UNGRIPP

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Who we are

We are the United Group for Reform of IPP (UNGRIPP). Led by families of people serving IPP, we campaign to end the injustice of this indefinite, abolished sentence. We aim to raise awareness of IPP and the experiences of people affected by it, to offer support, and to ensure that people serving IPP and their loved ones are never forgotten.

The enclosed briefing material outlines UNGRIPP's position and supporting material for Clause 48 of the Victims and Prisoners Bill and the IPP-related amendments tabled by peers. We have also enclosed a short briefing sheet outlining the most recent published statistics on IPP.

Members can find the full amendments at the link below. Summaries are provided within the text of this material.
https://bills.parliament.uk/publications/53856/documents/4336

Section A: Clause 48 introducing reforms to the IPP licence

Clause 48 was introduced by the Government at the House of Commons report stage of the Victims and Prisoners Bill. It would reduce the qualifying period for a Parole Board review of the IPP licence from 10 years to three years after a person's first release from prison. It would also create a "sunset clause" with provision that, if a person is unsuccessful in getting their IPP licence terminated after the qualifying period, the licence would be automatically removed after a further two years if they have not been recalled to prison or committed new offences in that time. The clause also makes provision for the Secretary of State to amend the length of the qualifying period via secondary legislation.

UNGRIPP have long campaigned for reforms to the IPP licence, which is largely responsible for the number of people still in prison 11 years after the sentence was abolished. People are subject to a recall merry-go-round driven by the Probation Service, who are working under significant time pressures, with high caseloads and limited resources. Unlike in other UK jurisdictions,[1,2] the decision to recall is not subject to the Parole Board, but made entirely by executive officials who are instructed:

Where there are allegations of further offending, the decision to request recall must be based upon the individual's reported behaviour. There is no requirement for the COM/Probation Practitioner to await the outcome of police investigations or for the individual to be charged.[3]

The decision to request recall must be based on an individual's behaviour or circumstances presented whilst on licence. This will not necessarily be directly linked to a breach of a specific licence condition.

People serving IPP have suffered excessively from this undesirable climate of poor oversight, risk aversion, reduced burden of proof, and pressure to hide problems from officials because they have the power to recall them. Being subject to an *indefinite* licence also creates particular struggles for people serving IPP, often causing mental health deterioration, self-isolation, and strained family relationships.[4] Family members share the limbo of IPP, unable to plan for the future and frightened of official decision-making. While not technically a life licence, waiting a decade for the mere *possibility* of an end to the sentence is psychologically crushing, and far beyond proportionate to the offences committed by many people serving IPP.

Clause 48 offers an enhanced possibility of a definite end to the IPP sentence, which would restore hope and allow people a greater chance of moving on with their lives after the devastating experience of IPP. Almost all people serving IPP tell us one thing: "I deserved to go to prison for what I did, but I didn't deserve ***this.***" Clause 48 is an opportunity to right an historic wrong that is far in excess of any commonly shared notion of proportionate punishment.

While we support Clause 48, our view remains that the only way to truly fix IPP is a resentencing exercise, and we welcome Amendment 167 proposing such an exercise. We offer supporting material below on the resentencing amendment, and on the other amendments tabled that will strengthen Clause 48.

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[1] Scottish Government (2022). Scottish Government multi-agency public protection arrangements (MAPPA). National guidance.
[2] Parole Commissioners for Northern Ireland (n.d.) The commissioners. Accessed 25 January 2024.
[3] Ministry of Justice (2023). Recall, review and re-release of recalled prisoners policy framework, pages 9-10.
[4] Edgar, K. et al. (2020). No life, no freedom, no future: The experiences of prisoners recalled under the sentence of Imprisonment for Public Protection. Prison Reform Trust.

Section B: Amendments relating to licence termination and the sunset clause

Amendments 149, 150, 151: Provision for a prisoner to apply to the Parole Board for a licence termination review following expiry of the qualifying period on an annual basis (Lord Thomas).

Member's explanatory statement: These amendments would allow a prisoner whose licence has not been terminated by the Parole Board three years after their first release (the qualifying period) to make an application annually to the Parole Board for termination.

This amendment would address a shortfall in Clause 48 for people who fail to get their licence terminated after the three-year qualifying period and struggle to meet the high bar of two years without recall. Most recalls happen within two years,[5] and in our experience many are down to post-release shortfalls in resettlement support and provision. His Majesty's Inspectorate of Probation recently drew attention to these shortfalls and called for greater support in the community for people serving IPP.[6] Without these amendments there is a risk that people who struggle to adjust to release in the short-term will continue on the "recall merry-go-round" highlighted as a feature of IPP by the Justice Committee,[7] without any statutory opportunity to have their case considered on the merits. These amendments would restore that opportunity.

However, in UNGRIPP's experience the **current** right to an annual review each year after the 10-year qualifying period (introduced by the Police, Crime, Sentencing and Courts Act 2022)[8] is not operating as intended in practice. We are frequently contacted by people who have not been told of their right to a review, and whose Probation Officers do not know of their responsibility to trigger the review process. We are concerned that this amendment may therefore make little difference unless backed by improved staff training and accountability within the Ministry of Justice.

Amendment 152, 153: Provision to ensure the sunset clause will still apply where the recall has been rescinded by the Secretary of State (152) and where there has been an inappropriate recall and the person has been released (Lord Thomas).

Member's explanatory statement: Amendment 152 would maintain the sunset clause where a person has been recalled during the two year period but the Secretary of State has rescinded the recall. Amendment 153 would maintain the sunset clause where a person has been recalled during the two year period but the Parole Board has found the recall to be inappropriate, in accordance with its duty to make such a determination. These amendments seek to ensure that individuals are not penalised for mistakes that have been made about them

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[5] Edgar, K. et al. (2020). No life, no freedom, no future: The experiences of prisoners recalled under the sentence of Imprisonment for Public Protection. Prison Reform Trust.
[6] HMI Probation (2023). A thematic inspection of imprisonment for public protection (IPP) recall decisions.
[7] House of Commons Justice Committee (2022). IPP sentences. Third report of session 2022–23. House of Commons.
[8] Police, Crime, Courts and Sentencing Act (2022). s138

People who have been recalled unfairly should not be excluded from the sunset clause. These amendments clearly advance that principle. We remain concerned about the Ministry of Justice's failure to publish data on a) the number and proportion of recalls found to be inappropriate by the Parole Board and b) the number of recalls made on the basis of further charges where the charges are later dropped. The fact that the power to recall lies with the executive rather than the judiciary has allowed many people serving IPP to be recalled on grounds that fall well short of conventionally accepted standards of proof.

Amendment 156, 157: Amendments to the power to change the qualifying period by secondary legislation (Earl Attlee, Lord Thomas)

Member's explanatory statement: Amendment 156 would remove the power for the Secretary of State to amend the qualifying period by secondary legislation. Amendment 157 would revise the power so that the Secretary of State can only reduce the qualifying period by secondary legislation, not increase it.

People serving IPP have been recent casualties of reckless secondary legislation. In 2022 the then Justice Secretary Dominic Raab amended the Parole Board rules via a Statutory Instrument, to remove the ability of certain expert witnesses to give an opinion on whether a person could be safely released or progressed. Furthermore, in certain cases he substituted those expert views with his own single Secretary of State view.[9] This was later found by the High Court to be unlawful, but not before hundreds of witnesses had been prevented from giving vital information to support the Parole Board's decision (which the High Court found to be a breach of their statutory duties).[10] People serving IPP have also suffered more broadly from executive overreach. In 2022, Dominic Raab amended the SoS criteria for approving Parole Board decisions to transfer a prisoner to open conditions, thereby changing the approval rate from 94% to 13% and seriously derailing the progress of many IPP prisoners.[11] The clear lesson of these tragic events is that politicians cannot be trusted to make such high-stakes decisions without full parliamentary scrutiny.

Section C: Amendments relating to recall and executive release

Amendment 168: Additional power of executive release of recalled IPP prisoners (Lord Carter)

Member's explanatory statement: This amendment would create a power that mirrors the powers that the Secretary of State already has under s255C(2) of the Criminal Justice Act 2003 to release a prisoner serving a fixed term sentence who has been recalled without referring to the Parole Board, subject to their own risk assessment. This enables the Secretary of State to quickly re-release a person who they consider can be safely released following further information.

Increased use of executive release could greatly reduce the amount of time that people serving IPP on recall are held in prison before re-release (currently an average of two years

[9] Raab, D. (2022). Letter to Sir Bob Neill MP, Chair of House of Commons Justice Select Committee. Statutory instrument to amend Parole Board rules.
[10] Court and Tribunals Judiciary (2023). Bailey and Morris v Secretary of State for Justice [2023] EWHC 555 (Admin).
[11] Prison Reform Trust (2023). Parole chief warns fewer prisoners are getting tested under new open prison rules.

and four months)[12] and the extension of executive release provisions to people serving IPP would be very welcome, as at present they are automatically excluded.[13]

However, we are not aware of any routinely published data showing how often executive release powers are actually used. We are also concerned that the political nature of IPP and its linked to perceived dangerousness would mean that, in practice, the SoS would rarely make use of the additional powers to release recalled people serving IPP.

Amendment 154: Provision to ensure the sunset clause will still apply where there has been an inappropriate recall and the person has been re-released via executive release (Lord Carter)

Member's explanatory statement: This amendment would enable a person whom the Secretary of State has deemed suitable for executive release to benefit from the sunset clause as if the recall had not occurred, but only if the Secretary of State considers this appropriate in all the circumstances. It works in tandem with Amendment 168 which seeks to extend executive release powers to include IPP prisoners.

This amendment closes a loophole in Amendment 168 that would otherwise risk any person serving IPP who secured executive release being at a disadvantage in reaching the sunset point.

Section D: Amendments relating to progression

Amendment 159: Place the IPP action plan on statutory basis with stated purposes (Lord Blunkett)

The Government has consistently taken the position that IPP can be resolved managerially through the Ministry of Justice IPP action plan, but there is not yet any persuasive evidence that the plan is having an effect, despite being updated in 2023 following the Justice Select Committee inquiry and receiving oversight at a senior level.[14] Subsection (3) of Amendment 159 lists five proposed statutory targets that the action plan must achieve. The table below plots key metrics in terms of a) the proposed statutory targets, b) their inclusion in the current action plan, and c) their change since the action plan was published.[15]

[12] Table 5.11. Ministry of Justice (2024). Offender management statistics quarterly: July to September 2023.
[13] Ministry of Justice (2023). Recall, review and re-release of recalled prisoners policy framework, page 50.
[14] Chalk, A. (2023). Letter to Sir Bob Neill MP, Chair of the House of Commons Justice Select Committee. Imprisonment for Public Protection (IPP) action plan.
[15] All data taken from Offender Management Statistics Quarterly unless otherwise specified. Percentage changes are reported for the period since the action plan was published on 27 April 2023. For prison population figures, this represents the change from Q1 2023 to Q4 2023. For release, ROTL and recall figures this represents the change from Q1 2023 to Q3 2023. Self-harm and self-inflicted death figures are taken from Safety in Custody statistics and are only published by calendar year for IPP. Cat D decisions are published by the Parole Board by financial year in their annual report.

Key Metric	Current IPP action plan target	Progress
Proposed statutory target 1: Increase the release rate		
First releases.	No commitment in the action plan.	Up 14% since the action plan was published (from 44 to 50 releases per quarter).
Re-releases.	No commitment in the action plan.	Up 5% since the action was plan published (from 95 to 100 releases per quarter).
ROTLs	No commitment in the action plan.	Down 21% since the action plan published (from 153 to 121 ROTLs per quarter).
Proposed statutory target 2: Improved sentence progression		
Recategorisations (Cat A-C)	No commitment in the action plan.	Not currently published.
Progressive move decisions (Cat D) – unreleased prisoners	No commitment in the action plan.	No post-action plan data yet available.
Progressive move decisions (Cat D) – recalled prisoners	No commitment in the action plan.	No post-action plan data yet available.
Proposed statutory target 3: Reduce the recall rate		
Recall incidents.	No commitment in the action plan.	Down 3% since the action plan published (from 181 to 175 recalls per quarter).
Time spent on recall.	No commitment in the action plan.	Up by 2 months since action plan published (28 months)
Proposed statutory target 4: Increase the number of licence terminations		
Licence terminations.	The number and proportion of those who have had their IPP licence terminated increases.	Not currently published.
Proposed statutory target 5: Reduce the rate of self-harm and self-inflicted death		
Self-harm.	No commitment in the action plan.	No data available for 2023
Self-inflicted death.	No commitment in the action plan.	2023 highest number in a single year since IPP was introduced (9).
Other action plan targets		

Key Metric	Current IPP action plan target	Progress
Unreleased IPP population.	The number of those serving an IPP sentence who have never been released reduces.	Down 9% since action plan published. (Reduction in equivalent pre-action plan period was 10%)
Recalled IPP population.	The number of those in custody having been recalled stabilises, and then begins to reduce.	Up 4% since action plan published
Population on supervision suspension.	The proportion of those in the community on an IPP licence whose supervision has been suspended increases.	Not currently published.

While placing the IPP action plan on statutory footing would be an improvement in its governance and may improve the system for some, we are not persuaded that it is possible for the plan to have its intended effect because of IPP's structural flaws. The very mechanics of the sentence are broken, and the Ministry of Justice does not have the power to change that. That is why the Justice Committee inquiry concluded that IPP was "irredeemably flawed" and that the only way to truly fix it was a resentencing exercise.[16] The plan also strikes us as utopian in its ideals. At present, prisons are the most overcrowded they have been in years and cannot deliver even the most basic of services,[17] let alone the enhanced provisions that the plan promises for people serving IPP. We encourage peers to support this amendment without accepting it as an alternative to resentencing, or indeed to the many other amendments that address at least some of IPP's structural flaws.

Amendment 160: Establish an independent scrutiny panel on the indeterminate sentence of imprisonment for public protection with oversight of the IPP action plan (Lord Blunkett)

The campaign to change IPP has already benefited from the work of similar independent panels such as the Independent Advisory Panel on Deaths in Custody, and a dedicated panel for IPP may enhance those benefits. One area of assistance would be the ability of such a panel to compel improvements to published data. Despite a commitment in the new IPP action plan to improve data transparency, there are still serious deficiencies in routinely published data on IPP. In particular, the Ministry of Justice does not disclose full post-tariff data, which hides the true number of people who are furthest over tariff (by 11-18 years). It is also very poor at releasing adequate data to monitor the situation of recalled people serving IPP (in most datasets they are presently counted among other people recalled to prison) and of people serving DPP, who were children when they received their sentence.

[16] House of Commons Justice Committee (2022). IPP sentences. Third report of session 2022–23. House of Commons.

[17] Taylor, C. (2024, 5 January). Chief inspector's blog: Why the prison population crisis is everyone's concern.

While panel powers could help to advance some improvements more successfully than the present HMPPS Stakeholder Challenge Group, fundamentally we have doubts that any panel could realistically secure the necessary changes to IPP, and refer peers to our comments on Amendment 159 above.

Amendment 166: An additional aftercare duty to IPP prisoners who have become stuck in the system for three or more years after their tariff has expired (Baroness Burt)

Members explanatory statement: In health, every person released from a long-term section is entitled a matter of law to a package of support that is crafted and funded jointly by health and social care under s117 of the Mental Health Act 1983.

There is overwhelming evidence that people serving IPP have suffered a deterioration in mental health due to the pains of serving their sentence.[18] They also suffer from a lack of adequate support in prison and on release.[19] This amendment would have the significant advantage of linking in people serving IPP to an already-established duty to provide tailored support. We would welcome such a package being offered to people serving IPP, and agree that three years post-tariff expiry is a proportionate eligibility point for such support to be offered.

However, we are concerned that there has been inadequate consultation with people affected by IPP about their experiences of "receiving help" during their sentence. Many mental health service users have described how any reluctance to engage with "support" (including medication) can end up impeding their progress and their liberty when professionals subsequently assess them as noncompliant.[20] People serving IPP have very similar experiences when their reluctance to engage in often intense, difficult and intrusive therapeutic programmes in prison means that they are refused progressive moves or parole.

We are therefore concerned that what may seem (on the face of it) to be a supportive package of care may end up becoming embedded in sentence progression requirements for people serving IPP in a way that ultimately disadvantages them and impedes their progress. The spirit of s117 is supporting improved health and this spirit must be maintained (rather than shifting to reduce reoffending). We believe that for that to happen there **must** be something in statute to ensure that s117 participation is purely voluntary, and will not in any way disadvantage sentence progression. Two practical ways of achieving that are disallowing its inclusion in sentence plans and making it inadmissible evidence by officials making progression, release and recall decisions. We believe that simply issuing guidance to practitioners on these points would not be sufficient, as in our experience practitioners such as COMs, POMs and psychologists are very keen to add what they see as supportive items to sentence plans, without a full appreciation of how mandating support can reduce people's dignity and choice.

[18] See UNGRIPP's submitted evidence and literature review to the Justice Select Committee inquiry on prisoner mental health.
[19] House of Commons Justice Committee (2022). IPP sentences. Third report of session 2022–23. House of Commons.
[20] Roe, D. & Davidson, L. (2017). Noncompliance, nonadherence and dropout: Outmoded terms for modern recovery-oriented mental health. Psychiatric Services, 68(10), 1076-1078.

Amendment 165: A probing amendment to strengthen aftercare to people already owed it in prison and serving IPPs (Baroness Burt)

Member's explanatory statement: This probing amendment clarifies the existing entitlements to aftercare of people who have been transferred from a secure hospital to prison and who either remain in prison or on licence in the community.

It has proved difficult to get a clear picture of how many people serving IPP are already entitled to section 117 aftercare due to having been in a secure hospital, nor how many are actually receiving it. This amendment would address that issue.

Amendment 164: IPP mentors (Baroness Blower)

Member's explanatory statement: This clause is designed to enable the Secretary of State to appoint a small number of independent mentors and advocates who will assist over-tariff prisoners sentenced to imprisonment for public protection. These individuals will not provide legal advice but will provide practical advice and assistance to help such prisoners formulate a release plan; will support them at their Parole Board hearing and on release; and will signpost relevant services (including mental health services where necessary) to enable them to get out and stay out of prison.

People serving IPP often lack the support of people who are familiar with the complexities of their sentence, and frequently it is family members who assume the burden of acting as advocates for their loved ones.[21] It is right that this burden be removed and that people receive appropriate support to navigate the labyrinthine systems of IPP. However, the role needs to be very carefully planned (in consultation with people affected by IPP), governed and monitored, with clear systems in place for people serving IPP to complain about any matters arising. It should also be structured in such a way that it remains at arms-length from the Ministry of Justice. A significant consequence of the IPP sentence is a deep mistrust of state authorities, and engagement with a mentorship scheme is likely to be low unless people are offered meaningful reassurances about independence.

Section E: Amendments relating to the release test and resentencing

Amendment 161: Amendment to reverse the release test for certain IPP prisoners under section 128 of the LASPO Act (Lord Moylan)

Member's explanatory statement: This amendment would alter the release test applied by the Parole Board for certain prisoners serving a sentence of detention or imprisonment for public protection under the existing powers of section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. It would apply to IPP prisoners who have a) served over the maximum determinate sentence for their index offence and b) are 10 or more years beyond their tariff expiry date.

In our experience many people serving IPP struggle to satisfy the release test. Currently, the burden is on them to prove that they can be safely managed in the community. In practice,

[21] Straub, C. & Annison, H. (2020). The mental health impact of parole on families of indeterminate-sentenced prisoners in England and Wales. Criminal Behaviour and Mental Health, 30(6), 341-349.

this requires much more than "good living" in prison through compliance with rules, holding trusted roles and community participation. It is largely dependent on the completion of structured programmes which are not always available or accessible. People in prison who are struggling with mental health, self-harm and substance misuse due to the pains of their sentence (and, increasingly, overcrowded and squalid prison conditions) are told these are signs of ongoing risk, and it is difficult for them to prove how these behaviours may change in the community. Essentially – risk assessments are a series of hypotheses about the future that have a systematic blindspot about the impact of the IPP sentence. People in prison cannot meaningfully challenge this. There needs to be a much more robust burden of proof on the state to show that such psychosocial difficulties really do enhance the risk of further offending, rather than simply being a by-product of years of injustice, anxiety and hopelessness.

Amendment 167: Amendment on the resentencing of people on IPPs (Baroness Fox)

Member's explanatory statement: This new clause would implement the recommendation of the Justice Committee's 2022 Report that there should be a resentencing exercise in relation to all IPP sentenced individuals, and to establish a time-limited expert committee, including a member of the judiciary, to advise on the practical implementation of such an exercise.

UNGRIPP supports this amendment. We have always advocated that a resentencing exercise is the only way to truly fix IPP, and this was also the conclusion of the Justice Select Committee's inquiry into the sentence. We urge peers to hold the Government to account on the weakness of its arguments against such an exercise, which we set out below.

In its formal response to the Justice Committee and in subsequent parliamentary discourse, the Government has cited three core arguments against a resentencing exercise: that it would unavoidably result in mass release without adequate oversight; that the IPP action plan is sufficient to address identified problems with IPP; and that it would be wrong to release people assessed by the Parole Board as unsafe.[22,23,24]

On the subject of the action plan, we refer peers to our comments and data under Amendment 159, which set out why an action plan alone will never be sufficient to address the structural flaws of the IPP sentence, as they are not in the Ministry of Justice's power to change.

The Government has framed mass release as an unavoidable and chaotic consequence of resentencing. It is patently clear that this view is too simplistic. The Justice Committee explicitly stated that such an exercise would need to be carefully planned by an expert group, who would do the necessary modelling and analyses to ensure that a resentencing exercise was orderly, safe, and carefully managed.[25] We are concerned that the Government has never given an indication that it has considered different models for resentencing.

We are not sentencing experts, however we understand that changing release points for individuals is not an unprecedented exercise in sentencing history. Changes in the setting of

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[22] House of Commons Justice Committee (2023). IPP sentences: Government and Parole Board responses to the Committee's third report. Ninth special report of session 2022–23. House of Commons.
[23] Hansard HC Deb. Vol 731, col 457WH, 27 April 2023. Imprisonment for public protection sentences.
[24] House of Lords Justice and Home Affairs Committee (2023). Corrected oral evidence: Lord Chancellor and Secretary of State for Justice (Ministry of Justice evidence session).
[25] House of Commons Justice Committee (2022). IPP sentences. Third report of session 2022–23. House of Commons.

tariffs for lifers brought in by the Criminal Justice Act (2003) necessitated individual tariff reviews by a single High Court judge for around 700 people in prison, and reviews by application for a further 1,800.[26] More recently, the Terrorist Offenders (Restriction of Early Release) Act 2020[27] and the Police, Crime, Courts and Sentencing Act 2022[28] retrospectively amended release points for certain people in prison. While they extended those points rather than reduced them, they are still examples of changes which would have required careful planning by legal and policy experts and practitioners to avoid negative impact on the prison and probation service. A similar planning exercise to manage the specific issues associated with IPP is a realistic prospect, not an impossibility. We suggest the following models merit further examination:

- Implementing a staggered exercise of resentencing a certain number of people serving IPP per quarter, to limit the number released simultaneously. People could be prioritised by relevant factors such as time over tariff and/or original tariff length.

- Use of a screening exercise to determine who is very likely to receive a determinate sentence of a length they have already served, and who is likely to receive longer sentences. Then stagger a resentencing exercise in batches of evenly mixed groups who may receive shorter and longer sentences. This would also limit the number of simultaneous releases.

- Build a fixed-term release preparation period (e.g. 6 months) into the resentencing exercise, to allow people sufficient time to prepare and secure the resources needed to safely release them.

We are concerned that the Government seems to have no idea how many people might *actually* be immediately released, and under what sentencing conditions. The assumption seems to be that most have served the equivalent maximum determinate sentence and that may indeed be the case – unfortunately there is no data to test this assumption. We also want to draw attention to the possibility that a proportion of people would *not* be immediately released or would be released under supervision, due to the existence of the Extended Determinate Sentence (EDS).

43% of everybody ever sentenced to IPP was convicted of GBH or robbery[29]—two offences that trigger consideration of an EDS sentence under current law. EDS effectively replaced IPP as the public protection sentence when the LASPO Act 2012 was passed. It has an eventual end date but also incorporates public protection measures and tends to have a lengthy custodial period. It also has an extended licence period *to be served at the end of the full custodial term.*[30] We suspect that in practice many people serving IPP would be resentenced to EDS, and may therefore still be subject to licence on release. Some may also have not yet served the equivalent custodial term. Snapshot data of those sentenced to an EDS in 2021 shows that the median average length of their full custodial term was 10-14 years, but over a quarter (27%) had a term of over 14 years.[31] The 'average' unreleased post-tariff person serving IPP has approximately a four year tariff[32] and is 10 years post-tariff[33] (served 14 years in total). This indicates the possibility that a sizable proportion may not be immediately released, but proper modelling based on appropriate data is needed.

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[26] R (Hammond) v Secretary of State for the Home Department [2004] EWHC 2753 (Admin).
[27] Terrorist Offenders (Restriction of Early Release) Act 2020. s1 & s2.
[28] Police, Crime, Courts and Sentencing Act 2022. s130-132. See also Home Office (2022) factsheet.
[29] Outcomes by offence tool, Ministry of Justice (2016). Criminal justice statistics quarterly: December 2015.
[30] Sentencing Council (n.d.) Extended sentences. Accessed 25 January 2024.
[31] House of Lords written question HL3588, 5 December 2022.
[32] Table 1.9b, Ministry of Justice (2024). Offender management statistics quarterly: July to September 2023.
[33] House of Lords written question HL423, 4 December 2023.

On the matter of releasing people deemed to be still a risk by the Parole Board, we draw peers' attention to concerns raised by professional risk assessors, who have suggested that risk assessment tools may have limitations when used in the context of the IPP sentence, and that this possibility merits robust examination.[34] This observation chimes with our experiences of risk-related decision making, where the devastating effects of sentence-related anxiety and despair are taken as signs of risk, rather than a psychologically coherent response to the circumstances of IPP. Covid-19 provides a tragic analogy for this point. When "everything else was equal", only a certain proportion of the population would have passed the screening threshold for clinical depression and anxiety. During the pandemic many people –perhaps even most of us –reached those thresholds.[35] The screening tools were not developed in the context of a pandemic, and therefore their ability to distinguish people potentially suffering from clinical mental illness and people showing "normal" responses to the vastly changed global situation, became less effective. We believe that insufficient attention has been paid to how risk tools behave when applied to people in prison who are serving an IPP sentence and their unique circumstances. The accuracy, limitations and context specificity of risk tools are acknowledged in the academic literature on the subject.[36]

Amendment 167c: Seeking assurances about the capacity of the Probation Service to manage resentenced people (Earl Attlee)

Members explanatory statement: This amendment would delay the enactment of Amendment 167 (a resentencing exercise for people serving IPP) until the Secretary of Statement had assured Parliament that the Probation Service had sufficient resources and capacity to protect the public following a resentencing exercise. It would also mandate a thematic review by HM Inspectorate of Probation to consider the extent that the service could manage additional supervision of resentenced IPPs, and that the SoS must take these findings into account before laying their statement before Parliament. This decision must be reviewed every 12 months.

This amendment would help to clarify why a resentencing exercise is not being fully supported in the Commons. We do not agree that Probation Service capacity is a sufficient basis upon which to make decisions about a resentencing exercise. It is well known that the Transforming Rehabilitation reforms of the mid 2010s were catastrophic for Probation, and the Service is now chronically understaffed, with low morale, inexperience and various other difficulties. Furthermore, it is recognised that any improvements brought about by the recent reunification of NPS and CRCs will be long-term rather than immediate. Probation's struggles are embedded, and only made worse by the rising prison population who must be supervised on release. Yet this has not traditionally been a reason for delaying changes to sentencing. Resentencing people on IPP does not *have* to mean that Probation is simply unable to manage people formerly serving IPP. A robustly planned strategy formulated by an expert committee on resentencing (including representation from Probation) could result in an orderly and well managed exercise with sufficient dedicated resource, which the SoS could lay before Parliament.

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[34] Evidence submitted to the Justice Select Committee IPP inquiry by psychological and psychiatric professionals, available here: https://committees.parliament.uk/writtenevidence/41683/default/

[35] World Health Organisation (2022, 2 March). Covid-19 pandemic triggers 25% increase in prevalence of anxiety and depression worldwide.

[36] Prins, S. & Reich, A. (2021). Criminogenic risk assessment: A meta-review and critical analysis. Punishment & Society, 23(4), 578-604.

Members may also wish to consider that the proposed subsection (10) makes reference to the "additional supervision" of people resentenced to IPP. As there has not yet been any modelling or detailed planning of a resentencing exercise, it is not yet clear whether, or how many, people serving IPP who have been resentenced would be subject to additional supervision. This would depend on the type of new sentence they receive and whether they have already served the equivalent term. The Government also appears unclear on this point, and further clarity on resource implications is needed.

Section F: Amendments relating to Detention for Public Protection

Amendment 155: Reduction of qualifying period for individuals sentenced to Detention for Public Protection as children (Lord Blunkett)

Member's explanatory statement: This amendment would halve the qualifying period for men and women who were sentenced as children in line with other statutory provisions, such as when convictions become "spent", to reflect the principle that children change in a shorter period than adults.

While it is now widely acknowledged that the IPP sentence was over-applied, the particularly egregious injustice it did to children is often overlooked. 326 children received a DPP sentence. One was aged just 10-11 years old, 16 were aged 12-14 and the rest 15-17.[37] There are 85 people still serving DPP in prison.[38] The maximum age range for everyone ever sentenced to a DPP is 23-35 years old with most in their early 30s,[39] which means that they are rapidly passing the window in which people typically develop the support and resources to desist from crime. Imprisoning people indefinitely during their formative years for an offence committed as a child is beyond proportionate punishment. Data on unreleased people serving DPP (of whom 36 remain) cautiously suggests their offence profile may be less serious than adults serving IPP, as they all have a tariff of six years or less. Sadly they are all also at least five years post-tariff.[40] This amendment would give people serving DPP a greater chance of ending their sentence while maintaining a post-release period of support and monitoring–a fair recognition of the age at which they committed their offence.

Amendment 163: Amendment on annual referrals for people on DPPs (Lord Blunkett)

Member's explanatory statement: This would require the Secretary of State to refer cases of those sentenced to DPPs as children to the Parole Board annually (currently it is every two years). This would ensure these cases are subject to enhanced scrutiny in line with the well-established duties owed to those who offended as children.

People serving IPP already suffer excessive delays to getting a timely Parole Board hearing at the current requirement of a hearing every two years. We therefore question the capacity of the Parole Board to convene an annual hearing, or for HMPPS to provide necessary progression opportunities within a 12 month period. However, given the limited number of

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[37] Outcomes by offence tool, Ministry of Justice (2016). Criminal justice statistics quarterly: December 2015.

[38] House of Lords written question HL297, 28 November 2023.

[39] Derived from sentencing data in n37.

[40] House of Lords written question HL298, 28 November 2023.

people in prison on DPP (85 at 30 September 2023),[41] this amendment could meaningfully assist their progression by requiring the relevant bodies to focus their resources on this small group—something that would be fair given the age they received their sentence.

Amendment 162: Amendment on enhanced sentence progression for DPPs who have not been released (Lord Blunkett)

Member's explanatory statement: This would require the Secretary of State to ensure that where a DPP is "stuck" either at first instance or following recall, instead of usual annual sentence planning meetings setting out what is expected of the person to progress through their sentence, there should be quarterly reviews.

Similar to Amendment 163, we question HMPPS's capacity to realistically deliver extra support and there is a risk that quarterly reviews could become a paper exercise. However, as a means of prioritising limited resource to go towards people serving DPP, this amendment could be effective. There is also a general need to sharpen practitioner focus on people serving DPP as a distinct group, which this amendment would support.

[41] House of Lords written question HL297, 28 November 2023.