

UNGRIPP's Response to the Law Commission's Consultation of Criminal Appeals

UNGRIPP is a grassroots campaigning and awareness group, led by families of people serving the Indeterminate Sentence for Public Protection (IPP), and supported by a wide range of individuals and organisations that wish to see change.

We exist to ensure a twelve-year abolished sentence cannot ruin more lives by campaigning for people who are serving an Indeterminate Sentence for Public Protection (IPP) to be resentenced.¹

Context

As of March 2025, there were 2,544 people serving an IPP in prison. Although the IPP prison population is gradually declining, the reduction has been consistently low – with the rate of decline averaging 2% over the past year. Based on historical release and recall trends, at the very earliest we anticipate that it will be a minimum of 11 years before all people serving an IPP sentence in prison are released. That would be 36 years after the IPP sentence was introduced and 24 years after it was abolished.

1,532 (60%) of those serving an IPP sentence in prison have been recalled. 1,075 (71%) of those on recall have not committed a further offence. The average time spent in custody following recall on an IPP sentence is 25 months.

There are currently 1,004 people serving an IPP sentence beyond their tariff who have never been released. Those who are 10 to 20 years over tariff now make up 69% of those never-released, serving an IPP sentence. Of the 697 individuals who have served 10 to 20 years beyond their tariff:

- 177 (25%) had a tariff of less than 2 years
- 394 (57%) had a tariff of 2–4 years
- 110 (16%) had a tariff of 4–6 years
- 16 (2%) had a tariff of 6–10 years

Many people serving an IPP sentence experience significant mental health decline in prison for example, self-harm incidents among people who have been recalled between 2023 and 2024 rose by 288 cases, marking a 17% increase over the same period.²

¹ <https://www.ungripp.com/>

² <https://www.gov.uk/government/collections/prison-population-statistics>

It is estimated that the total cost to the exchequer in 2024 to keep 2,600 people in prison on an IPP sentence reached £145m.³ This is in addition to the estimated £1.6bn for keeping people serving an IPP in prison in the first 10 financial years after the law was repealed.

The Government is currently relying on an IPP action plan to fix this situation. However, this action plan has been in place since April 2023 and the situation for those serving an IPP sentence has not significantly changed.

Approach to response

We believe that urgent and profound reform is required to address the ongoing injustice faced by individuals serving IPP & DPP sentences.

- Everyone serving an IPP & DPP should be resentenced to a sentence available under current law that justly reflects their crime.
- The Government should provide comprehensive support to help everybody serving an IPP to recover from the ordeal, including their families.

While we are committed to this position, we recognise that the Law Commission may be considering a range of options. In the spirit of constructive engagement, we have therefore set out a graduated series of reforms. These begin with the changes we consider most essential and immediately necessary, while also including additional reforms that should be pursued regardless of whether our primary and secondary proposals are adopted. Our aim is to avoid an all-or-nothing approach and to ensure that meaningful progress can still be achieved even if full resentencing is not implemented.

Primary Proposals

All Those Serving IPP and DPP given automatic right to appeal their sentence

There is a clear legal and moral imperative to introduce a mechanism to redress IPP and DPP sentences:

- Both the main governing and opposition parties have acknowledged that the IPP and DPP is a “stain” on our justice system.
- The cross-party Justice Select Committee has found the IPP and DPP sentence to be irredeemably flawed and has called for a comprehensive resentencing exercise for all people serving an IPP sentence.
- The European Court of Human Rights’ finding that IPP and DPP sentences breach Article 5 of the European Convention on Human Rights (which guarantees the right to liberty and security).

For these reasons we maintain that all individuals currently serving an IPP and DPP sentence should be granted an automatic right of appeal, supported by a bespoke legal test specifically designed to review and quash such sentences.

We support CALA⁴ and the Howard Leagues⁵ recommendation in utilising the CCRC in this process.

³ <https://www.independent.co.uk/voices/editorials/ipp-prison-imprisonment-public-protection-cost-b2736399.html>

⁴ https://www.cala.org.uk/_files/ugd/65bbe8_b0ed299c372545da823d95ed0e2a191f.pdf

⁵ <https://howardleague.org/wp-content/uploads/2025/06/Ending-the-detention-of-people-on-IPP-sentences.pdf>

A Single, Statutory Test for All IPP and DPP Sentences

Test Design

Any legal test for quashing or reviewing IPP and DPP sentences should be set out clearly in legislation and must be consistently applied across all IPP and DPP cases.

Proportionality

The principle of proportionality, where the sentence served significantly exceeds the equivalent determinate sentence for the equivalent offence, provides a basis for reconsideration in the context of individuals serving Indeterminate Sentences for Public Protection (IPPs). There is a compelling justification for applying this principle to IPP and DPP cases, given that Parliament has abolished the IPP and DPP sentence but has not done so retrospectively. As a result, individuals continue to serve or remain subject to a sentence that no longer exists in law, creating a deeply anomalous and unjust situation.

Test of Dangerousness

The legal definition of "dangerousness" used for IPP and DPP sentences is flawed because it does not align with scientific understanding of risk. This has led to many successful appeals against IPP and DPP sentences. The Commission may want to consider a new test to review IPP and DPP cases, one that acknowledges and corrects the original legal test's inaccuracies.

Timing of Sentence

To ensure equality and fairness, the same criteria should apply to individuals sentenced both before and after the 2008 legislative reforms, avoiding the creation of arbitrary distinctions based on historical sentencing frameworks.

Rationale

Between 2005 and 2008, an IPP and DPP sentence was mandatory for certain serious offences where the court found the offender to be dangerous but did not impose a life sentence. This created a broad and often indiscriminate application of IPPs and DPPs. In contrast, from 2008 to 2012, IPPs and DPPs became discretionary, and only applied if:

1. The offender had a previous conviction for a specified serious offence; or
2. The notional minimum term (excluding time served on remand) was two years or more.

This shift in the legal threshold has effectively created a two-tier system of IPP and DPP sentencing and grounds for appeal, where individuals who committed similar offences and presented similar risks were treated differently. Any test for appeal must correct for this historical inconsistency by applying a uniform standard, thereby restoring confidence in the fairness and integrity of the appeals process. It would be unjust for those sentenced under the earlier, more rigid framework to face higher barriers to appeal than those sentenced under the later, more discretionary regime — particularly when both groups remain subject to the same indefinite and often prolonged detention.

Secondary Proposal

While we strongly support the introduction of an automatic right of appeal for all individuals serving IPP and DPP sentences, should this not be accepted, we believe it is essential that specific groups of people serving IPP and DPP sentences are prioritised for appeal access on the basis of fairness, vulnerability, and the disproportional impact of the IPP and DPP regime.

People Serving an IPP and DPP Sentence who are Detained in Secure Hospitals

Individuals serving an IPP and DPP sentence who are currently detained under the Mental Health Act 1983 in secure hospitals should be granted the right to appeal their sentence, with a specific mechanism to convert their IPP and DPP sentence to a purely mental health-based detention (i.e. a hospital order or restriction order under the Mental Health Act). Unlike IPPs and DPPs, the Mental Health Act provides a clear and clinically guided pathway to discharge, with a focus on recovery and reintegration once an individual is well enough. Re-imposing a penal sentence on individuals who are being treated for serious mental illness is inconsistent with therapeutic principles and undermines human rights protections.

People Serving an IPP and DPP sentence who have been Recalled Without a New Offence

This group is particularly vulnerable to arbitrary and disproportionate recall, largely due to the lower threshold for recall under IPP and DPP licence conditions compared to those imposed on individuals serving determinate sentences. As previously noted, individuals on IPP and DPP sentences, especially those who have been recalled without committing a new offence, are disproportionately likely to experience mental health conditions, psychological trauma, and other vulnerabilities stemming from prolonged and indeterminate incarceration.

Crucially, these individuals have already been deemed safe for release by the Parole Board, yet they face renewed indefinite detention based on administrative risk assessments rather than any new offence or judicial finding. This undermines the integrity of the parole process and exposes individuals to continued punishment in the absence of new criminal conduct. Despite these heightened needs and the extensive periods many have spent beyond their tariff, there remains a serious lack of specialist support available to them, both in custody and in the community following release. This includes inadequate access to mental health care, limited resettlement services, and insufficient supervision frameworks tailored to the complex psychological impact of the IPP and DPP regime.

The absence of appropriate support, combined with the constant risk of recall on broad and often ill-defined grounds, creates a cycle of release and re-incarceration that is both harmful and counterproductive. Addressing these systemic failures must be a core part of any appeal or resentencing framework for those serving an IPP and DPP.

Principles That Should Apply Regardless of Whether Primary and Secondary Proposals Are Accepted

Even if the Law Commission does not accept the proposals set out above, we feel there are essential principles that should underpin any reform to the IPP and DPP appeals process:

Greater Flexibility for Considering Mitigating Factors, Including Mental Health Conditions

While we recognise that fresh evidence, such as a post-sentencing diagnosis of ADHD, can be admissible under Section 23 of the Criminal Appeal Act 1968, we believe a more flexible approach should be adopted in IPP and DPP cases when considering mitigating evidence. Many individuals receive diagnoses after sentencing, often through prison screening processes rather than formal clinical assessments at the time of trial. These diagnoses may include ADHD, autism, or other conditions that significantly affect behaviour and culpability. In such cases, the Court should consider a broader range of supporting evidence, including school records, social work reports, and behavioural histories, even where a formal diagnosis was not available at the time of the original sentencing.

'Loss of Time' Orders Should Not Apply to IPP and DPP Appeals

We strongly oppose the application of 'loss of time' orders in IPP and DPP sentence appeals, even with a capped limit of 56 days. As APPEALS has rightly observed, “the mere possibility of such an order being made risks having an unacceptable chilling effect on meritorious applicants, who may be deterred from lodging proceedings with the Court of Appeal.” In the context of IPPs and DPPs, where individuals have already endured indefinite and disproportionate detention, this additional penalty is particularly unjust. Removing the threat of a loss of time order is necessary to encourage, not deter, legitimate appeals.

No Time Limit on Sentence Appeals for those serving an IPP and DPP Sentence

There should be no time restriction on when an individual serving an IPP and DPP sentence can appeal against their sentence. Nor should applicants be required to obtain judicial permission to seek an extension of time. In many cases, the basis for an appeal, such as newly recognised mitigating factors or a change in societal or legal standards, may only emerge years after sentencing.

Moreover, many people serving an IPP and DPP sentence have faced significant barriers to legal understanding and access, including mental health issues, lack of support, and misinformation. In our experience, many were not made fully aware of their right to appeal or lacked the means to do so in a timely manner. A rigid application of time limits would therefore serve only to compound historic injustices.

Entitlement to Legal Aid for IPP and DPP Sentence Appeals

All individuals serving IPP and DPP sentences should be automatically entitled to legal aid when appealing their sentence. The grounds for such appeals, including fresh evidence, evolving legal standards, or post-sentence diagnoses, often only arise after significant time has passed. Without access to legal aid, many people in prison are unable to properly identify or present their case, especially given the complexity of the law and procedural requirements.

Denying legal aid in this context would perpetuate the systemic inequality at the heart of the IPP and DPP sentencing. It is essential that access to justice does not depend on financial means, particularly for those still subject to a sentencing framework that has been repealed, discredited, and widely condemned. Legal aid is not only a matter of procedural fairness, but a critical safeguard to prevent ongoing human rights violations.