expected to increase the prison population over the period of the projections, as those with these sentences are assumed to serve longer in prison than they would have done with standard determinate sentences.”


Figure 2 shows the Government’s projections for the numbers of people on life sentences and on IPP until 2014.

Figure 2: Ministry of Justice IPP and lifer population projections 2007-2014

It is also worthy of note that more than one-third of prisoners on IPP are aged 18 to 24 (Ministry of Justice, 2008b).
**Tariffs and offences**

IPP sentences are intended to detain dangerous and serious offenders whose crimes do not qualify for a ‘life’ sentence. However, half of the IPPs issued have had a tariff of less than 20 months, and the average tariff length is 36 months. At least one prisoner’s IPP tariff was only 28 days, while some tariffs have been set for more than ten years. IPPs have therefore been issued to offenders convicted of crimes that were judged to fall across a substantially varied range of seriousness levels. Many IPPs have been given for sexual, violent and firearms offences. A third have been issued for ‘robbery’. Other offences include ‘threats to kill’, ‘conspiracy to kidnap’, and ‘arson’. However, the offences vary in seriousness within each of the offence types.

**Sentence management**

More IPP sentences have been issued than was expected, and many IPP prisoners have been given very short tariffs. This has created substantial logistical difficulties for the prison system in managing and rehabilitating IPP prisoners. Prisons have expressed the difficulties caused by not knowing whether their sentence plans should be based on a lifer management approach, or those designed for short-sentence prisoners.

As the Minister of State for Justice, David Hanson, noted about IPPs with short tariffs:

> A difficulty exists when the concept of an indeterminate sentence is coupled with a short tariff. Sentences with such short tariffs are very difficult for the Prison Service to manage. They often put an unprecedented strain on the service, and on the Parole Board, and its workload.

(David Hanson, Minister of State for Justice, House of Commons, 2008).

However, the most pressing problem has been a great shortage of accredited Prison Service offender behaviour programmes, and the delays to providing programmes that has meant they have not been delivered in the timeframes required to meet tariff expiries.

The Government stated that it would improve the process for current IPP prisoners, and an interim injection of £3 million was allocated to the 2007-08 prison service budget to help prisons holding IPP prisoners to complete assessments and to move offenders onto relevant offender behaviour programmes.

**Release**

In order to be released by the Parole Board, an IPP prisoner must demonstrate that they are no longer a significant ‘risk’ to society. This is done in part by undertaking and completing offender behaviour programmes and other ‘courses’. However, many prisoners serving IPP are being held in prisons where few or no programmes are offered, such as local prisons. For many more, prison overcrowding has meant they have had to join lengthy waiting lists for programmes, and waits often exceed the prisoner’s tariff. Therefore, many prisoners have been unable to demonstrate that they are no longer a risk by the time of their first Parole Board hearing, and so the Parole Board cannot release them.
By mid July 2008, only 31 prisoners sentenced to IPP had been released out of the 880 who had gone beyond their tariff. This represents a release rate of just four per cent for those who have served the minimum period in prison and are eligible for a Parole Board hearing. Around another 400 prisoners from the current IPP population will have gone beyond their tariff by the end of September 2008.

High Court Appeals

In 2007, several IPP prisoners appealed against their sentence and detention beyond their tariff, arguing that if they were not given access to offender behaviour programmes to demonstrate reduced risk they should be released. On 31 July 2007, the Court of Appeal declared that IPP had created a “general and systemic legal failure”, and that keeping a prisoner in custody without providing access to the programmes necessary to reduce the risk they might pose could not be justified. It declared that the IPP sentence “is therefore unlawful” (England and Wales High Court, 2007).

The Ministry of Justice appealed against this decision, and the appeal was heard by the Lord Chief Justice, Lord Phillips. The court’s judgement, delivered in early February 2008, stated that:

“[The appeals have] demonstrated an unhappy state of affairs. There has been a systemic failure on the part of the Secretary of State to put in place the resources necessary to implement the scheme of rehabilitation necessary to enable the relevant provisions of the 2003 Act to function as intended.”

(Court of Appeal, 2008)

The judgement upheld the decision that the Ministry of Justice and Secretary of State were acting ‘unlawfully’, and stated that unless prisoners were given timely assessment and access to programmes, release should follow tariff expiry. However, the judgement did not order the release of post-tariff prisoners, nor did it specify how long a delay or how infrequent the assessments had to be before it was deemed a breach of human rights and grounds for release.

While awaiting the appeal judgement, the Ministry of Justice conducted an internal review of IPP, which reported several major problems and shortfalls, many of which were related to resources for programmes and prison overcrowding (Ministry of Justice, 2008b). The Government is now considering a further appeal to the House of Lords.

The Criminal Justice and Immigration Act 2008

Amendments were added to the Criminal Justice and Immigration Bill 2007 in January 2008 following recommendations by a review into the criminal justice system by Lord Carter of Coles (Carter, 2007). Carter had recommended that a minimum seriousness threshold should be imposed on IPP sentences and the Government responded by announcing that where the offence committed is not serious enough to warrant a tariff of two years or more, an IPP sentence would normally be unavailable.

Ministers noted that:

“We think the [two year] threshold that we are suggesting is reasonable. It will target the most dangerous offenders without violating risk management. There is an association between the seriousness of an offence and the risk of future conviction and causing future harm, although that
is obviously not the only factor in risk assessment. There is also the principle issue about the
degree to which one can lock a person up on the basis of future risk. That, of course, goes to the
core of the legislation. The question is whether the balance is right [in the Criminal Justice Act
2003], and in the light of experience we think that we have not got it right. It had not been
envisaged that the sentences would be used so widely for less serious offenders."

(Lord Hunt of King’s Heath, Parliamentary Under-Secretary of State for Justice,
House of Lords, 2008).

The Act, which took effect in July 2008, provides the courts with greater discretion to decide on the
appropriateness of the IPP sentence. It introduces a ‘seriousness threshold’ of two years, but with the
option for judges to still issue an IPP sentence in some circumstances with a tariff of less than two
years.

Further, the number of specified offences for which an IPP sentence is applicable has been
significantly reduced. Following implementation of the amendments, the IPP sentence will look much
like the ‘automatic life sentence’, with the significant difference that it will be available for a first
offence (the automatic life sentence was only issued where an offender was convicted of a repeated
serious offence).

However, the Act will not be applied retrospectively, so more than 4,500 prisoners already serving IPP
sentences will be unaffected by these changes.
The following six chapters set out the background to how IPP works in practice, from the passing of an IPP sentence to release on life licence. This background information is critical to understanding the mental health implications of Imprisonment for Public Protection.

The IPP sentencing process is complex and changing. IPP is a relatively new sentence, yet it has already been amended by the Criminal Justice and Immigration Act 2008.

The Sentencing Guidelines Council, who together with the Sentencing Advisory Panel “ensure that sentencing guidelines are produced which: encourage consistency in sentencing throughout the courts of England and Wales; and support sentencers in their decision making”, released a guide in September 2007 to aid sentencers and practitioners with their decisions relating to ‘dangerous’ offenders (Sentencing Guidelines Council, 2007).

What follows in this chapter is a summary of the guide as it relates to the sentencing process for IPP. In July 2008, a new version of the guide was produced, incorporating the implementation of the Criminal Justice and Immigration Act 2008’s amendments (Sentencing Guidelines Council, 2008).

Interspersed throughout our summary are views from the IPP prisoners interviewed for this project, relating to the IPP sentencing process.

The guide states that an IPP sentence can be considered appropriate if the offender:

- Is 18 years or older (those aged 15-17 can be issued with Detention for Public Protection);
- Has committed a ‘serious offence’;
- Is considered by the court to be ‘dangerous’;
- Does not qualify for detention for life;
- Is not suitable for an ‘extended sentence for public protection’.

The ‘test for dangerousness’, on which the court is guided by the pre-sentence report, is made in two stages:

- There must be a significant risk of the offender committing a further specified offence and
- There must be a significant risk of serious harm to members of the public being caused by such offences.

An assumption of ‘dangerousness’ is made if the specified offence (which is to be sentenced) was committed when the offender was aged 18 or over and they had been convicted previously of a relevant offence. If these factors are present, the court must assume that the offender is a dangerous offender, unless it would be unreasonable to do so.
Offending history

‘Offending history’ is important in the IPP sentencing process and the existence (or not) of previous convictions makes IPP more likely.

“I’ve been done for one robbery before, so the chances of me getting IPP were high...and that’s what the judge gave me straight away.”

Any previous conviction may be relevant in the assessment of whether an offender is dangerous, and offences may be considered whether or not they are specified offences.

“They dragged up two offensive weapons, one from 1988 and one from 1998. I don’t use knives but the judge tried to make it like I did...I would have liked my solicitor to explain that IPP is what I could have got, but he didn’t know anything about it.”

However, an offending history does not necessarily determine whether an offender is dangerous and IPP can be issued for a first offence. Even non-criminal sanctions can be considered, such as having had an Anti-Social Behaviour Order.

Tariff

When issuing an IPP sentence, the court must set a tariff. This is the minimum period the offender must serve in custody before the Parole Board can consider their release.

When setting the tariff the court identifies a notional determinate sentence, taking into account the seriousness of the offence and associated offences and any appropriate reduction for a plea of guilty. Normally, one half of that term is set as the tariff, from which the court usually should deduct any time spent in custody on remand.

The court should not add to the length by incorporating an element for risk, which is already covered by the indeterminate nature of IPP. Time may be added if the offender has committed any offence while in prison on remand.

A large proportion of the prisoners we interviewed felt very strongly that they would much rather have been given a fixed term sentence instead of an indeterminate one.

“If you’re on a fixed term [sentence], then you’ve got something to head for – you know, I’ll keep my head down and go home – but with this kind of sentence, you just don’t know.”

Many said that they would even have preferred a much longer determinate sentence than IPP and said a fixed term sentence, even if three or four times the length of their IPP tariff, was preferable to a sentence of unknown length.
Correcting a sentence

The court may bring a prisoner back to court to correct a sentencing mistake after sentencing if it relates to IPP. For example, if the court initially failed to recognise that the offender qualified for IPP and imposed a sentence outside the dangerous offender provisions (such as a determinate sentence), then it can issue IPP at a later date.

“I thought I walked out of court with a five year sentence, and I end up going back to court four times just to work out what they have done. It was a bit of a mess... [But then they said] ‘there’s been a mistake’, and I ended up having to go back to court and work out whether I had an IPP sentence.”
The following chapters describe the IPP sentence process in prison, as depicted by prisoners. They highlight some of the systemic problems and difficulties that IPP has caused for both criminal justice agencies and prisoners. These all have implications for the mental health of prisoners on IPP sentences.

Almost all of the IPP prisoners we interviewed said that they were poorly informed and confused about their sentence. Many said that they did not know that they had been sentenced to IPP until after they had been in prison following sentencing, and the poor standard of information about their sentence was an area of great concern. Poor advice by legal representation during the sentencing process was followed in prison by a lack of trust in what was said by prison staff. Many prisoners said that prison staff gave inconsistent or incorrect advice, which they believed was due to a lack of understanding on their part.

Misinformation and doubts about the accuracy of information from prisoners, staff and the media contributed to an overwhelming sense of confusion and desperation, and a feeling that IPP prisoners were ‘left in the dark’.

**Information from staff**

Many prisoners had tried to obtain information about their IPP sentence through conversations with prison staff. Most said that these had been unhelpful and that prison staff seemed to know even less than they did. Prisoners said they would prefer to have information from professionals rather than peers, and that staff should have reliable information to give both verbally and in the form of written information.

"As soon as you get sentenced you should get called into a room and [someone should] explain the way things work. But half the officers don’t know anything about IPP. They go on like they do, yeah, but they haven’t got a clue. One officer tells you one thing and another officer tells you something else, and it’s totally different. It’s not their fault – they just don’t know."

**Information from other prisoners**

Most prisoners had obtained some information from other prisoners, yet believed that peers were an unreliable source. The majority who had spoken with other prisoners about the IPP sentence felt that it was very difficult to separate accurate information from rumour.

"There’s always something bouncing about the wings: have you read this? Have you read that?"
Some prisoners who had initially asked staff for information had turned to other prisoners after finding staff unhelpful.

"[The staff] didn't explain it properly to me... [What they said was] a load of rubbish, basically... to keep my head high... [Since then] I've learnt from other inmates what the real deal is... but other inmates might lie about certain things."

### Information from families and other sources

The accuracy of information from families varied in its usefulness. Some had found family to be a good source of information.

"I had to get my missus to get on the internet and send me information, and I had to read it myself. That's how I learnt about the IPP."

Other prisoners' families had been unable to help them.

"[My family] is in the dark the same as me. They've tried looking it up on the internet but there's nothing. The stuff they're coming back to tell me, I know it all now anyway, because when you're in jail you're one of the first to hear."

### Information needs

We asked prisoners what would have been helpful in terms of providing more information and understanding. Many spoke of simply wanting to know 'what it means' to be serving IPP.

"Just someone who can give you a kind of directive, and you could at least go to them. There are some people in here with families and girlfriends and this kind of thing, and [families] try to ask them and they can't explain it. Everyone's in the dark."

Many said they would have benefited from an information pack, or a special prison team to receive them on entry to the prison, who could have explained the situation to them, and inform them of what was expected of an IPP prisoner.

Several prisoners said that they looked to media sources for information, in particular ‘the papers’ (commonly tabloid newspapers or the prison paper *Inside Time*), television news and teletext. Some also were trying to track the progress of the Appeal Court cases.

"I started watching the news, like ‘The Politics Show’, just waiting to hear something. You don't hear nothing about it though."

In general, confusion far outweighed understanding.

"Unless you are telepathic and clairvoyant, and all the rest, how do you know what questions to ask? There's no information."
Management of IPP prisoners is performed by several levels of prison staff, from prison officers to offender managers and lifer managers. An official manual, published in January 2008, sets out an 'Offender Management Model' that relates directly to working with indeterminate sentence prisoners. The model utilises 'The four Cs: consistency, continuity, commitment and consolidation' (see Box 1).

Box 1: Offender Management Model

The most effective work with offenders is associated with:

- Consistency of method and message: offenders need to receive consistent pro-social messages from the same person over time and different people at the same time; a real challenge for co-ordination and teamwork;
- Continuity of 'treatment' and of relationship: there needs to be a continuity of approach ('treatment integrity' or 'continuity of care') and of relationship – a single plan – a single offender manager;
- Commitment (sometimes referred to as 'genuineness' or 'the human link'): most offenders have many experiences of exclusion; they are highly sensitive to staff 'going through the motions';
- Consolidation of learning into routine behaviour: new attitudes and cognitive or life skills.

(NOMS, 2008, p.4)

However, interviews with prisoners revealed that these principles appear to be poorly delivered in practice.

Prison officers

One of the main criticisms that IPP prisoners had about prison officers was their ‘attitude’ and a sense that officers were ‘going through the motions’.

“Too much of a blanket generalisation of everyone. ‘Nobody’s getting out’ – that was the attitude of the officers – ‘nobody’s getting out, you’re all bad’.

Many prisoners spoke of how officers ‘just don’t want to know’, or gave the wrong advice about which courses they should complete, even when particular programmes were specified on the prisoner’s sentence plan. Some put this down to the high volume of IPP prisoners arriving into prison:
“[Prison officers] have been given this thing, IPP, and [told] you must follow by these guidelines, and all of a sudden they’re being flooded by loads of inmates, IPPs, so they can’t handle it.”

Another prisoner said that the mood of the prison and its staff was suffering because of the large volume of prisoners moving in and out of the prison.

“I’m not saying that prison officers are evil people or anything, they don’t mistreat us. But the atmosphere! Obviously they’ve got no control over it. They see people come and go day in, day out, and it probably tires them out.”

**Prison offender managers**

The vast majority of prisoners spoke of the infrequency of meetings with their prison offender manager (referred to by prisoners as ‘internal probation’). Many, including those who had been there for some time, reported that they had only been seen once since arriving in prison. Some said that they had not been seen at all.

The prison offender manager report informs the Parole Board on the progress of the prisoner on offender behaviour programmes, and other issues such as how the prisoner has behaved. Some prisoners complained that their offender manager’s report had been compiled on the basis of just one or two meetings.

In one of the prisons we visited, the lifer manager played an important role in the eyes of prisoners for ‘getting things done’, such as obtaining places on offender behaviour programmes and work placements. However, obtaining a meeting with the lifer manager often proved to be extremely difficult for prisoners. Meetings were often on a first come, first served basis, which several prisoners said was frustrating.

**External offender managers**

The external offender manager (referred to by prisoners as ‘outside probation’), based in the prisoner’s local area, has a very important role in an IPP sentence, as they write the report for the Parole Board detailing their proposed risk management plan should the prisoner be released. They advise the Parole Board on what the licence conditions should be, and on matters such as the prisoner’s planned resettlement arrangements, such as accommodation and employment prospects. The Parole Board tends to place great importance on this external risk management plan, perhaps even more than they do on the prison offender manager’s report on prisoner progression with prison courses.

Prisoners articulated the important role their external offender manager played in their release considerations.

“If you don’t have a probation report there’s not a chance of release, because you obviously have to be supervised [in the community]. [The Parole Board] probably, with everybody, would want you somewhere like a secure bail hostel, somewhere they know where you were. Without a release plan, the Parole [Board] couldn’t release you even if they wanted to.”
However, the majority of prisoners were dissatisfied with the low level of contact they felt they had with their external probation officer.

“I’ve written twice to my probation officer since I’ve been convicted, but I still haven’t heard from her, and she’s in theory supposed to be in charge of my case.”

In one of the prisons, the lack of contact between external probation staff and prisoners seemed to have been in part because it was quite remote. As a result, the external offender managers were often based several hundred miles away, making visits more difficult. Yet prisoners reported that alternative methods of communication, such as phone conversations or video links, were also few and far between.

“I’ve had two or three [meetings with the external offender manager] since I’ve been here. I’ve had one probation officer who didn’t even come over here – put me on a video link. He obviously didn’t look at any of my paperwork because when I was talking to him on this stupid TV [screen] he was telling me that I’m doing a seven year tariff, and I’m doing a three and a half year tariff, so he didn’t know anything about me. He obviously hadn’t even read my file. I wrote three or four letters to probation, but I didn’t get anything back... I even sent them a Christmas card!”

**Legal representation**

Several prisoners said that they had had to resort to instructing a solicitor in order to obtain any form of contact with offender management staff or external probation.

“I was putting in loads of applications, and they were sending it back to me ‘oh, we’ll see you when we see you, stop bothering us’, that kind of argument. But as soon as I got my solicitor on it they came to see me...”

However, other prisoners had made very little progress despite involving a solicitor.

“My solicitor is] forever writing letters. She wrote to the Offending Managing Team about not getting me on courses... and that didn’t really achieve anything... So she’s banging her head against the wall with this jail as much as I am now, so it doesn’t really help.”

One prisoner spoke of the difficulties affording legal representation, and said that Legal Aid was not available to instruct a solicitor for letter writing in relation to prisoner management issues.

“I do want to get a solicitor involved but... if I write to them to say could you try to help me...and get involved, they will look and think ‘well I ain’t getting no legal aid for that’ and they aren’t going to bother.”
Access to offender behaviour programmes

A lack of access to Prison Service accredited offender behaviour programmes, and a shortage of resources for delivery, is one of the most contentious and difficult issues relating to IPP. It was the most significant and consistent concern raised by prisoners. In this chapter and those that follow, offender behaviour programmes are referred to as ‘courses’ to mirror the language used by prisoners. While there are ‘courses’ available in prisons that are not accredited, and which do not contribute to risk reduction, in this report ‘courses’ refers only to those that are accredited, or to treatment programmes such as drug and alcohol treatment programmes.

The courses that prisoners most frequently referred to are described in Box 2.

All IPP prisoners are assessed for a sentence plan, which creates a package of courses and programmes that prison staff feel are necessary for the individual prisoner to reduce their risk. However, because of the high volume of IPP prisoners and an insufficient level of resources to provide courses to those who require them, many IPP prisoners have been unable to complete their sentence plan prior to their Parole Board hearing.

“It’s terrible, absolutely terrible. I’ve only got a year left to tariff. How are they going to get me on four more courses? They’ve got me on two wanky courses in 18 months of being here. How they’re going to get me on the next four, that are quite important courses, in the next year, I’ll never know. It’s not happening, it’s so terrible.”

Some IPP prisoners are held in prisons that offer few courses or none at all. This is most likely in local prisons. Others are unable to participate in courses for physical or mental health reasons. The vast majority face long delays for assessment and participation, and many are assigned to courses that take longer to complete than the tariff length set by the judge.

“Since I’ve been down here I’ve put down for four courses and I haven’t done one yet... The two years and seven months I’ve done in prison have just been a waste, I’ve learnt nothing.”

In some cases, prisoners with short tariffs were due to be seen by the Parole Board before they had even had a sentence plan assessment.

Resource shortages

Many prisoners spoke of how there were not enough resources or professionals to deliver the courses for the large volume of IPP prisoners requiring places. Because of the pressure of numbers, courses are often run consecutively in batches rather than concurrently, which makes progress very slow for those who have to complete several courses.
Box 2: Offender behaviour programmes

The Prison Service describes offender behaviour programmes as:

Rehabilitation programmes designed to identify the reasons why prisoners offend and reduce and monitor these factors. As well as reducing risk, programmes support risk assessment and the risk management of offenders... Offender behaviour programmes... have been fully or provisionally accredited by the Correctional Services Accreditation Panel (CSAP).

Enhanced thinking skills (ETS)

ETS is a relatively short programme which addresses thinking and behaviour associated with offending. This includes impulse control, flexible thinking, social perspective taking, values / moral reasoning, reasoning, and inter-personal problem solving. It is the programme most frequently delivered, with over 40,000 offenders having completed this course over the past 12 years.

Cognitive skills booster programme

This programme is run by both the Prison and Probation Service and is designed to reinforce learning from general offending programmes (such as ETS) through skills rehearsal and relapse prevention.

Controlling anger and learning to manage it (CALM)

This course is for offenders whose offending is associated with poor emotional control. CALM aims to enable participants to reduce the intensity, frequency and duration of negative emotions which are associated with their offending. These emotions include anger, anxiety and jealousy.

Cognitive self-change programme (CSCP)

This programme targets high risk violent offenders and includes group and individual sessions. It equips prisoners with skills to help them control their violence and avoid reconviction. It is aimed at offenders with a history of violent behaviour and is suitable for those whose violence is reactive and / or instrumental.

Sex offender treatment programmes (SOTP)

A range of programmes are available for sexual offenders, providing a menu which is offered according to the level of risk and need of the offender.

Healthy relationships programme (HRP)

The HRP programme is designed for men who have either been convicted of or admit to abusive and violent behaviour in the home and who have been assessed as a risk of being violent in their intimate relationships.

(http://www.hmprisonservice.gov.uk/adviceandsupport/beforeafterrelease/offenderbehaviourprogrammes/)
Prisoners reported that the quality of courses was suffering because of the high numbers enrolled on them.

“Most people are in these jails because there aren’t enough facilities for the amount of prisoners who are doing IPPs. It just clogs up the system at the end of the day, and there aren’t enough hands and teachers to run all the courses all at the same time.”

The opportunity for education and reflection became, in some cases, a rushed activity delivered in what one prisoner described as a ‘superficial’ way, where prisoners took part only because it was part of their sentence plan and not because they wanted to benefit or change.

“[The course] was more going through the motions, I suppose, than knowledge and input to me... With all the resources issue that’s gone on, I think a lot of these tutors or counsellors, or whatever, they’re under so much pressure I don’t think they really can put [in] the actual input that they want to... They’ve got to churn them through.”

However, one prisoner reported that he had actually managed to complete all of his courses prior to his parole hearing. While he was unsure why this was, he had decided to put it down to luck.

“I seem to get things done, whereas other people are waiting and have to keep going through this and that to try to get that done... I’ve done my courses. I’ve done every course that I could do here. I’ve been lucky... I’ve done everything here, unless I want to go on the sex offender course, but I’m not a sex offender!”

### Types of course

Many prisoners said they were unable to complete their sentence plan in their current prison because the required course was not offered there.

“I have to do] victim awareness, which can’t be done here, and it’s probably eight months on the course. I’ll have to go to another prison when they’re ready, and yet [my] tariff is only seven months!”

However, being moved to another prison is no guarantee that a prisoner will be able to complete the required course. In most circumstances, prisoners who had been transferred to another prison joined the bottom of a long waiting list on arrival at the new establishment.

“They say ‘do these courses’ and then you get shipped out to the next prison, and it hasn’t got enough staff to do the programmes. The course that I have to do... is a 12 to 18 month course. I’ve done the two and a half years of my sentence, but I’ll have to spend another 18 months on that.”

### Health problems and disabilities

Some prisoners were unable to complete any courses because of physical and mental health problems. One prisoner said that he had been unable to participate because of his physical disability.

“I have to do courses, and I can’t. It doesn’t matter how wonderful the courses are here, it’s meaningless because I’ve got to go somewhere else to do them. So for me it’s a complete waste of time – I’m dumped.”
This was the only prisoner who talked about a physical disability as a barrier to participating on courses, but it is nevertheless an important perspective to consider and highlight, particularly when prisoners associated courses so closely with getting release. Chapter 11 of this report outlines the experiences of many IPP prisoners whose mental health problems proved to be a barrier to access to courses.
Parole Board hearings

Preparing for the Parole Board hearing, through the completion of courses, work opportunities, training, and maintaining good behaviour, was a main focus of many IPP prisoners.

Dissatisfaction with the release process, and in particular in relation to ‘knock-backs’ (being turned down for release by the Parole Board), was seen as the fault of prison staff and offender management staff. Prisoners generally did not blame the Parole Board for its decisions, understanding that the hearing could only consider the (often limited) evidence of risk reduction that was put before them.

Most prisoners said that they did know of a prisoner who had obtained release, but they had normally heard this through word of mouth from other prisoners, and most prisoners doubted the validity of this information.

“There was talk, I don’t know this fella, but there was one bloke who was over on [another] wing who got his first parole. But the amount of shit you hear in prison, I don’t know what to believe.”

Where prisoners were aware of the Parole Board granting release, they reported that there were still delays to the release itself.

“Two fellas I know have both been released but they’re both [still] in the system. The Parole Board said: ‘Right, we’re going to release you on this date’, but they’re still here, they’ve just not been released.”

These delays were thought to be the fault of the Probation Service. Describing an IPP prisoner granted release by the Parole Board, one prisoner noted that:

“The Parole Board granted home parole, gave him a date, but on the condition that when he got released he done this course for outside probation. The course has been put off for six months, so he can’t go home because the course isn’t ready.”

When researchers subsequently asked the prison management staff how many IPP prisoners had been released from the prison, they reported that their prison had not had a single IPP prisoner obtain release. Indeed, nationally only 31 IPP prisoners had been released by July 2008.

Some prisoners felt that the Parole Board did not show enough recognition for progress that had been made, such as good behaviour or compliance, even though they were accepting of the Parole Board’s overall decision that there had been insufficient evidence to justify their release. Prisoners said that this lack of recognition damaged the morale and attitudes of prisoners; not just those who were being denied release, but also those who were also working towards their Parole Board hearings.

One prisoner said that prisoners who have ‘knuckled down’ should be recognised and rewarded, and that the Parole Board should look at what has been achieved while in prison in addition to courses, such as good behaviour, education, and maintaining a job in prison. He felt that a lot of prisoners were
working hard in prison but getting no reward for their ‘graft’, and that if this continued prisoners would stop trying altogether.

"There's people who've not had no nicking [arrest while inside prison] since they've been away, they go and work in the servery, [they're] arse-licking screws to a certain extent, and their parole has come up [and they get an] 18 month knock-back to practise ETS skills. Surely that could be done out there or getting them moved on to the next prison? When you see someone that's doing all that, and is making tea for the screws, and they've done everything and are polite to them, and then they get an 18 month knock-back, you think to yourself, ‘what chance have I got’?"

Parole Board decisions often filtered back to the landings and had a significant impact on prisoners’ attitudes. Some felt that even obtaining a security level downgrade to a Category C prison as a result of a parole hearing would be a sign of progress.

"[A Parole Board ‘knock-back’] is a little kick to everyone else because everyone else is thinking: ‘If he gets his re-Cat [re-categorisation to a lower security prison] or if he gets released, then there’s hope for us’.

Most prisoners perceived a direct link between completing courses and obtaining release. Only a few recognised that the Parole Board also has to consider many other factors in addition to course completion, many of which are in relation to resettlement and preventing reoffending, because of the subsequent life licence that follows an IPP prisoner’s release.

One prisoner described the large amount of information that he was asked to provide prior to his Parole Board hearing. He said that they asked for a letter from his wife and children stating his progress and that they wanted him to come home. He had to complete a statement on why and how he would stop reoffending and how he would earn money. He was also asked to describe how he would avoid a relapse into drugs, and avoid his former drug dealers, old friends and how he would make new friends and associate with people making progress in life from good backgrounds. In addition, he had to provide information on how he planned to keep probation appointments, maintain contact with CARAT (Counselling, Assessment, Referral, Advice, and Through-care) workers, alcohol councillors, and his GP.

Making arrangements for stable accommodation, relationships, or employment is very difficult for almost all prisoners, but for prisoners serving indeterminate sentences it is even more difficult as they have to try to plan for release without a fixed release date to work towards.

‘Too much pressure’, ‘too little control’

There was some divergence in IPP prisoners’ views about the level of control they felt they had over their release process. Some prisoners felt that progressing through their sentence plan and planning for release was entirely down to them, which often created a sense that they had too much responsibility and felt considerably pressured.

One prisoner said that “everything is on me to organise”. He felt under significant pressure, and that the prison needed to support him more.

However, others believed that their situation was entirely in the hands of others and that they had no control.
You don’t know when you’re going home. I could do all these courses I’m trying to get on now… [and] when I do end up doing them, eventually they can – if they wanted to be funny – throw more courses at me. So really my life is in these people’s hands.

One prisoner felt that no matter what he achieved in prison, his release process would be determined by how much weight the Parole Board apportioned to comments by the judge who had sentenced him.

I feel that the judge on that day slammed me… He says ‘I am strongly urging the Parole Board not to consider your release until the completion of your eight year term due to your drug addiction’… It’s the sting in the tail with what the judge said.

Fears about the licence

Many IPP prisoners were very concerned about what would happen to them after release while on licence.

My sentence is going to start the minute I walk out of the door. It’s really daunting. Having to sign in with the police… [it’s] like being on a leash… I have to declare if I meet a woman, if I go on holidays… I feel like I’m under a microscope… [At least] a ten year licence! Anything could happen to me in the next ten years.

One prisoner said that he was very worried about being recalled for minor incidents and about the licence restrictions. Another thought that the licence meant that the sentence provided more of a deterrent, but he was concerned that the ‘slightest hiccup’ could bring him back into prison.

A number of prisoners expressed a fear that former ‘associates’, knowing they were on a licence, might speak falsely to the police or probation services claiming that the released IPP prisoner had been engaged in activities which would warrant a recall.

Some prisoners worried that if they or a family member was attacked, they would not be able to defend themselves or others, as it might lead to a recall to prison.

One prisoner believed that the expectations of the licence after release were unrealistic for many IPP prisoners who would be returning to difficult circumstances:

I don’t think these people understand, [those] who give you the IPP. They live in a different community to what I do. [In] council estates there’s always trouble, you don’t have to be looking for it, [and] sometimes you may need to defend yourself… There’s no leeway [with the licence] – even if it’s the other person’s fault you’d still be involved in some way, [which] puts your safety at risk as you can’t defend yourself… I’m not saying I’m looking for fights, but I [would be] living in a place where that stuff happens.

Another was very scared that he might be recalled, and felt that without ongoing support when he leaves prison he would be likely to reoffend.

While only 31 IPP prisoners had been released by July 2008, those released on life licence will present a continuing, capacity intensive group for the Probation Service. One prisoner described the potentially significant implications of the IPP sentence for the Probation Service and for the wider criminal justice system.
A lot of IPPs haven’t been released yet. What’s gonna happen in another couple of years, say, when Parole Board hearings have come round and a quarter of the IPPs have been released? The drain that’s gonna put on probation and all the other services that go with it like the Parole Board... You get a couple of probation staff off sick, or breaking their legs skiing and all that, and it’s all over... People are saying: ‘You’re gonna be monitored here, monitored there’... And I say: ‘Yeah? You watch. You wait till you get out. They aren’t gonna have enough probation officers to deal with all these people’. So you’ll be getting phone call interviews: ‘How you doing? Are you alright? Still living at the same address? Oh alright, I’ll see you next month’, know what I mean?

Several of the IPP prisoners who have been released have already been recalled, and those who get recalled are likely to face added scrutiny and difficulties before they are granted release again. One prisoner noted that recalls would add to the ongoing high volumes of IPP prisoners entering the prison system.

The judges are still gonna be giving them out and everything’s gonna be blocked. In five years, or something, I can’t see how it’s gonna work. You’ll have so many IPPs out and back on recall [that] the jail problem’s just gonna get worse and worse and worse. I mean, it’s jam-packed as it is now!

While the IPP life licence may provide a structure for risk management, and in some cases a deterrent from offending behaviour, there is a danger that the stringency of the licence, and unrealistic expectations for what some IPP prisoners are able to manage in their communities, will lead to large-scale breaches and recalls to prison.

The Government’s own review of IPP recently suggested that recalls to prison will continue to be a major issue for released IPP prisoners:

Numbers of hearings will increase as parole is not granted, and the cycle is repeated, or as IPPs are recalled to custody. Based on lifer recalls, and bearing in mind that IPPs are ‘riskier’, it might be safe to presume a recall rate of over one-third, most likely in the first year of release.

(Ministry of Justice, 2008b).
Many of the people we interviewed reported serious tension on the landings between prisoners as a result of the IPP sentence.

Some IPP prisoners spoke of difficulties arising from being held with prisoners on a fixed term sentence who knew their release date. Some felt that IPP prisoners should be held separately so that there would be less irritation caused.

“You should just have one prison for IPPs 'cause you get short-timers [who] get on my nerves. They're going home, and they're bragging about it, and it annoys a lot of people.”

The most serious tensions were between IPP prisoners and life sentenced prisoners.

“All the mandatory lifers are kicking up a fuss. They're getting pushed to the back of the queue [for courses and other services] because IPPs are getting prioritised.”

One prisoner felt the tension between IPP and life prisoners meant that something ‘will have to give’. He said that ‘people can go crazy’ if they are there for six years not doing any courses. Another said that he could see it ‘kicking off’ and that there would be ‘uproar’.

The following comment demonstrates how some prisoners thought that violence was imminent as a result of the mounting tension levels caused by the IPP sentence.

“Long-term lifers, murderers, [are] not getting on the courses because we're taking up their places and they're getting frustrated at us. I believe that if something doesn't change with IPPs then it will erupt with the rest of the prison... [In addition], every IPP prisoner I know is frustrated. You see arguments on the wing between officers and IPP prisoners as they get so frustrated that they can't take it no more. They go down the block and do stupid things – start fighting, stabbing – that happens and it's because of this sentence. I know it is, because I have never seen tension like it in prison until this IPP.”

Some prisoners also spoke of difficulties between IPP prisoners, largely caused between those with short tariffs and those with long tariffs, again mainly in relation to access and prioritisation for courses.

“It's very irritating because there are people that have come to this jail with shorter tariffs [than me]. I've been here a long time. They're getting on the courses and I don't seem to be getting anywhere.”

However, a small number of prisoners said that they had a good relationship with other prisoners.

“You're all in jail; you've all got to live in the same boat. [It's] a close community, so you've got to try to help one another out... It's nice to be nice, isn't it?”

One prisoner did not think that there were any difficulties between IPP prisoners and life prisoners. He was housed in the vulnerable prisoner wing and had a relatively long tariff, and was therefore not exposed to the same prison landings' culture as those held on the main wings.
This chapter presents findings from previously unpublished government data on prisoner needs, mental health treatment, and psychiatric histories. The data reveal stark findings in relation to the mental health implications of IPP.

The data presented in this chapter are drawn from the Offender Assessment System (OASys), the Government’s prisons and probation assessment risk measurement tool. OASys is used to assess offenders in ten need areas relating to offending behaviour, each of which is scored during an offender assessment. These areas are: accommodation; education, training and employment (ETE); financial management; relationships; lifestyle and associates; drug misuse; alcohol misuse; emotional wellbeing; thinking and behaviour; and attitudes.

If an individual offender’s score in any of these areas exceeds the set threshold, it is recorded as being a ‘criminogenic need’, which means that it is so significant it must be specifically addressed in order to reduce their likelihood of reoffending. The total accrued from the ten criminogenic need scores results in the offender’s risk level: low, medium or high.

OASys is now in general use in the prison system. OASys is not required for offenders aged under 21 or who are serving a sentence of less than 12 months in custody, but it must be completed on all offenders sentenced to life or IPP.

This means that the analysis does not include an assessment for every offender and the findings should not be read as representative of the entire offending population. Care should be taken in generalising the results, as the reliability of OASys data is also dependent upon assessors using OASys consistently and having accurate information provided to them.

Despite the caveats identified above, OASys can provide a useful insight into the need levels of particular populations in custody, such as IPP prisoners.

**The ‘criminogenic needs’ of IPP prisoners**

A recent OASys review measured the prevalence of all ten criminogenic needs in assessments completed up to 30 September 2007. This review was compiled from assessments of 2,204 IPP prisoners, 3,368 life prisoners, and 54,785 prisoners in the general prison population including life and IPP prisoners.

Significantly more IPP prisoners have a criminogenic need in all ten need categories than in the total population or among life prisoners (Figure 3, p38).
More than seven out of ten IPP prisoners had criminogenic needs in education, training and employment (ETE), lifestyle and associates, and thinking and behaviour.

Accommodation, relationships, drug and alcohol misuse, and attitudes also revealed significantly higher need levels for IPPs than for life prisoners and the general prison population.

Emotional wellbeing, the closest OASys need category to ‘mental health’, provided a stark contrast between IPP prisoners and others. More than half of IPP prisoners had an emotional wellbeing criminogenic need, compared to four in ten lifers, and three in ten of the general prison population group.

In addition, while life prisoners and the general prison population have an average of 4.4 criminogenic needs out of ten, IPP prisoners have 6.3.
Psychiatric history

OASys also records prisoner histories of psychiatric treatment. The data show that, of the 2,204 of IPP prisoners who were assessed:

- 18% had received psychiatric treatment in the past. This might include being seen either by a psychologist or psychiatrist as an inpatient or outpatient at a psychiatric hospital, and may also include any history of psychiatric treatment in prison, special hospital or regional secure unit. This compares to 17% of life prisoners and 9% of the general prison population.
- 10% of IPP prisoners continued to receive treatment in prison. This included those receiving psychiatric treatment at the time the OASys assessment was completed and those for whom a psychiatric assessment or treatment was pending. This figure is higher than for life prisoners, and twice as high as the general prison population group.
- 21% of IPP prisoners were receiving medication for mental health problems: again, more than the other groups.
- 6% of IPP prisoners were classified as ‘currently or ever been a patient in special hospital or regional secure unit’, twice the proportion of the general prison population, although slightly lower proportionately than life prisoners.

Personality disorder

At the end of 2004, the then Home Office research department identified OASys questions that could be indicative that a clinical assessment for personality disorder may be required (it referred to this measurement as ‘risk of personality disorder’). The aim was to assess whether there is a need for a further clinical assessment, in which case any further assessment would be completed by a qualified mental health professional.

A positive response to the scale does not indicate that an offender will be experiencing personality disorder, but suggests that they require an assessment. There is currently no data demonstrating the actual levels of personality disorder among the IPP prisoner population based on clinical assessments.

Nearly seven in ten (66%) IPP prisoners were assessed as requiring a clinical assessment for personality disorder, compared to four in ten (41%) of life prisoners, and just over three in ten (34%) of the general prison population (Figure 4, p40).

In addition, nearly half of IPP prisoners (46%) had an ‘emotional motivation for offence’, similar to life sentenced prisoners (50%), but nearly twice the level of the general prison population (24%).
The OASys data show that IPP prisoners have higher levels of criminogenic need across every one of the assessment domains in comparison to both the general prison population and the life prisoner group.
This chapter presents some of the many comments relating to the IPP sentence that revealed degrees of emotional distress among the prisoners we interviewed in the two lifer prisons we visited. They offer some indication of why IPP prisoners have higher levels of mental ill health than the general prison population.

**Reports of mental distress**

Of the 25 prisoners we interviewed in the first prison, more than a quarter talked explicitly about current mental health problems. For example, several described hearing voices, and others spoke of suffering from conditions such as bipolar disorder and schizophrenia. A few prisoners also talked about previous mental health problems, including one prisoner who said that he had requested to be hospitalised two weeks prior to committing his offence because of psychotic symptoms. He had not experienced these symptoms while in prison.

In the second prison, a third of the 14 prisoners we interviewed talked openly about current mental health problems, which included depression, anxiety and bipolar disorder. Two prisoners also spoke of childhood diagnoses of Attention Deficit Hyperactivity Disorder (ADHD), neither of whom were still receiving treatment. A majority of prisoners talked about general feelings of stress and feeling depressed.

Rates of mental distress were higher still in the local prison where mental health workers spoke to 16 prisoners (see chapter 14).

**The impact of indeterminacy**

The indeterminate nature of the IPP sentence seemed to have a significant impact on the emotional wellbeing and mental health of prisoners. Not having a release date, and not knowing whether their efforts in prison would have any bearing on the Parole Board’s considerations, had a forcible impact on prisoners’ mental health.

A great many prisoners spoke of the frustration caused by indeterminacy, and many said that they had to manage the constant ‘not knowing’. This was described by one prisoner as the ‘stress of helplessness’. Another said:

“I’ve seen this sentence destroy people, people going off the edge because of what the sentence makes people do.”

For one prisoner the only way to not ‘lose the plot’ was to ‘numb’ himself:
“Sometimes I’ll sit in my cell. These courses are all about planning. [But] how can you plan when you never know when you’ll get out? How can you plan when you don’t know? You just have to sit there and try to numb yourself to a lot of it.”

For the majority, the indeterminacy of IPP was conveyed abruptly on their arrival to prison on sight of their files and computer record, which stated ‘99 years’ as the length of their IPP sentence. The prison service computer system pre-dates the IPP sentence, so indeterminate prisoners are recorded as serving ‘99 years’, rather than showing the tariff length.

“When I came into prison I discovered that they had put 99 years, which you can imagine was quite, um, well what’s going on here?”

In many cases, this initial shock of receiving an IPP sentence was replaced by high levels of stress, despair, and an erosion of hope caused by indeterminacy.

“Being in jail and not knowing when you’re coming home – it smashes your head to pieces.”

“I haven’t got a release date. I never know when I’m going to get out... It’s terribly stressful.”

“I suppose the worst thing is there’s no light at the end of the tunnel... It’s not like I’ve got a date I can shoot towards and go ‘well, if the worst things come to the worst, at least I can get out then’.”

**Lack of reliable information**

While IPP prisoners wanted more information and clarity about their sentence, some had found that obtaining information about IPP sentences actually made them more anxious and unhappy.

“No-one really knew what was going on with IPP... When I heard all the rumours, I got a bit upset, I dismissed it, I thought [people] were winding me up.”

In some cases, IPP prisoners found that they did not know what information to believe about their sentence, and that the amount of often conflicting information meant that their mental health suffered as a result.

“To be honest with you, if I actually believed everything I’ve heard I think I would have killed myself.”
Case Study: Richard

Richard had an IPP sentence with a 72 month tariff and had so far been in the same prison from the start of the sentence, 15 months earlier. He reported that he had had no contact with the prison’s mental health services, but while in the community and during previous prison sentences he had regular contact, and had been managed by mental health services on the Care Programme Approach (CPA).

Richard was taking anti-depressants, which he had been prescribed continuously for more than 10 years, after being diagnosed for Post Traumatic Stress Disorder while serving in the army. He reported that he had been detained in a psychiatric hospital abroad after he was found during a suicide attempt following a nervous breakdown, but contact with psychiatric services had ended on his return to the UK. He reported that he had attempted suicide approximately twelve times in the past, both in prisons and in the community, but he was now trying to move on. He believed that the IPP sentence had worsened his mental health and he was particularly concerned about what would happen to him and how he would cope when he was eventually released on licence.
The prisoners and staff we interviewed described some of the difficulties that having a mental health problem could have on people on an IPP sentence. The key issue for both was the impact of a mental health problem on a prisoner’s ability to participate in offender behaviour programmes.

**Prisoners’ views**

Many prisoners were concerned that engaging with mental health services might result in being excluded from, or deemed ineligible for, participating on courses. One prisoner had stopped taking medication for his mental health problem altogether because he feared that he would lose his place on the courses.

“I was on some stupid anti-depressants but I knocked them on the head. [They’re] not filling me up with all that shit... I’ve just got to get on with it. There’s no point filling your head up with all that medication. That isn’t going to get me out, walking around the wing like a zombie.”

One prisoner said that he had been unable to participate in courses because he ‘couldn’t put up with it’ emotionally and did not like being in groups. Another prisoner found group role-play exercises, which are a part of many of the offender behaviour courses, difficult.

“I had a small problem with anxiety, which I could manage when I came into prison with small breathing exercises. Now it’s gone out of control. I need medication and stuff like that. It’s even affecting trying to do my offender behaviour programmes. I can’t contribute because when it’s time to do role-plays I can’t do it, I get too dizzy. It’s directly being aggravated.”

One prisoner was fearful of participating in courses because he believed the courses might exacerbate his mental health problems, something he said he has seen happen to others. He noted that as part of the courses prisoners would be encouraged to reflect upon their lives and ask probing questions of themselves, without an outlet to digest this experience or make sense of it.

“You’ve got to be open-minded [about courses] but you’ve got to learn not to get too wrapped into them – if you do, you’ll start terrorising yourself. They’re a bit intense, the homework you’ve got to do. It’s hard living in this place, you’re surrounded by similar people, they’re all on edge, and everyone’s emotional... [Other prisoners have] cracked up because of that CSCP [cognitive self-change programme]. They spend the whole day on you...[asking] why did you do [the offence], firing questions at you, it’s obviously going to play havoc on you, and you can’t go anywhere in this place. That’s the problem, the only place you can go here is down the [segregation] block, but to go there you’ve got to get in trouble first.”

Clearly, the interplay between meeting the demands of the sentence plan, attempting to attend and complete courses, and coping with a mental health problem that may impinge on the ability to progress, has taken its toll on many IPP prisoners and often exacerbated the fragility of their condition.
Staff views

Prisoners whom staff deemed emotionally unstable were considered by prison staff to be ineligible for many of the offender behaviour programmes that are necessary for IPP prisoners to be released by the Parole Board. This could mean that the progression of IPP prisoners with mental health problems is even slower and more difficult than for IPP prisoners in general. Such exclusion could also exacerbate a prisoner’s mental health problems.

Inreach team members reported that prisoners sometimes coped poorly with the issues raised in courses, such as the sex offender treatment programme. The prisoners found these courses to be intensive and gruelling, for example when they were forced to confront issues such as childhood trauma. The mental health team was often left to address the ramifications of this, for which it is not resourced.

Other IPP prisoners were perceived by the team as particularly disadvantaged, such as those with a learning disability. Many prisoners with learning disabilities do not have the required level of mental impairment for a transfer to a secure hospital, yet it is of a sufficient level to preclude them from participating on courses, and some resorted to instructing solicitors in order to engage with services.

Members of the inreach team believed that there were far more IPP prisoners who required courses than there were places to participate. Staff were routinely advising prisoners to instruct solicitors in order to achieve accelerated progression.
This chapter examines the role of prison mental health services in working with IPP prisoners and some of the difficulties they face in offering a good service to this group. It is based primarily on interviews with inreach team members in one of the three prisons we visited.

**Prison mental health services**

Unlike other prison staff, health care professionals in prisons are all employed by the NHS, and are commissioned by local Primary Care Trusts (DH and HMPS 2001; Boardman & Parsonage, 2007). In this sense they tend to view prisoners primarily as patients, unlike many other criminal justice system staff.

However, mental health services in prisons are significantly underfunded compared to those available in the community. A recent report showed that to achieve the Government’s target for ‘equivalence’ (that standards of care for people in prison should be the same as those available in the community at large, relative to need) spending on prison mental health services would need to at least treble (Sainsbury Centre, 2008).

For this report, a consultant forensic psychiatrist conducted interviews with a prison mental health team who operated in a prison with a large number of IPP prisoners. The themes that emerged from these interviews provide a valuable insight into the reality of providing mental health care to IPP prisoners.

**Insufficient resources**

Staff said that IPP prisoners with mental health problems consume more resources than other prisoners, owing largely to higher levels of complex needs. In a prison health system where spend per prisoner on mental health services is geographically disparate and nationally inadequate (see Sainsbury Centre, 2008), prisons with IPP prisoners are likely to have their services stretched far further than they would be in trying to cope with the multitude of problems among the general prison population.

**Poor information**

The mental health team was often asked to provide prisoners with answers (such as release dates, indeterminacy, or a lack of course progression). The mental health team believed that not being able to answer these questions was damaging prisoners’ mental health.
The mental health team had observed that many prisoners were confused about their IPP sentence, and that no-one in the prison seemed to know precisely what the procedures for managing an IPP prisoner should be. They were aware that prisoners are told by staff to refer questions about the sentence to their offender manager, but many brought their questions to the mental health team. In addition, while some prisoners are very vocal, others just keep quiet, and so it was not always easy to identify those who were most in need of information support.

**Referrals**

The mental health team was very stretched by the large and growing volume of referrals, and staff felt that some of the referrals were unnecessary or inappropriate. They reported that referrals were often made as part of sentence planning, or were based on psychiatric court reports at the time of sentencing that were inaccurate or irrelevant by the time the prisoner was eventually seen by the team. In addition, recommendations for counselling were sometimes made by other prison staff with little thought as to what counselling entailed, or if it could even be provided, which in most cases it could not.

However, a recent report has found that health services in prisons are often unable to pick up a large number of prisoners who appear to have symptoms of mental illness, and who would benefit from assessments (Durcan, 2008). Many prisoners who were not receiving inreach treatment were unaware that mental health services even existed, or were unclear about what these services provided.

The report also found that many of the wing-based staff and other prison staff were unclear on referral routes, and because of time pressures and staff shortages “they were unlikely to seek help for prisoners unless they clearly posed a threat to their own safety or that of others or to the good order and running of the wing” (Durcan, 2008). In addition, the report noted that “wing-based staff believed that there was little on offer for most prisoners with mental health problems and that there was little point in referring them to the health care department”.

**Interrupted continuity of care**

Team members said that prisoners are sometimes transferred at sudden notice to another prison in order to complete the courses set out in sentence plans, or because of population ‘churn’ (where prisoners are moved between prisons to balance overcrowding). On average there were more than 6,000 inter-prison transfers per month between April 2007 and February 2008 (House of Commons, 2008ii).

Inter-prison transfer can take place at a crucial point in the mental health treatment process. It can occur without the mental health team being informed.
Concerns about using mental health services

Some prisoners said that they had not disclosed their mental health problems nor used mental health services in prison because they were worried about the ramifications.

One prisoner, who had been receiving treatment in the community prior to being sentenced, did not maintain treatment in prison because he distrusted mental health services following a negative experience with psychiatric reports in a previous prison.

Another prisoner, who had been compulsorily transferred under the Mental Health Act to a medium secure hospital at the start of his IPP sentence for an assessment for schizophrenia, did not want contact with support services following his return to prison, as he wanted to avoid ‘flagging up’ his mental health needs.

“...I don’t want to wave a red flag against my name for saying I’ve got mental health issues that would then go against me getting eventual release. If I do need help then hopefully I can get it when I’m out...”

Case Study: Shaun

Shaun was serving an IPP sentence with a 39 month tariff. He had been assessed as requiring completion of several courses, none of which were available in his current prison. He had no contact with the prison’s mental health team and did not feel that he required their services. However, he said that he suffered from stress and anxiety, and had attempted suicide in the community, which had left him in a coma in hospital.

Shaun did not believe that he would ever get out of prison. He was in a state of constant anxiety, but felt unable to vent his frustration, believing that he had to bottle everything up inside. He said that his main concern was that if he disclosed his mental health problems or expressed his frustration he would be put on a ‘basic’ entitlement (the loss of prison privileges). He said that he did not see a future for himself, and tried not to think about the time ahead. Despite his panic attacks and weight loss, he tried to be optimistic that, if he were moved to another prison and started some courses, his situation might improve.
Experiences of using mental health services

The majority of prisoners spoke of how they had felt vulnerable and upset when they first began their IPP sentence, yet only a few said that they had received helpful information or support from a mental health team.

Some prisoners felt that they should have been screened better (or at all) for mental health conditions, but said that this had not been done.

“it's just a constant guessing game of what's going to happen next... When I initially came into prison, no-one has actually come in and evaluated my mind-set, as if to say, let's see how he actually does. Have I improved? I haven't got a personality disorder, but no-one's actually come, [not] an official psychologist, nothing.”

Another prisoner said that he would like to receive support, but wasn't. He thought that he would be able to “get a lot off my chest. I have dealt with a lot while I've been here... [but] I brush my emotions under the carpet”.

Others spoke of their frustrations at not being able to obtain medication for their mental health problems, which damaged their mental health and wellbeing, particularly following transfer to another prison when their records had not been sent on.

One had applied to see the mental health team because he wanted to be put back onto the anti-psychotic medication he had been on in his previous prison, but had not been seen. He said that the health care service in the previous prison had not helped him much.

“I've seen health care and I get my medication alright. There was a bit of a problem at first when I was accused of basically making a [fuss], treating me like I was trying to cause trouble when I was demanding my medication. There’s certain medication that’s addictive, that I am psychologically addicted to. It’s got a side-effects tablet, and quite often they run out so I have to wait 24 hours sometimes for my medication. It’s about 20 times worse than being addicted to and dying for a cigarette. It’s very stressful and causing a lot of anxiety... You're behind the cell door and people are having a go at you because you're making a fuss and reacting badly to how you feel, because you're desperate and anxious.”

Where contact with the mental health team had been established, some prisoners doubted the usefulness of their involvement.

One prisoner had been in touch with the prison’s mental health team, but received very little contact from them. He receives an injection once every two weeks, which is “supposed to calm me down” but which had not worked because “I'm too blooming frustrated with what's going on”.

While some of these difficulties are not IPP specific, they were echoed by many of the prisoners we interviewed, and it is indicative of how prisoners try to cope under these circumstances. However, coping is clearly hampered by the pressures to conform to prison life, the lack of resources, and the demands of the IPP sentence to be proactive in the face of indeterminacy.
Informal support

Several prisoners spoke of the importance of informal support in helping them to cope with emotional needs. Some found that prison officers were often approachable and supportive when prisoners needed someone to talk to and to discuss their problems, even though officers often could not provide solutions.

Others had used listener services, a peer support service provided by prisoners who have been trained as part of an initiative run by the Samaritans. One prisoner, who had suffered from depression on arrival in prison, had found the listener service beneficial in helping him to cope with his problems, and as a result he had not required a more formal prison mental health service.

Some prisoners had used prison counselling services or psychotherapy. One prisoner who suffered from several mental health and drug problems had used the prison's chaplaincy as a ‘fallback’ for his medication to help ease his problems with hearing voices.

Family support

Family support can be a very important resource for prisoners to draw upon to maintain hope and emotional wellbeing. However, the majority of the IPP prisoners we interviewed received very few visits from family or friends.

Many spoke of the long distances that family and friends had to travel in order to make a visit. Some said that this made visits impossible. Others said that they did not want their family having to find the money to travel so far.

“It’s too far – they’re all working. I wouldn’t expect them to take the time off. I have had one visit. They left at 6 in the morning and got home at 9 o’clock at night, so it’s a long day for them. Plus there are kids involved, so I’m not going to be selfish and ask them to come up here.”

Case Study: Frank

Frank was serving an IPP sentence with a 40 month tariff and had served just over a year, in two prisons. He had significant problems accessing courses because of the lack of provision, and felt that the sentence had still not been properly explained to him. Frank had been diagnosed with schizophrenia, and was seeing the prison’s mental health team, whom he reported were visiting him with medication and making sure that he was ‘alright’. He said that he only required a little bit of medication to make him stable, and that art therapy and relaxation classes helped to meet his needs.

Before the IPP sentence, Frank had previously been detained in a psychiatric hospital, but said that the thought of having to stay in prison for a long time constantly gave him anxiety. He said he did not know what to think about the future but, alongside his ongoing support from the mental health team, he believed that good behaviour, hard work, and course participation would ensure his eventual release.
Many of the prisoners had children and said that they found it particularly difficult to receive visits because they were unable to provide their children with answers to questions about release.

“It’s stressful that I haven’t got a release date. I never know when I’m getting out. I’ve got quite a close family and quite a lot of friends. They say ‘when are you coming home’ and I say ‘I don’t know’. How are you meant to say that to a 14-year-old daughter and your mum? It’s terribly stressful but you’ve just got to plod on and get on with it.”

Several prisoners said that their relationships with partners had broken down because of their sentence.

“I don’t know when I’m getting out. I’m just in limbo. I’ve lied to my family, saying that I’d be out on my parole date, as I don’t want to upset them. I even lied to my girlfriend, but she found out that I could be here for years, and she finished with me.”

Many prisoners were also vocal about the impact of the sentence on their families, especially on their partners and children, who were themselves anxious to know when they would be released and yet, like the prisoners, were in a constant state of not knowing. Further work on the mental health implications of the IPP sentence could consider its impact on the mental health of families and dependants, as well as that of the prisoners.
This chapter examines the specific issues facing local prisons with IPP prisoners. Mental health workers in a local and remand prison spoke to 16 IPP prisoners. For many of the prisoners, this was their first experience of prison, or their first of the IPP sentence. Some had been recently sentenced, while others were yet to move on following sentencing and had been in the prison since they were remanded there. For a few, this was the latest of several prisons to which they had been moved in a short space of time. One of these IPP prisoners was in his sixth prison in less than two years.

**Mental health problems**

Two-thirds of the prisoners reported that they had a current or previous mental health condition, most commonly citing anxiety, depression, and personality disorder, with others expressing general feelings of stress related to their sentence. Several prisoners reported that they had attempted suicide in the past, and several who had not, said that they had only been deterred from doing so because of their responsibilities to family outside prison.

**Contact with mental health services**

For the IPP prisoners with mental health problems, contact with the mental health team varied. Some had regular contact and involvement in the prison’s mental health ‘day centre’. Others had infrequent meetings with mental health nurses to maintain medication, while some had no contact with mental health services at all. Several said they wanted access to counselling services but had been declined, while others wanted contact with the mental health team but were unsure of what they could provide. One prisoner had stopped attending the mental health day centre because he had got a job working in the prison.

**Access to courses**

Local prisons tend to offer less access to courses than many other prisons. Access to courses, therefore, was particularly difficult and many of the prisoners had done very little while there. In some cases this was a period of two years or more. Several said that they had not even been assessed for a sentence plan after more than a year in the prison.

However, unlike those in the other prisons, several prisoners here specifically recognised that courses were only part of the process towards obtaining release. One prisoner said that the most important
factor for release was ‘aftercare and provision for beyond release’ and not courses, while another prisoner doubted the reliability of courses to demonstrate their suitability for release.

“Doing courses doesn’t prove that anybody has changed.”

Prioritisation for treatment

One prisoner believed that IPP prisoners should be prioritised for mental health assessments because there was such a high level of need among that group. Another, however, said that he felt that as an IPP prisoner, he was automatically ‘categorised as a lunatic’ because all IPP prisoners were considered to be ‘dangerous’ by prison staff.

Case Study: Barry

Barry had an IPP sentence with a 27 month tariff, and had so far spent the first 14 months of his sentence in a local prison. At the time of interview he was just over 6 months away from his first Parole Board hearing, and had been assessed as requiring completion of several courses, only one of which was available in the prison. Panic attacks and anxiety were preventing him from participating in the one available course, which in turn had contributed to a deterioration of his mental health. He also reported low self-esteem coupled with a pre-existing diagnosis for personality disorder.

Barry was seeing a community psychiatric nurse, and was receiving counselling services and medication to help him manage his anxiety and panic attacks. Barry reported that he had attempted suicide three times in prison – twice while in the health care centre, and once in the main prison. He believed that the IPP sentence had damaged his mental health, and saw the future as ‘very bleak’. He did not feel that he was coping in prison, and struggled most with the indeterminacy of the sentence and being held in a prison where he was unable to access any courses.
In order to ensure the findings of our research could be translated into clear conclusions and workable recommendations, Sainsbury Centre staff discussed the findings with leading policy makers, academics and clinicians.

**Sentencing**

**Curbing the use of IPP legislation**
Sentencers need to be better informed about how and when to use IPP. The high volume of people entering prison on IPP each month is placing a massive strain on both the criminal justice system as a whole, on some prison mental health services and on the prison population. The experts we consulted hoped that the amendments to IPP legislation in the 2008 Criminal Justice and Immigration Act would place more emphasis on judicial discretion, rather than making the IPP seem automatic for those convicted of certain offences.

**Training for judges**
There appears to be variation in the level that judges understand the IPP sentence, which is clear when viewing the transcripts during sentencing. Judges’ comments about giving the IPP sentence range from a few very confused paragraphs, to many pages accompanied by full legal references and extended remarks.

Some experts also told us that judges could be poorly informed about mental health legislation and the disposal options that were available to them, which in some cases may have been far more appropriate than issuing an IPP sentence.

**The ‘rise of risk’**
The political and public focus on IPP sentences has placed them at the centre of debate on the ‘rise of risk’ and the ‘risk agenda’ (see Stenson & Sullivan, 2001). During a House of Lords debate on IPP, one peer asserted that:

*A culture is growing that has moved the criminal justice system away from punishing people for offences that they have committed to trying to control future behaviour, which can be seen in ASBOs, serious crime orders and all the stuff that comes out of the Home Office.*

(Lord Thomas of Gresford, House of Lords, 2007)

At the centre of the debates relating to IPP and ‘risk’, is the hypothesis that the IPP sentence is conflating ‘dangerousness’ with ‘mental illness’, and that the IPP sentence is an example of ‘reverse
diversion’ where offenders with mental illness are more likely than others to be detained in prison than diverted away (see Rutherford, 2008).

Prison

Information provision
When prisoners arrive in prison after receiving an IPP sentence, it is essential that they are given reliable and clear information, and that there are procedures in place that quickly demystify the rumour and hearsay that currently swarms around the IPP sentence.

This would require more than simply a leaflet or document given to prisoners at reception. The timing of this information would be crucial: the reality of the IPP sentence may be very difficult to manage emotionally, and appropriate and responsive support would need to be available to prevent any increase in suicide attempts and self-harm incidents (see Durcan, 2008).

A new procedure for staff, ‘Managing Indeterminate Sentences and Risk’ (MISaR), which will seek to inform prison staff on good practice in managing IPP prisoners, will be fully rolled out across the Prison Service by the end of 2008. This should improve information provision.

Routine mental health assessments and constructive sentence planning
Early mental health assessment of all IPP prisoners would be a significant benefit to prison services. This assessment could subsequently form an integral part of the prisoner’s sentence plan, and a care package could be formulated around their mental health needs. The use of the Care Programme Approach (CPA) which can be specifically related to offenders (see http://www.nimhe.csip.org.uk/cpa) could provide a very useful tool to aid sentence co-ordination.

Some experts suggested to us that sentence planning is often misguided, despite good intentions. One senior professional noted that sentence planning tended to pick up on surface issues rather than root causes. For example, a prisoner who appears angry may be automatically assessed for a controlling anger programme, such as CALM, rather than receive a broader assessment for mental health or substance misuse issues.

‘Objectives’, not ‘programmes’
It was suggested to us that the emphasis in prison should be about setting objectives for behaviour change, rather than automatically relying on offender behaviour programmes, which may only address part of the problem. For example, someone who is assessed as aggressive might be set an objective to reduce his aggression towards others within a set period of time. This might be achieved by participating in workshops, academic study, prison jobs, improving interpersonal skills, and so on. A course in enhanced thinking skills (ETS) or anger management (CALM) may also be required, but might be dealt with by other means without the need for participation in a formal programme. This would reduce the burden on prison services to provide programmes before tariff expiry and a Parole Board hearing.

It was acknowledged, however, that for this shift to work when it came to Parole Board considerations, a professional working in the prison would need to have direct responsibility for IPP prisoners. This
would need to be someone who would monitor and assess improvements, and be in a position to provide authoritative reports to the Parole Board on the prisoner's progress, drawing on information that went beyond programme participation.

**The role of OASys**

It was agreed that the Offender Assessment System (OASys) should be used to signpost professionals towards reducing risk in prisoners, but it should not be relied upon to the extent it was currently. In addition, OASys results can vary from one assessment to another due to the individual circumstances and attitude of the person conducting the assessment. It was suggested that in some senses it is a rather crude tool given too much weight in decision making processes.

**Release**

**Parole Board process**

Several experts told us that the way the Parole Board decides on release needs to be addressed and reconsidered in the light of the very small number of IPP prisoners who have been released to date.

One expert in Parole Board proceedings suggested that there should be a presumption of release for those who have reached their tariff, rather than a presumption of custody as it is currently, (which is the case when the Parole Board consider traditional life sentenced prisoners). If this shift were to happen, the Parole Board would be able to change its focus from one of ‘what evidence is there that the prisoner should be released’ to one of ‘what evidence is there that they should remain in custody’.

**Risk management**

To increase the release rate, it is also essential that a greater emphasis is placed on risk management packages in the community. Several experts told us that these are highly varied in quality and that effort from probation services in co-ordinating and planning for risk management is extremely disparate.

One expert described two very different approaches to managing risk among probation staff. In one, probation staff view themselves as ‘public protection officers’, and view breach and a return of the IPP prisoner to custody as a success. They will work closely with the police and utilise surveillance and monitoring techniques seven days a week and twenty-four hours a day.

In the other, probation staff see their role as rehabilitators with the responsibility of facilitating resettlement. They will work around the clock to ensure that the released IPP prisoner can succeed in society and reform away from offending behaviour. They will work across boundaries and obtain multi-agency participation to ensure that services work with them to keep the IPP prisoner out of prison, particularly attempting to avoid breaches for technicalities.

While no Probation Area falls entirely into one or the other of these categories, most are thought to lean more towards the first. It would require a fundamental shift towards the second to give IPP prisoners released on life licence a chance of avoiding recall to prison.
Importance of MAPPA

Multi-Agency Public Protection Arrangements (MAPPA) were viewed by the experts we consulted as key to keeping released IPP prisoners out of prison. MAPPA provides an inter-agency panel that meets to discuss how best to manage the risk presented by individual offenders in a local area. Panels include representatives from the police and probation services as well as health and social care services, housing officers and drug workers.

However, given the high rate of mental ill health among IPP prisoners, it is essential that MAPPA panels include a senior mental health practitioner. Mental health representation should not simply rely on the contributions of junior mental health staff, who are often sent to attend MAPPA panels in place of senior colleagues.

Commissioning

The experts we consulted concurred that commissioning was crucial to all stages of the IPP process. In the first instance, Primary Care Trusts (PCTs) and Strategic Health Authorities (SHAs) need to be aware of the implications of IPP sentences.

Options for diversion, such as court liaison and diversion schemes, psychiatric court report services, and secure hospital beds, should be commissioned more frequently in each region. This is vital for sentencers to have all the information and resources available to them to make a considered choice about how to manage someone who may qualify for IPP but also has mental health needs.

Several experts agreed that, when an IPP prisoner arrives in prison, a well-resourced mental health service must be available to provide treatment and support. Commissioners should ensure this service is sufficient to deal both with the general prevalence of mental illness in prisons, but also to respond to the increased complexity presented by IPP.

Commissioners should also ensure they have sufficient forensic service capacity for IPP prisoners who require specialist treatment outside prison in a secure environment to be transferred under the Mental Health Act without delays.

Following release and to ensure continuity of care, commissioners must be aware of the need to provide community-based services for released IPP prisoners. Of particular importance would be services equipped to manage dual diagnosis: where mental illness and substance use are combined.
The recommendations we make in this report would, in our view, significantly improve many of the systemic problems caused by the IPP sentence, and would improve the mental health of the prisoners serving them.

**Recommendations for the criminal justice system**

1. **Sentencers should curb their use of IPP sentences and reverse the increase in numbers in line with the legislative amendments.**

   The number of IPP prisoners arriving in prisons each month is verging on the unmanageable. Forecasts predicting 12,000 IPP prisoners by 2014 are frighteningly high, and some suggest that the figure could be far higher, even after accounting for the amendments to the legislation from the Criminal Justice and Immigration Act 2008. The Prison Service, Probation Service and Parole Board are struggling to cope with numbers as they stand. An increase along the lines predicted could be disastrous. The new amendments introduced by the Criminal Justice and Immigration Act 2008 should be used to reduce the use of IPP sentences. In addition, better understanding and an increased use of mental health options at the point of sentencing is required to ensure that more mentally ill offenders are diverted away from prison to hospital by the court.

2. **Clear information must be provided to IPP prisoners about their sentence.**

   All IPP prisoners should be given clear information related specifically to their sentence and their sentence plan, shortly after they have been sentenced. This should be in a form that prisoners with learning disabilities and with cognition or literacy difficulties can use.

3. **Sentence planning should be proportionate to the tariff.**

   Sentence planning assessment for the number of programmes a prisoner must complete should more closely relate to the seriousness of the offence. An IPP prisoner with a four month tariff should not be expected to complete a large number of programmes. Sentence requirements that are in proportion to the tariff would give a more realistic chance of completion of the sentence plan prior to the tariff expiry.

4. **Short-tariff IPP prisoners should be prioritised for offender behaviour programmes.**

   IPP prisoners with tariffs of less than 24 months should be prioritised for offender behaviour programmes to ensure that their Parole Board hearing is not a waste of time and resources. IPP prisoners with longer tariffs should begin programmes in a structured and timely way to ensure that they have completed their programmes before their parole hearing.
**Recommendations**

5 Increased attention and focus should be given to risk management planning and resettlement packages.

Risk management and resettlement plans for IPP prisoners, including the outcome of any mental health assessments or treatments they have begun, should be given increased attention and importance. These plans are crucial for a successful Parole Board hearing. Without a robust and multi-agency risk management and resettlement plan, the Parole Board is very unlikely to release someone even if they have completed every course available. Probation services must play a lead role in this process, alongside solicitors, families and prisoners themselves.

Resources for providing risk management packages in the community will also be essential, but would be less than the cost of incarceration. Risk can rarely be removed, but it can be managed effectively in the community where careful planning and thought are given to the management process.

6 Careful consideration should be given to the management of licence breach, to avoid large-scale recalls.

IPP prisoners, with their highly complex needs, will require more support than other prisoners on life licence to avoid a breach to the terms of their licence. To avoid mass recalls of IPP prisoners, careful consideration should be given to how the Probation Service should manage breaches by IPP prisoners on licence. This should be sensitive to the individual's mental health needs and any treatment they are undergoing under the Care Programme Approach.

7 MAPPA panels should have senior psychiatric representation when focusing on an IPP prisoner with mental health needs.

Given the high rate of mental ill health among IPP prisoners, it is essential that MAPPA panels focusing on IPP prisoners include a senior mental health practitioner. Mental health representation should not simply rely on the contributions of junior mental health staff, who are often sent to attend MAPPA panels in place of senior colleagues.

8 The Department of Health and Ministry of Justice should create clear guidance to sentencers on how and when they should use mental health legislation rather than criminal justice legislation, and emphasise that careful consideration should be given before combining the two.

While some might be attracted to converging criminal justice and mental health legislation, great caution should be applied before such a combination is made. For example, provisions in the Mental Health Act 2007 could mix indeterminate punishment in prison with indeterminate detention in hospital, with the potential for a 'double indeterminate' sentence. This could be very damaging to the prisoner's mental health, their human rights, and the public purse. In addition, the developing links between IPP prisoners and forensic mental health services need to be carefully monitored and approached with caution.

**Recommendations for health services**

9 The Department of Health should ensure that commissioners are aware of the mental health implications of IPP sentences, and are prepared for the predicted increase in numbers.

Primary Care Trusts (PCTs) and Strategic Health Authorities (SHAs) need to be made aware of the mental health implications of IPP sentences and the multiple and complex mental health needs of IPP prisoners. In addition, local commissioning arrangements must ensure that funding is planned in line
with the predicted rise in IPP prisoner numbers. Commissioning for community-based services to support IPP prisoners on licence should be factored as the numbers of those released begins to rise.

**10 Primary care trust commissioners of prison health care should be aware of the presence of IPP prisoners, and understand how their health needs will affect the commissioning of services.**

Commissioners need to assure themselves that adequate funds are available to commission appropriate services that meet the current and forecast needs of IPP prisoners. Commissioners should undertake regular needs assessments of the prison population, so that effective provision of service is ensured. An extra assessment may be necessary if there is a significant change in the prison population, e.g. the number of IPP prisoners goes up suddenly. Commissioners will need excellent information and communication systems in place to make them aware of changes in prison populations, and how that affects the provision of health care.

**11 All mental health teams in prisons should be particularly aware of the need for assessing and care planning with IPP prisoners.**

IPP prisoners bring multiple and complex needs on a scale significantly greater than other groups. Many IPP prisoners are identified as requiring consultations with the mental health inreach service, but many who need care are missed. In addition, a mental health condition could be exacerbated with time, or it could begin following sentencing, so regular screening is essential.

All IPP prisoners should be screened for mental health problems on at least an annual basis by a dedicated member of staff. This should be followed by a care plan for treatment should mental health needs be identified, which may include an engagement of the Care Programme Approach.

**12 Automatic referral should ensure better continuity of care.**

All released IPP prisoners who are on the Care Programme Approach (CPA) should be referred automatically to a community mental health team (CMHT) and, if necessary, to an assertive outreach team.

**13 Secure hospitals should be prepared to receive transfers of IPP prisoners who require specialist treatment, and step-down plans should be in place.**

Some IPP prisoners will need to be transferred out of prison to secure forensic psychiatric services if they require specialist care under the Mental Health Act. However, consideration should be given following such treatment to alternative options before returning IPP prisoners who have completed their tariff to prison to continue with their indeterminate sentence. Step-down to a low-security facility or an open prison prior to release may be more appropriate. In addition, a better understanding of the range of mental health problems experienced by IPP prisoners is required. This may include commissioning specialist personality disorder services.
This chapter presents an outline of a forthcoming research project on IPP and mental health, to be conducted by the Ministry of Justice, which will develop further on the findings presented in this report and elsewhere, due for completion in 2009 (see Box 3). The following has been submitted by the Ministry of Justice to the Sainsbury Centre for inclusion in this report, to highlight future work that will be following on from our project.

**Box 3: Outline of a forthcoming research project on IPP and mental health, to be conducted by the Ministry of Justice**

The study will address knowledge gaps in relation to pathways of offenders with mental health needs through the criminal justice system and will yield evidence to help improve the experience and effectiveness of prison for offenders with mental health problems. The study will focus on one group of prisoners – those sentenced to indeterminate sentences of Imprisonment for Public Protection (IPP).

The study aims to produce a detailed picture of the prevalence of mental disorders and deficits, and learning disabilities and difficulties, among IPP prisoners and to identify how needs arising from any of the above are addressed during their sentence. The study will contribute to the developing evidence base on this relatively new but expanding category of sexual and violent offenders. The research model may be applied to other groups of offenders.

The study will comprise two stages:

(i) A face-to-face snapshot survey of the IPP population in prisons in England and Wales, to generate quantitative data about the type and prevalence of mental disorders and deficits, learning disabilities and difficulties as well as demographic and social characteristics.

(ii) Follow-up interviews with a sub-group of prisoners drawn from survey respondents who have identified disorders / deficits and learning disabilities / difficulties, to generate quantitative and qualitative data on offenders’ mental health needs and treatment issues.

Cont...
Box 3: Outline of a forthcoming research project on IPP and mental health, to be conducted by the Ministry of Justice cont...

The survey will use a range of appropriate questions and tools to generate prevalence data on:

- Psychological and cognitive deficit and disorders;
- Learning disability or difficulty;
- Substance misuse.

There will be the opportunity to match individual level survey data with criminal convictions data to explore links between offending and mental health.

The follow-up interviews will yield:

- Information on offenders’ mental health histories, including treatment or other help received;
- Details of treatment or other action taken during the present sentence and offenders’ views about effectiveness;
- Offenders’ assessment of the relationship between mental health and their offending, and their views on what might help prevent reoffending.

There will be the opportunity to obtain further detail from offenders’ case records.


Court of Appeal (2008) *Regina (Walker (David)) v Secretary of State for Justice and Regina (James (Brett)) v Same*.


House of Lords (2008) Lord Hunt of King’s Heath, House of Lords (Criminal Justice and Immigration Bill, Committee Stage), 26 Feb 2008: Column 616.


The mental health implications of Imprisonment for Public Protection

REPORT

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