



HM Inspectorate
of Probation

A thematic inspection of imprisonment for public protection (IPP) recall decisions

An inspection by HM Inspectorate of Probation
December 2023

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Foreword

The sentence of imprisonment for public protection (IPP) is widely acknowledged to be flawed. It operated for only seven years and was abolished in 2012. During this time 8,711 IPP sentences were passed. At the present time,¹ 1,269 people serving the sentence have never been released from prison even though, for the majority, their tariff has long passed. A further 1,652 are in prison having been recalled. Some spent several years in the community before their recall; others have been recalled and re-released several times. This has led to what was described by the Justice Select Committee² as the 'merry go round' of repeated release and recall. In response to the Committee's report, the government asked us to conduct an inspection of whether recall decisions were proportionate to the risks presented.

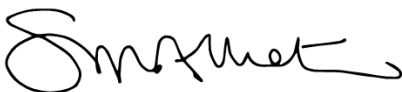
In all the cases we examined, recall was initiated because of concerns that the individual's behaviour was similar to that exhibited at the time of their original offence. Probation practitioners acted in accordance with the policy, often having tried additional measures to manage risk. That is not to overlook the fact that there were a few cases where it may have been possible to avoid recall. Therein lies the dilemma for probation practitioners and their managers. To act too swiftly risks recalling to prison someone who does not need to be there. Not to act quickly enough risks someone committing a serious offence. We do not underestimate the challenge, or the skills that are required to make the decision.

Underlying the recall decision is an assessment not only of the person's behaviour but, significantly, of whether they are manageable in the community given the resources that are available to support them and manage their risk. In this report we have outlined the complex needs and longstanding problems faced by many people who are serving IPP sentences. There is little doubt that some present a risk to other people and are serving sentences for serious offences. For others, their risk may have increased over time, in part because their mental health has been damaged by the very sentence they are serving. When their lives start to unravel, so too does their behaviour. After years of incarceration some feel overwhelmed by life in a community that they simply do not understand. For some, return to prison appears to provide a respite, albeit one characterised by a sense of hopelessness and despair about their future.

We found that too often people did not get enough support to prepare for release and to cope in the community. When their behaviour broke down, probation staff had little choice but to initiate the recall. The solution cannot lie solely within the criminal justice system. Better multi-agency management could improve access to appropriate resources and expedite the response to crises.

This situation presents some stark choices. Individuals could remain in prison indefinitely; or, as we have seen in this inspection, they may be repeatedly released and recalled, becoming increasingly difficult to manage in the community. Alternatively, with legislative change, they could be released with an end date in sight – as they would have been had they served a determinate sentence. We recognise that this option is not without challenges and that, regardless of the sentence, it is simply not possible to eliminate risk.

In this report we have made a number of recommendations that we believe will, if implemented, increase the prospect of those released on IPP licence coping in the community and help to reduce the numbers recalled to prison.



Sue McAllister

Interim HM Chief Inspector of Probation

December 2023

¹ Figures as on 30 September 2023. Ministry of Justice and HMPPS (2023). *Offender Management Statistics Quarterly: April to June 2023*.

² House of Commons Justice Committee (2022). *IPP sentences*.

Contextual facts³

87,576	Total number of people in prison on 30 September 2023.
8,711	Number of IPP sentences passed between 2005 and 2013. ⁴
Male – 2,887 Female – 34 TOTAL – 2,921	Number of people in prison who were serving an IPP sentence on 30 September 2023.
Male – 2,978 Female – 120 TOTAL – 3,098	Number of offenders serving an IPP sentence on licence in the community on 30 June 2023.
1,269	Number of IPP prisoners who have never been released. This represents a decrease of 12 per cent since September 2022.
1,652	Number of IPP prisoners who have been recalled. This represents an increase of 14 per cent since September 2022.
1,247	Number of unreleased IPP prisoners whose tariff has expired (30 September 2023).
735	Number of unreleased IPP prisoners whose tariff was less than or equal to four years and who are at least six years over tariff.
1,470	Number of individuals serving an IPP sentence on licence in the community who were last released at least five years earlier (30 June 2023).

³ Unless otherwise stated, the source of these data is: Ministry of Justice and HMPPS (2023). *Offender Management Statistics Quarterly: April to June 2023*. This bulletin includes details of the prison population on 30 September 2023.

⁴ This figure refers to sentences imposed and not the number of individuals who received an IPP sentence. Some individuals were given more than one IPP sentence. A small number of IPP sentences were given after abolition, as the abolition date related to the date of the offence rather than the sentence being passed. Supplementary written evidence submitted by the Ministry of Justice (IPP0179). Justice Select Committee (JSC) – Imprisonment for Public Protection (IPP) data. Available at: <https://committees.parliament.uk/writtenevidence/110865/html/>

Executive summary

The sentence of imprisonment for public protection (IPP) was introduced under the Criminal Justice Act 2003 and, following criticism of the sentence, it was abolished in 2012. On 28 September 2022, the Justice Committee published a report (House of Commons Justice Committee, 2022) outlining ongoing concerns about the sentence, including that the number of individuals who had been recalled would soon exceed the number who had never been released. The Committee argued that some individuals serving an IPP sentence on licence in the community are being recalled unnecessarily.

As part of the government's response (House of Commons Justice Committee, 2023), the then Lord Chancellor and Secretary of State, The Rt Hon Dominic Raab, asked HM Inspectorate of Probation to conduct a thematic inspection to consider the necessity and proportionality of decisions to recall to custody people who have been released on an IPP licence.

The latest available figures⁵ from the Ministry of Justice (MoJ) and HM Prison and Probation Service (HMPPS) show that at the end of September 2023, there were 1,269 unreleased IPP prisoners, compared with 1,652 who had been recalled.

Our inspection includes an analysis of data provided by the Ministry of Justice (MoJ) on all recall events between 01 January 2019 and 31 March 2023. During our fieldwork, we reviewed a sample of 26 recalled IPP prisoners who were still in custody and spoke to their probation practitioners and prison staff. Those who were released after a recall and have remained in the community are not included in our review. We also met with senior leaders to follow up our lines of enquiry.

In each case we considered the quality of preparation for the individual's release, the support they received in the community, the reason for the recall decision, and the work that has taken place since their recall. User Voice met with most of those in our case sample and interviewed over 100 prisoners in total. Their findings have informed this report and they will publish their own report.

[A copy of the User Voice report will be available here when published on 23 January 2024.](#)

Preparing for release

People who are released after years of incarceration face the task of getting to grips with massive changes in the world around them. Most of us would find that difficult; people with longstanding personal and social problems may feel particularly overwhelmed and need considerable support. To give them the confidence to face their future in the community, support needs to be in place before they walk through the prison gates. In our inspection we found that, too often, vital aspects of support were missing. Problems with mental health and substance misuse were prevalent, but arrangements for prompt access to the relevant services were not always in place.

More positively, most people had appropriate accommodation arranged, with many being released to an approved premises (AP). Having stable accommodation is associated with reduced reoffending, and APs provide a short-term option that avoids homelessness on release and provides oversight and management of risk. We were pleased to see plans for move-on accommodation being considered at an early stage, often before release.

The majority of prisoners had met their community offender manager (COM) in person or on a videocall. There were some good examples of liaison between the COM and the prison offender manager (POM), and sustained engagement with the individual – a sound basis for a positive relationship after release. For others, however, staffing issues in the Probation Service (HM

⁵ Ministry of Justice and HMPPS (2023). *Offender Management Statistics Quarterly: April to June 2023*.

Inspectorate of Probation, 2023b) contributed to last-minute changes of COM, which were unhelpful.

Most of those in our sample presented a high risk of harm to others. Appropriate and proportionate licence conditions were in place for the vast majority, and practitioners had made sure that the individual understood these. At the point of release, a plan was usually in place to manage the risk of harm that the individual presented to other people.

However, we also found that, overall, too few of the people in our review were prepared well for their release into the community. Many of our findings were echoed by the people surveyed by User Voice. Two-thirds rated the quality of support before release as 'poor' or 'very poor'.

The period on licence

Two key factors underpin the likelihood of someone successfully settling back into the community. First, they need a personalised, positive and consistent relationship with a probation practitioner – someone they can discuss their problems with and who they trust to be fair and just. Second, they need access to the right help and support, at the point when they most need it. Given the challenges facing many people on IPP licence, this help needs to be prompt, intensive and often delivered by a range of agencies.

We saw good examples where the COM had engaged well with the individual while they were in prison, dealt sensitively with their release, provided practical and emotional support, and was open and transparent about risk management. However, over half of the people in our review had worked with three or more COMs and some had experienced numerous changes. It was unsurprising, therefore, that some reported finding it difficult to keep telling their story to different practitioners or to develop a trusting relationship. People said that, without trust, they feared being open and honest with probation staff because of the possible repercussions.

A significant majority of those interviewed by User Voice felt unsupported during their most recent spell in the community, with many saying that the support they received was affected by the 'revolving door' of probation practitioners. Those who were more positive gave the quality of their relationship with the probation practitioner as the reason.

Support by a probation practitioner is, however, only one part of the picture. Many of the people in our review had a complex range of problems, including mental health and neurodiversity conditions, trauma, poor coping abilities, substance misuse, and unsuitable accommodation – issues that resulted in behaviour that was challenging and hard to predict. Only a minority of those who experienced mental health problems during their period on licence had been able to access appropriate resources. For some who had received good support for their mental health while in custody, the transition to the community was not well managed.

Similarly, although most of the people in our sample experienced problems with substance misuse, only a minority had been able to access appropriate help. Substance misuse problems were commonly linked with the recall decision.

Some people struggling in the community lacked positive personal and social relationships, having lost contact with family and friends or suffered bereavement during their sentence. For others, family and friends were negative influences. These are difficult areas for probation practitioners trying to balance social integration with the need to manage the risk of harm to other people. We saw cases where social isolation led to risky behaviour, and others where harassment of other people had triggered recall.

A lack of employment or other constructive activity also contributed to boredom and isolation. More could have been done to help some people continue with education or training that they had started in prison.

The majority of people in our sample were assessed at the point of release as presenting a high risk of harm to other people. All were managed through Multi-Agency Public Protection Arrangements (MAPPA) at level 1, but as access to other services – notably mental health and substance misuse –

is critical for this cohort, we felt that a number would have benefited from active multi-agency management at a higher level, particularly when they started to struggle in the community. In some cases, the lack of information-sharing with the police also indicated that MAPPA level 1 management was not working as well as it should have done.

Overall, only a minority of people were provided with adequate and appropriate support during their period on licence. During the period on licence, the risk of harm to other people was adequately managed in less than half of the cases we reviewed. Over half of those interviewed by User Voice rated the quality of support they received in the community as 'poor' or 'very poor'.

The recall decision

When deciding to initiate a recall to prison,⁶ practitioners must 'demonstrate a "causal link" in the current behaviour [to that] that was exhibited at the time of the index offence.' This is not always clear cut. It may be hard, for example, to predict whether substance misuse will trigger risky behaviour, whether a deteriorating relationship will lead to abuse, or, if someone discloses a concern that they may reoffend, whether this should be seen as an honest request for help, or as a warning that needs to be acted on.

In all of the cases in our sample, the recall decision was based on the criteria set out in HM Prison and Probation Service (HMPPS) guidance – primarily that the person's behaviour was similar to the behaviour that led to the original offence, or that it was associated with – or may give rise to – violent or sexual offending. There were three cases where, although the behaviour met these criteria, we felt that the recall may not have been proportionate to the risk at that point in time.

In some cases, concerns about the individual's behaviour arose very quickly after their release. Managers were actively involved in discussions about concerns, and appropriate and prompt action short of recall was taken when this was appropriate. These actions included additional restrictive conditions, such as GPS tagging or polygraph testing, additional involvement of the police through the Integrated Offender Management (IOM) scheme or home visits, or referral to programmes or other agencies.

Four people were recalled within three months, all from the APs where they were living. Others had been in the community for several years at the point when they were recalled.

For 19 people, the reasons for recall included concerns about their substance misuse. For most, this was a feature of the index offence and the substance misuse was clearly linked to an increase in the risk of serious harm that they presented.

Fourteen people were facing a further charge, although it is not possible to tell how many of these were ultimately convicted. Being recalled on the basis of allegations that were later dropped was a source of much discontent among the people interviewed by User Voice.

Although we agreed with the recall decision in the majority of cases, we were concerned that too often probation practitioners made the decision without input from other agencies, which may have had information that would provide a more rounded picture of the individual's behaviour. Furthermore, with prompt access to a range of support, it may sometimes be possible to stabilise the person and avert recall. It was disappointing to see that the potential for IPP progression panels to provide such a multi-agency forum had generally not been exploited.

Overall, in our view, in a large majority of cases the decision to recall the individual to custody was appropriate and proportionate to the risks they presented at that point in time.

⁶ The Probation Service is responsible for initiating recall decisions. These are submitted to the Public Protection Casework Section (PPCS), which makes the final decision to authorise a recall on behalf of the Secretary of State for Justice. Few recall submissions are rejected. For simplicity, in this report we refer to the Probation Service as 'recalling [the person]'.

After the recall

Indeterminate sentenced prisoners can only be released when the Parole Board assesses that they can be safely managed in the community. In most cases, this is decided at an oral hearing, for which waiting times are currently six to nine months. For some, the uncertainty of this period was associated with a marked deterioration in their mental health – something that in itself may make them more difficult to re-release. It is unsurprising that these individuals commonly report feelings of hopelessness (Edgar et al, 2020). Others in our case sample appeared to find prison a safe space, and some admitted self-sabotaging behaviour when they were in the community, because they found it too difficult to cope.

Some of the people interviewed by User Voice were concerned that not having an established relationship with a COM would put them at a disadvantage at an oral hearing. Many felt pessimistic about the outcome, believing that they had to 'jump through hoops' and complete courses that they had already done. We also found some ambiguity among professionals about whether repeating programmes at this stage was necessary. Some were concerned that people may be disadvantaged if they were unable to access a programme; others suggested that it was more important to understand the root cause of the behaviour that led to recall – work that may involve a more trauma-informed approach.

In our case review, we saw some good examples of prison staff and COMs actively working to help individuals build a new release plan and address the issues that had contributed to their recall. This included offence-focused work with the POM or COM, trauma-informed work, involvement of a psychologist, and multi-agency input to find appropriate stable accommodation.

Progression regimes, available in four prisons, provide intensive work to help people progress towards release. We saw little evidence in our case reviews that this option had been considered.

Overall, in our view, a reasonable majority of the people in our sample were helped to cope with their recall, and to make progress, tackle their behaviour, and prepare for their future release. Those interviewed by User Voice were less positive about the help they had received in prison since their most recent recall, but reported better support in specialised units, such as enhanced wings, drug recovery wings or Psychologically Informed Planned Environment (PIPE) units.

HMPPS actions

Following publication of the report by the Justice Select Committee (House of Commons Justice Committee, 2022), the then Lord Chancellor and Secretary of State committed to renewing and refreshing the IPP action plan. In April 2023, the incumbent Lord Chancellor and Secretary of State, the Rt Hon Alex Chalk KC, wrote to the chair of the Justice Committee with a new action plan. This focused on 'ensuring that HMPPS systems and processes effectively support those serving an IPP sentence towards a safe and sustainable release' (MoJ, 2023). In our inspection we found a widespread commitment by senior leaders to addressing the well-recognised concerns about the IPP sentence.

Conclusion

In the majority of cases we examined, probation practitioners and their managers acted in accordance with HMPPS policy, often having tried additional measures to manage risk. That is not to overlook the fact that there were a few cases where it could have been possible to avoid recall.

Underlying the recall decision is an assessment of whether the person is manageable in the community given the resources that are available to support them and manage their risk. Better multi-agency management – either through MAPPAs or through more effective IPP panels – could improve access to appropriate resources and help to expedite the response to crises. We have recommended that the MoJ should work with other government departments to provide a more effective multi-agency response to managing those serving IPP sentences.

After they have been recalled, most of those serving IPP sentences have to await an oral hearing by the Parole Board. Because of the time required to reach an oral hearing, most spend several months in prison waiting for the hearing, although ultimately in 70 to 75 per cent of cases, the Parole Board decides that they can be re-released (Parole Board, 2023). We consider that the MoJ and Parole Board should explore options that may allow some to be released more promptly, either by introducing a longer period to allow consideration 'on the papers' or through fixed-term recalls, where this is appropriate.⁷ Such an option could help to reduce the sense of uncertainty and despair that many currently experience after recall.

One of the challenges presented by the IPP sentence is that those serving the sentence are not a homogenous group. There is little doubt that some present a serious risk of harm to the public. Some have committed offences that could have attracted a life sentence and their risk would have been apparent at the time of sentencing. Others 'are serving what amounts to a life sentence for what are widely regarded as lower-level offences such as robbery, theft offences, criminal damage, arson and public order offences' (House of Commons Justice Committee, 2022). For some, the risks they present may have increased over time, in part because their mental health has been damaged by the very sentence they are serving.

The solution is not straightforward. Some who are released will, as we have seen, be difficult to manage in the community and, under the present policy, recall is inevitable. For some, it may be a welcome relief from the pressure of trying to cope with their problems and the uncertainty about their future. Without the IPP sentencing option, many would have served determinate sentences and would have had an end date in sight. For some, this date would have marked the end of their involvement with the criminal justice system; others may have gone on to commit further offences. The same would be true if, with legislative change, those serving IPP sentences were given a date on which their sentence would end. Regardless of the sentence, it is simply not possible to eliminate risk. With better support in the community, however, this risk could be mitigated.

⁷ This would require legislative change.

Recommendations

Ministry of Justice should:

1. work with other government departments to ensure that those serving IPP sentences are able to access appropriate help with problems, including mental health, substance misuse, housing and lack of employment; the aims should be to ensure that those on IPP licences can be managed safely in the community, and to protect the public
2. work with the Parole Board to consider options that would enable more recalled prisoners to be considered for re-release without the need for an oral hearing.

HMPPS should:

3. ensure that those serving IPP sentences are actively managed through multi-agency forums, either by refreshing the approach to IPP progression panels, or by using MAPPA level 2 or 3 to manage more of those on licence
4. ensure that all prison and probation staff working with people on IPP sentences have an awareness of the impact of the sentence and recall on individuals
5. ensure that all probation staff have a good understanding of the sentence, including the processes for terminating the sentence and the licence
6. ensure that probation practitioners are trained to use relational, trauma-informed and motivational approaches to working with individuals
7. ensure that all who meet the criteria to 'screen into' the Offender Personality Disorder (OPD) pathway are referred to services that meet their needs
8. improve the support available to help IPP prisoners prepare for release and re-release after recall
9. improve the continuity of case management, so that people on IPP sentences have contact with probation practitioners whom they have got to know
10. ensure that resettlement services are available to all IPP prisoners who are being released, in order to provide practical help and support
11. analyse recalls from approved premises to understand better the thresholds that are applied, and to identify alternatives to recall that may be available if a bedspace is withdrawn.

1. Introduction

1.1. History of the IPP sentence

In 2000, the government commissioned a review of sentencing. The resulting report, *Making Punishments Work: Report of a Review of the Sentencing Framework for England and Wales* (Home Office, 2001) – known as the Halliday Review – proposed the need for a new sentence for people convicted of a dangerous sexual or violent offence who did not receive a life sentence. The government's white paper *Justice for All* (TSO, 2002) set out a new sentence to ensure that these offenders would stay in prison until the Parole Board was satisfied that they could be safely managed in the community. The IPP sentence was introduced by the Dangerous Offender provisions of the *Criminal Justice Act 2003*, and came into force in April 2005.

The IPP sentence was available to courts where an offender had been convicted of one of 96 specified serious violent or sexual offences (offences that carried a maximum sentence of 10 years or more) and where the court considered that the offender would pose a 'significant risk of serious harm' in the future. Where the individual had previously been convicted of one of 153 specified offences, the court was required to consider the offender to be dangerous and impose an IPP.

As initially implemented, the IPP sentence carried no minimum tariff. Some tariffs were short, and courts imposed more IPPs than had perhaps been anticipated (Sentencing Academy, undated). By 2008 the sentence was being imposed at a rate of 120 per month, and it was clear from projections that this would place an enormous strain on the prison system and the Parole Board.

In 2008, the Justice Committee expressed their concern that the sentence was being imposed on individuals who might otherwise have received a short determinate sentence, but, because of a previous conviction, they had to receive an IPP. The committee raised questions about the place of a sentence that operated as preventative detention, rather than 'punitive imprisonment triggered by an actual offence, or rehabilitation'.

In order to reduce their assessed 'dangerousness', IPP prisoners are expected to attend various programmes designed to address their offending behaviour and to help the Parole Board to assess whether they can safely be released. Difficulties in accessing the required course could delay the possibility of release on licence. In 2008, in the case of *Secretary of State for Justice v Walker*,⁸ the Court of Appeal found that the Secretary of State had acted unlawfully by failing to provide for measures to allow IPP prisoners to demonstrate to the Parole Board by the expiry of their tariff periods, or reasonably soon thereafter, that it was no longer necessary for them to continue to be detained.

In response to criticisms that the sentence was poorly targeted, the presumption of dangerousness was removed by the *Criminal Justice and Immigration Act 2008*. IPP sentences became discretionary and were reserved for serious offences with a notional minimum term (i.e. the term the prisoner would have served had they received a determinate sentence) of two years or more. These reforms were, however, not retrospective, which meant that some people remained in prison long beyond a short tariff (House of Commons, 2023).

In 2010, the then Minister for Prisons and Probation noted that there were over 6,000 IPP prisoners, of whom over 2,500 had exceeded their tariff. 'Many cannot get on courses because our prisons are wholly overcrowded and unable to address offending behaviour. That is not a defensible position'. The following year, the then Prime Minister, David Cameron, described the system of IPP sentences as 'unclear, inconsistent and uncertain' (House of Commons, 2023).

⁸ House of Lords (2009). Judgments – Secretary of State for Justice (Respondent) v James (FC) (Appellant) (formerly Walker and another) R (on the application of Lee) (FC) (Appellant). Available at: <https://publications.parliament.uk/pa/ld200809/ldjudgmt/jd090506/james-1.htm>

In 2012, the European Court of Human Rights held that the failure to make appropriate provision for rehabilitative services for three prisoners⁹ serving IPP sentences breached their rights under Article 5 of the European Convention on Human Rights – i.e. the right to protection from unlawful deprivation of liberty. The court found that the prisoners' detention was arbitrary because the lack of appropriate provision meant that the prisoners could not show that they were rehabilitated and suitable for release.

The IPP sentence was abolished by the *Legal Aid, Sentencing and Punishment of Offenders Act 2012* (LASPO).¹⁰ However, the change to the law was not retrospective, so prisoners who had already received an IPP sentence remained on this sentence. The then government said it did not think it was 'right or appropriate retrospectively to alter sentences that were lawfully imposed by the court', adding that it would be particularly difficult because the court would have imposed the sentence with 'risk management issues in mind'.

As at 30 September 2023, there were 1,269 unreleased IPP prisoners in custody in England and Wales. In addition to these unreleased IPP prisoners, there were 1,652 recalled IPP prisoners in custody, making 2,921 IPP prisoners in total. As at 30 September 2023, all but 20 unreleased IPP prisoners had passed their tariff date (MoJ and HMPPS, 2023).

1.2. Release and recall: legislation, policy and practice

For people serving indeterminate sentences (either a life sentence or an IPP), a minimum tariff is set by the sentencing judge, and the release decision is made by the Parole Board when they assess that 'it is no longer necessary for the protection of the public that the prisoner should be confined [in prison].' This is also known as the public protection test.¹¹ LASPO imposed the same statutory test for the initial release of all prisoners serving determinate and indeterminate sentences referred to the Parole Board.

All indeterminate sentenced prisoners¹² who are released from prison are subject to a licence. They are liable to be recalled to custody by the Secretary of State, where (a) they have breached a specific condition of their licence, or (b) their behaviour is sufficiently concerning to indicate that the risk they pose is assessed as no longer safely manageable in the community.

The Probation Service is responsible for initiating recall decisions. These are submitted to the Public Protection Casework Section (PPCS), which makes the final decision to authorise a recall on behalf of the Secretary of State for Justice. The PPCS also exercises the Secretary of State's executive power to re-release certain recalled prisoners.

The Police, Crime, Sentencing and Courts Act 2022 requires the public protection test to be applied to (most) recalled prisoners.¹³ Once recalled to prison, the individual can only be re-released when the Parole Board is satisfied that they no longer need to be confined for the protection of the public. The decision about whether or not to re-release can be made by Member Case Assessment (MCA) – known as making the decision 'on the papers' – or at an oral hearing. The MCA process was extended to include IPP prisoners in 2016 (Parole Board Rule 2016).

⁹ House of Lords (2009). *Judgments – Secretary of State for Justice (Respondent) v James (FC) (Appellant) (formerly Walker and another) R (on the application of Lee) (FC) (Appellant)*. Available at: <https://publications.parliament.uk/pa/ld200809/ldjudgmt/jd090506/james-1.htm>

¹⁰ LASPO also introduced a new form of extended sentence, to be imposed in certain types of cases where the court has found that the offender is dangerous, and an extended licence period is required to protect the public from risk of serious harm. These sentences differ from IPPs in that the judge decides how long the offender should stay in prison (the custodial term) and fixes the extended licence period up to a maximum of eight years.

¹¹ The test for release is set by Parliament but may be amended by the Secretary of State, except in the case of life sentence prisoners.

¹² And those serving determinate sentences, except where they have reached the sentence expiry date.

¹³ The exception to this is extended determinate sentenced prisoners who are recalled during the extended part of their sentence.

In 2013, in the case of *Osborn, Booth and Reilly*,¹⁴ the Supreme Court determined that the Parole Board had breached its duty of procedural fairness to the appellants by failing to offer them an oral hearing and was accordingly in breach of article 5(4) of the European Convention on Human Rights.¹⁵

This judgement had an immediate impact on the demand for oral hearings conducted by the Parole Board. Between 2012/2013 and 2014/2015, the number of oral hearings for recall cases increased by 167 per cent, and in 2014/2015 formed 43 per cent of the Parole Board's completed oral case workload. In 2015/2016, 13 per cent of completed recall oral hearings were of IPP cases. As a result, there was a backlog of cases and a delay that affected determinate and indeterminate sentenced prisoners, and both initial and recall hearings (National Audit Office, 2017).

In 2014, probation staff considering recalling an indeterminate sentenced prisoner were instructed (National Offender Management Service, 2014) to 'take into account the extent that the offender's behaviour presents an increased risk of sexual or violent harm to others, regardless of the type of index offence for which he or she was originally convicted... For example, the offender may have resumed substance abuse or re-established contact with other criminal associates both of which might be identified as critical risk factors'.

In 2015, the *Calder* judgement¹⁶ laid out that, on a prisoner's first review after recall, the Parole Board panel has a duty to consider the appropriateness of the recall decision, following the principle that 'the prisoner has intentionally breached the terms of their licence and that the safety of the public would be at risk if the prisoner remained on licence'. The panel must consider this before it assesses whether the individual should be re-released (Parole Board, 2022a).

A thematic review conducted by HM Inspectorate of Prisons in 2016 (HM Inspectorate of Prisons, 2016) commented that 'the number of those recalled to prison is high, which begs the question of whether preparation for release is fully effective in preparing prisoners for this step, and whether support in the community is appropriate'.

Following this review, the National Offender Management Service put in place an action plan (National Offender Management Service, 2017) that focused on assisting the progression of IPP prisoners. This included: individual case reviews and enhanced case management of complex cases; improved access to interventions (e.g. the Healthy Sex Programme); extension of progression regimes (which at that time were only available at one prison); reducing Parole Board backlogs; and introducing new arrangements for Offender Management in Custody (OMiC), which were designed to provide keyworkers and allow staff more time to work with individuals.

HMPPS also introduced guidance for probation staff in Community Rehabilitation Companies, which emphasised the routine consideration of 'alternatives to recall' (HMPPS, 2017). Although this did not apply to high-risk offenders, or to IPPs, as HM Inspectorate of Probation subsequently reported (HM Inspectorate of Probation, 2020c), 'there was a widespread belief among operational staff that recalls should be minimised... It is not possible to prove causality, but our view was that the decrease in the recall rate after 2016 was linked to these policies.'

We also reported a perception among operational staff in National Probation Service divisions that recalls had been discouraged during 2017 but that, following the publication of a high-profile serious further offence review in 2018, there had been a change in emphasis and a renewed focus on public protection.

¹⁴ The Supreme Court (2013). <https://www.supremecourt.uk/cases/docs/uksc-2011-0147-press-summary.pdf> Osborn was a determinate sentenced prisoner who had been recalled; Booth and Reilly were serving indeterminate sentences and had served their minimum terms.

¹⁵ 'Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.'

¹⁶ *R(Calder) v Secretary of State for Justice* [2015] EWCA Civ 1050 (cited in Parole Board (2022a). *Types of Case Guidance vs.2.0.*)

In 2018, we published a thematic inspection report (HM Inspectorate of Probation, 2018) on probation enforcement and recall practice in general. We found that recall decision-making was generally good; however, the inspection included only a small number of IPP cases.

Following research into prisoners' risks and needs, HMPPS published a best practice guide to working with recalled prisoners (HMPPS, 2018b). This set out some key principles for prison and probation staff, including the need to: communicate clearly and regularly with recalled prisoners; help prisoners to understand the reasons for their recall; work collaboratively to ensure that prisoners understand what they need to do to progress; recognise, reinforce and protect progress; recognise the loss and emotional distress of recall; demonstrate fairness and respect, and give prisoners the opportunity to be heard.

The *Recall, review and re-release of recalled prisoners* policy framework (MoJ and HMPPS, issued in 2019 and reissued in 2023) states that:

'When assessing whether to request the recall of an indeterminate sentenced/extended determinate sentenced individual, community offender managers (COMs)/Probation Practitioners must demonstrate a "causal link" in the current behaviour that was exhibited at the time of the index offence.

One of the following criteria must be met when assessing whether to request the recall of an indeterminate sentenced individual:

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

COMs/Probation Practitioners must ensure that there is evidence of increased risk of harm to the public and at least one of the criteria set out above is met.'

It is important to note that this sets a higher threshold for recall for IPPs (and other indeterminate sentenced prisoners) than for those serving a determinate sentence, who may be recalled if they have breached a specific condition of their licence.

The Parole Board reconsideration mechanism was launched on 22 July 2019. This allows the prisoner or the Secretary of State for Justice to apply for reconsideration of a parole decision.

The reconsideration mechanism applies to prisoners serving or recalled from:

- indeterminate sentences (life or IPP)
- extended sentences
- certain determinate sentences where the initial release is at the discretion of the Parole Board (discretionary conditional release (DCR) cases and sentences for offenders of particular concern (SOPC))
- sentences to which the *Terrorist Offenders (Restriction of Early Release) Act 2020* applies.

In June 2020, HM Inspectorate of Probation reviewed the case of Joseph McCann (HM Inspectorate of Probation, 2020b), who was subject to an IPP licence when he committed a series of premeditated violent and sexual offences. He could and should have been recalled when he was arrested for an offence of burglary during his period on licence. This would have ensured that he was not released automatically at the end of the determinate sentence that he served for this new offence. In this review, we expressed serious concerns about decision-making in relation to recall during the period 2017 to early 2019.

In response, HMPPS published a comprehensive action plan (HMPPS, 2020a), which included, among other work streams:

- training and guidance for staff involved in the recall of prisoners and the re-release of recalled prisoners
- development of a tool to assist staff in making decisions on recall
- revision of the Alternatives to recall guidance
- quality assurance of decisions to recall and decisions not to recall.

The McCann case review was followed by a broader inspection of probation culture and practice in relation to recall (HM Inspectorate of Probation, 2020c). The report, published in November 2020, recorded that the overall number of recalls has risen each year since 2018, and that probation staff and managers believed this rise to be linked to the publication of high-profile case reviews, including that of McCann. The report stated that probation staff, 'have concerns about the professional and personal consequences if they fail to instigate a recall and a high profile incident subsequently occurs.'

HMPPS developed a further action plan (HMPPS, 2020, updated 2021), which included:

- revised guidance on issuing licence warnings and on management oversight of alternatives to recall
- prioritisation of risk escalation cases for AP beds
- analysis of recall data to identify trends, local variations and any bias in decision-making
- the development of training on risk and recall thresholds.

In summary, recall policy has evolved and changed over recent years. Although probation practitioners reported that they were loath to recall people who they knew were trying hard to tackle their problems, they acknowledged that sometimes they were risk averse, with one eye on the potential press coverage if someone on licence were to commit a serious offence.

Following the publication in 2022 of the report by the Select Committee, and the government's response, the Lord Chancellor and Secretary of State wrote to the chair of the Select Committee with an updated action plan to reduce the number of people serving an IPP sentence.

The 2023 action plan is referred to in chapter 7 of this report.

1.3. Scope of this inspection

The focus of this inspection is whether decisions to recall people on an IPP licence to custody are proportionate to the risks presented by the individual. We selected a sample of 26 cases to review, and considered the recall decision in the context of the support available to the prisoner when they were preparing for release and when they were living in the community. We have also looked at what was done to help the prisoners to make progress after the recall.

Before our fieldwork, we analysed data provided by the MoJ on all recall events that took place between 01 January 2019 and 31 March 2023. We selected our case sample from this analysis to reflect the profile of people recalled during this period. Our review is based on those who, at the time of our fieldwork, remained in custody.

Individuals who were released after a recall, and have remained in the community, are excluded from our review. We have not been able to ascertain how many of these people have never been recalled.

Our analysis of data on recalled IPP prisoners sought to answer the following questions:

- How long was it since sentence for those recalled during this time period?
- How long had those recalled during this period spent in the community between release and recall?
- How many individuals recalled during this period had been re-released?

- How many people were recalled more than once during this period?
- What were the stated reasons for the recall events that took place during this period?

Our case reviews sought to answer the following questions:

- How long had the individual been in the community before the most recent recall?
- Was there adequate preparation for their release?
- During their period in the community, did they have access to sufficient support, including, but not limited to: appropriate accommodation, substance misuse services, and mental health and wellbeing services?
- If not, did the gap in support contribute to the decision to recall?
- Was other action, short of recall, taken to improve compliance?
- What was the primary reason for the recall?
- Was there a clear link between the behaviour that triggered the recall and behaviour exhibited at the time of the index offence?
- Was the decision to recall necessary – i.e. proportionate to the risk they presented to the public at that point?

We worked with User Voice¹⁷ to seek the views of those whose cases we reviewed. They met face to face with most of those in our case sample, and in total met with over 100 people who had been recalled to prison.

We also reviewed HMPPS policy frameworks regarding IPP sentences and recalls, and we interviewed senior leaders about key concerns and the actions being taken.

¹⁷ User Voice is a user-led organisation that works within the criminal justice system.
<https://www.uservice.org/who-we-are/>

1.4. Report outline

Chapter	Content
1. Introduction	1.1 History of the IPP sentence 1.2 Release and recall: legislation, policy and practice 1.3 Scope of this inspection 1.4 Report outline
2. Background information	2.1 Recall events that took place between 01 January 2019 and 31 March 2023 2.2 Profile of the people recalled between 01 January 2019 and 31 March 2023
3. Preparing for release	3.1 Resettlement 3.2 Risk management planning 3.3 Overall
4. The period on licence	4.1 Living in the community 4.2 Protecting the public 4.3 Terminating the supervision or the licence 4.4 Overall
5. The recall decision	5.1 Responding to concerns 5.2 Reasons for recall 5.3 Overall
6. After the recall	6.1 Parole Board review 6.2 Understanding the recall 6.3 Impact of the recall on the individual 6.4 Next steps in prison 6.5 Overall
7. HMPPS actions	7.1 IPP action plan – April 2023 7.2 Solutions proposed by those serving the sentence 7.3 Overall
8. Conclusions and implications	Conclusions

2. Background information

This chapter is based on unpublished data provided by the MoJ about all recall events that took place between 01 January 2019 and 31 March 2023.¹⁸ Some people were recalled more than once during this time. From these data we have analysed:

- i) the 2,783 recall events during this time
- ii) the profile of the 2,058 people who were recalled during this time.¹⁹

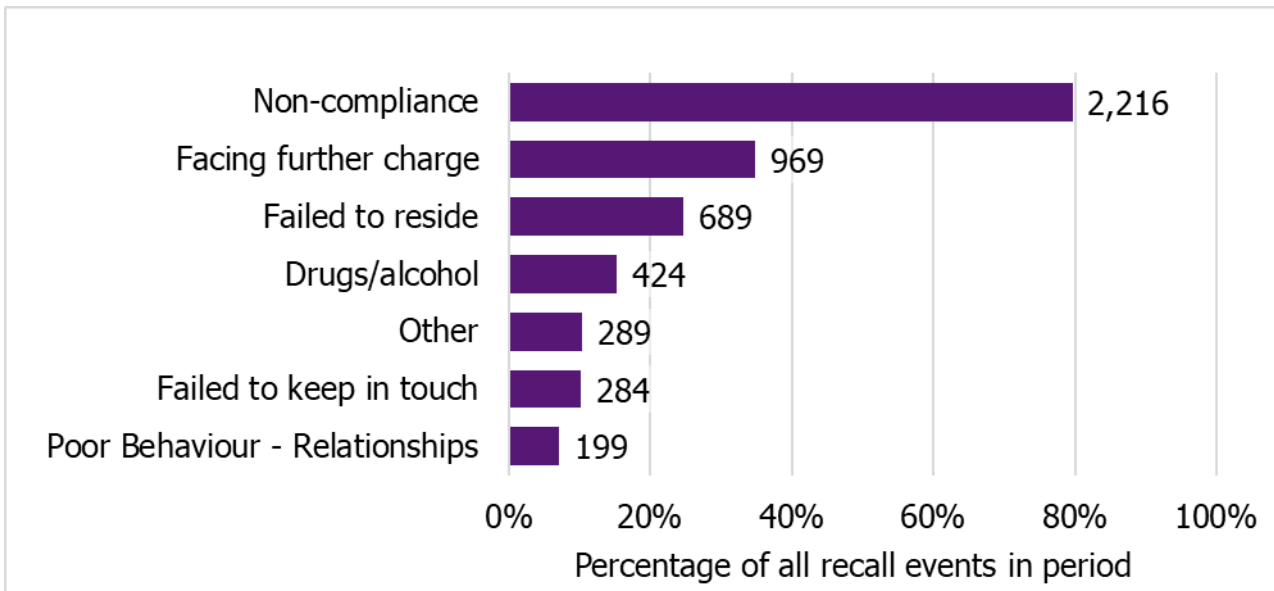
2.1. Recall events between 01 January 2019 and 31 March 2023

Table 1:

Year	Recall events 01 January 2019 to 31 March 2023
2019	709
2020	637
2021	631
2022	625
2023 (01 January – 31 March only)	181
Total	2,783

Figure 1: Reasons for recall

This chart shows the reasons cited for the recall. In over half of the recalls, more than one reason was given.

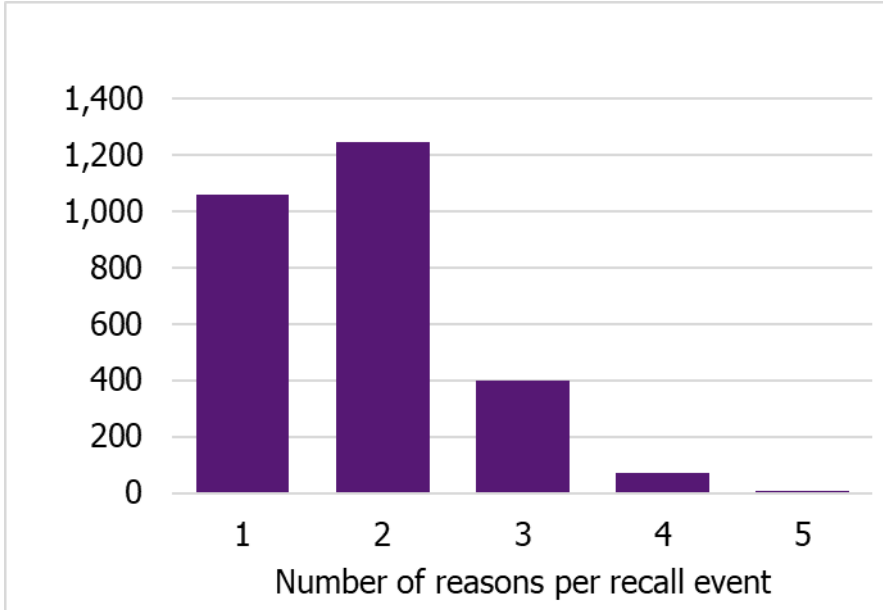


¹⁸ The data is extracted from operational systems and is thus subject to the potential inaccuracies (e.g. mistyped data entries) that are inherent in any large-scale data recording system.

¹⁹ Not all charts and tables sum to the total number of individuals or events in the original dataset, due to data quality issues and missing data. Some groups have been merged due to small numbers. Some tables, indicated by *, manually exclude a small number of cases where the date of sentence for the individual’s IPP was recorded inaccurately.

Figure 2: Recall events

This chart shows the number of reasons given for each recall event



2.2. Profile of the people recalled between 01 January 2019 and 31 March 2023

These tables refer to the number of people who were recalled during this period. Some individuals were recalled more than once.

Individuals recalled	Total
The number of people who were recalled between 01 January 2019 and 31 March 2023	2,058

Table 2:

Gender of people recalled during this period	Total
Male	2,012
Female	46

Table 3:

Ethnicity of people recalled during this period	Total
White	1,613
Asian or Asian British	69
Black or Black British	275

Mixed	92
Not stated	4
Other	5

Table 4:

Age (on 30 June 2023) of the people who were recalled during this period	Total
Under 30	21
30 – 39	793
40 – 49	725
50 – 59	396
60 – 69	102
70 and over	21

Figure 3: The index offence categories for which the IPP sentence was imposed

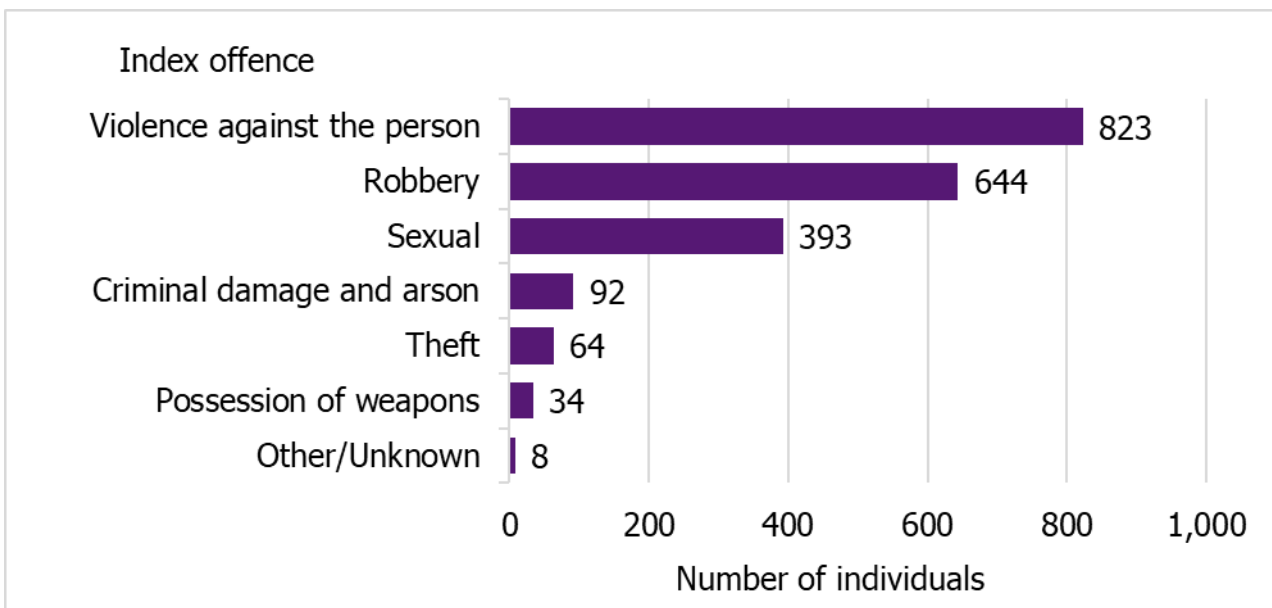


Table 5:

This table shows the date on which the IPP sentence was imposed* (excludes cases where the date of sentence was recorded inaccurately)

Year of IPP sentence	Total
2005	119
2006	414

2007	490
2008	353
2009	223
2010	194
2011	165
2012 – 2013 ²⁰	91

Table 6:

This table shows the tariff imposed by the sentencing judge* (excludes cases where the date of sentence was recorded inaccurately)

Tariff imposed	Total
Less than 2 years	461
2 years to less than or equal to 4 years	1,107
Greater than 4 years to less than or equal to 6 years	367
Greater than 6 years to less than or equal to 10 years	110
Greater than 10 years	4

Table 7:

This table shows the year of first release from prison* (excludes cases where the date of sentence was inaccurately recorded)

Year of first release	Total
2007 – 2010	49
2011	78
2012	167
2013	161
2014	137
2015	184
2016	226

²⁰ A small number of IPP sentences were given after abolition, as the abolition date related to the date of the offence rather than the sentence being passed.

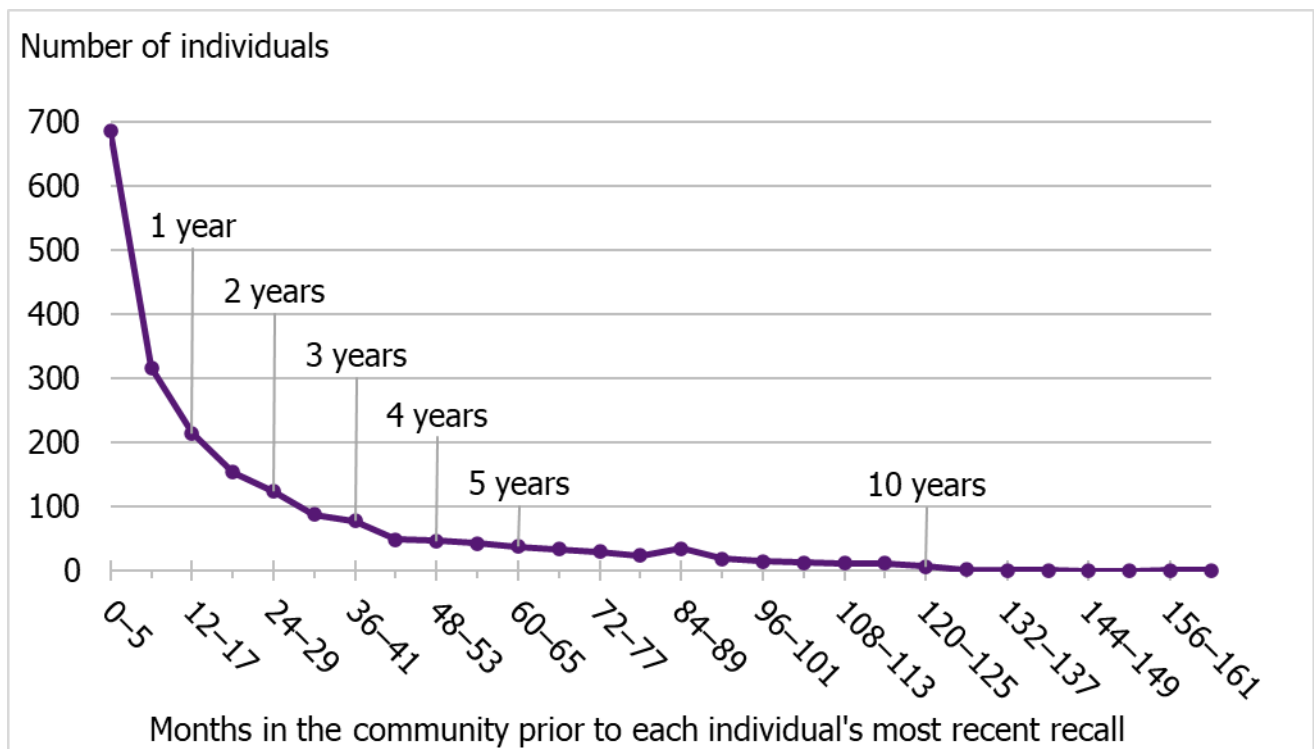
2017	281
2018	259
2019	204
2020	126
2021	111
2022 – 2023	65

Table 8:

This table shows the number of times each individual had ever been recalled during their sentence. These figures are based on the people who were recalled during the period 01 January 2019 to 31 March 2023 but include all the recalls that they had ever experienced during their sentence.

Number of recalls	Total
One recall	894
Two recalls	598
Three recalls	336
Four recalls	155
More than four recalls	75

Figure 4: The length of time individuals had spent in the community before their most recent recall



3. Preparing for release

In the first section of this chapter, we consider how well the people in our sample were prepared for release from an IPP sentence. How prisoners are prepared for reintegration into the community plays a key part in how well they will get on once released. Desistance theory emphasises the importance of supportive relationships – both personal and professional – in helping someone to give up offending. The process of developing and supporting compliance on licence begins before the individual leaves custody (HMPPS and National Probation Service, 2021a).

Developing a ‘therapeutic alliance’ and using motivational interviewing skills not only help the practitioner to engage effectively with the individual, but also help them work together to assess and manage risk. In the second section of this chapter, we consider whether appropriate plans were in place to manage the risk of serious harm that some individuals presented to the public.

3.1. Resettlement

Roles and responsibilities

Under the OMiC model (HMPPS, 2023), responsibility for indeterminate sentenced prisoners is transferred from the POM to the COM, eight months before the tariff expiry date, with the completion of the pre-handover OASys by the POM. At the point of allocation, the COM assumes responsibility for the case and the POM moves into a supporting role.

If the individual is recalled – as was the case with all the people in our sample – responsibility remains with the COM until the point when the individual’s case is reviewed by the Parole Board. If they are not released, responsibility for the case depends on the length of the review period. If the review is set at 12 months or less, or the individual is managed at MAPPA level 2 or 3, the COM remains responsible, with the POM in a supporting role.

‘Supporting’ POM roles are usually held by prison officers working in the Offender Management Unit. In some prisons, however, the unit had agreed to allocate indeterminate sentenced prisoners to probation officers, whom they felt were better placed to use their knowledge and experience of the parole processes to support the prisoners. We thought that this was good practice.

Under the OMiC model, the keyworker’s role is to work with and support individual prisoners and to liaise with the POM. In 2022, an inspection of the model found that the value of the role had not been fully realised (HM Inspectorate of Probation and HM Inspectorate of Prisons, 2022). We also found that keyworkers could be more involved in working with those serving an IPP sentence, for example by looking at their behaviour or helping them to prepare for release.

Contact with the COM

In 18 of the cases in our sample, the level of contact the prisoner had with their COM was adequate to prepare for their release. Twenty had met their COM before release, either in person or by video or telephone calls, and we noted examples of effective and sustained engagement.

In the other cases, sickness or staffing issues in the Probation Service had led to last-minute changes of COM. This is unsatisfactory, particularly where parole reports are prepared by someone with little knowledge of the individual.

Those interviewed by User Voice were clear about the importance of an effective and trusting relationship with staff, in order to prepare for release and provide a foundation on which to build.

Nineteen of the people in our sample had needs that we felt should be taken into account in helping them to prepare for release and for supervision on licence. These included autism, attention deficit hyperactivity disorder (ADHD), post-traumatic stress disorder (PTSD), learning difficulties and physical and mental health conditions. In several cases, we noted vulnerability related to significant childhood trauma, including neglect and abuse. Several people had spent many years in prison,

some having received their IPP sentence at an early age. Sufficient attention was paid to the identified needs in only half of the cases.

Accommodation

Not having stable accommodation can make it difficult for probation practitioners to manage individuals safely or do effective rehabilitation work, and is associated with a risk of reoffending (HM Inspectorate of Probation, 2023c). Some people leaving prison face multiple barriers to obtaining settled and suitable accommodation, including a shortage of housing stock and providers who are reluctant to accommodate those with criminal records (HM Inspectorate of Probation, 2020a). Some people interviewed by User Voice said that planning accommodation in advance had been difficult without a clear release date.

In all but three cases in our sample, satisfactory plans were in place for accommodation on release, with most going to APs in the first instance. Liaison between the COM, POM and AP staff generally worked well. In some cases, the allocated AP keyworker had attended pre-release meetings with the individual, which was good practice. Residents can stay in APs for up to 12 weeks, and we were pleased to note that move-on accommodation was often considered at the point of release. Some practitioners commented on good relationships with housing providers in the community. The development of community accommodation services (CAS3) since 2021 has been positive. These provide help for prison leavers who would otherwise be homeless, and those moving on from an AP (HM Inspectorate of Probation, 2020a).

A number of practitioners said that a longer period in an AP would give people a better platform for stability in the community, particularly those who have been in prison for many years, or who have struggled on a previous release. People interviewed by User Voice were less positive about their experience of APs.

Personal and social relationships

Positive relationships with family, friends, organisations and professionals can be important in preparing individuals for transition from prison to community (HMPPS, 2019), and a protective factor in their rehabilitation. This is a complex area for probation practitioners. In some cases, the potentially damaging influence of some relationships has to be weighed against the importance that the individual attaches to their family and social contacts, without whom they risk social isolation and poor mental health. Moreover, some people present a risk of harm to others in their family or wider community.

Eighteen people in our sample were given help with rebuilding personal and social relationships, where this was appropriate. For example, in one case, residence at an AP was used to develop pro-social activities and build positive friendships; in another, links with a local church were being explored, along with Circles of Support and Accountability (COSA), for an individual who had no family or support networks. In another case, the probation practitioner was mindful that the individual had a history of domestic abuse, and involved police and social care in monitoring domestic relationships.

Mental health

Poor mental health was a significant issue for many of the people in our sample, although not all had received a formal diagnosis. A number of people were described as coping well in custody, while typically not coping in the community. Practitioners were aware that many serving IPP sentences (and others) have a long history of trauma in childhood and in their lives leading up to the sentence. A number were referred to the OPD pathway after screening, but in many of these cases there was little evidence that this led to appropriate help or treatment. There were exceptions where we saw good practice, including:

- referral to a specialist AP offering a Psychologically Informed Planned Environment (PIPE)

- early involvement of the Intensive Intervention Risk Management Service by the COM undertaking the parole report
- involvement of community-based psychology services, mental health teams and general practitioners in planning for release, to ensure continuity of care.

Several people serving IPP sentences told User Voice that their mental health was made worse by the lack of preparation for release, especially due to the stress of rejoining society after a long period of time in prison. Some said that the restricted prison regime during the Covid-19 pandemic had severely affected their mental health, and that being locked up for 23 hours a day made it difficult to prepare for release. When they were released, they did not have access to the support they needed; others commented that their release had been delayed as a result of the pandemic. Overall, adequate plans were in place to support people with their mental health in less than half of the cases where this was necessary.

Substance misuse

A high proportion of people in prison experience problematic drug or alcohol use. In 2023 we carried out a thematic inspection of OMiC, and found (HM Inspectorate of Probation, 2023a) that high recall rates were often linked to homelessness and/or relapse into substance misuse, noting that, 'There are a range of reasons for this, including stigma, disenchantment and lack of motivational work to support [prisoners]. The reduction in the level and type of community services may also have contributed.' People leaving prison are at their most vulnerable, and 'it is beneficial to consider substance use needs at the earliest opportunity when developing licence conditions and planning for successful release, including strategies to mitigate such barriers' (HM Inspectorate of Probation, 2023c).

Twenty of the people in our sample had a history of substance misuse; in several cases, this was seen as a key risk factor, linked to the index offence. We saw examples where the individual had engaged well with substance misuse services while in custody and made significant progress. For 13 of these people, plans were in place to provide support with substance misuse issues, including setting up appointments with relevant agencies. APs had a key role in monitoring substance misuse and adherence to licence conditions.

In other cases, however, there was not enough planning for the transition from prison to community. Some people cope well in prison but relapse after release, and prompt appointments with substance misuse agencies, drug/alcohol testing conditions and relapse prevention strategies may have helped them. Given that substance misuse was a key risk factor for some individuals, it was of concern that in some cases insufficient attention was paid to this in custody and when preparing for release.

Finance, benefits and debt

In 11 out of 15 cases where people needed support with issues relating to finance, benefits and debt, this had been put in place. We saw some good practice by a COM who had helped an individual to ensure that his bank account was secure during the custodial period, and to review his savings to secure move-on accommodation. In the interviews conducted by User Voice, however, the lack of help with setting up a bank account and getting access to the necessary identification was a common theme. Some probation practitioners also said they felt prisons could do more to address these matters before release. We are aware, however, that some IPPs are released from prisons that do not have resettlement teams. For those who are being released after many years of incarceration into a world that has changed significantly, practical help is essential to their reintegration.

APs played a key role in helping released prisoners with practical issues, such as benefits and bank accounts.

In some cases, there was a lack of professional curiosity about how financial issues were linked to offending, substance misuse and interpersonal issues. Where debts or a gambling problem were identified, it was not clear how these would be addressed on release.

Education, training and employment

Support was in place for 15 of the 21 people who needed help with employment or other activities. Most of them had been involved with education, vocational training or employment while in prison, and some had been able to use release on temporary licence (ROTL) for employment purposes. Some of those released on ROTL to an AP were able to engage in constructive activities while they were there. In one case, we noted that this activity fitted well with the individual's learning needs and appeared to prepare them well for release.

Thinking skills

All the people in our sample needed to complete work to address problems with their thinking skills, behaviour or attitudes; this was in place in 15 of the cases we examined. Some people had completed accredited programmes in prison or had undertaken therapeutic interventions. The focus now was on 'consolidating learning' or 'applying decision-making', but plans tended to lack detail or clarity about how this work would be undertaken.

Release and release on temporary licence

The 26 people in our sample had been released from 21 different prisons, which illustrates the spread of IPP prisoners through the estate.²¹ Only four had been released from an open prison. At least three had been category D prisoners, but they had not been able to move to an open prison. A small number had previously spent time in open conditions but had been returned to a closed prison because of problems with their behaviour in the prison or on ROTL.

For some prisoners, a move to open conditions towards the end of their sentence is an opportunity to test their ability to manage themselves under less restricted conditions. It also allows for ROTL, which can help prisoners to re-establish family ties, prepare for employment or visit the accommodation to which they will be released. There is some evidence that effective use of ROTL can reduce the risk of reoffending on release (Hillier and Mews, 2018).

In our sample, five people had been released on ROTL before their most recent release; we saw examples of this being used well to set up appointments with substance misuse services, open a bank account and re-establish positive support networks. The majority, however, were assessed as not suitable for ROTL, or were in a prison where this was not available.

Those who were interviewed by User Voice and had moved to an open prison said that they found great benefit in the time and freedom to adjust to society through ROTL and home leave.

3.2. Risk Management Planning

Licence conditions

All released IPP prisoners are subject to a licence, which includes a number of standard conditions; additional or bespoke conditions may be added to address specific risk factors. The MoJ/HMPPS policy framework says that 'The aims of the licence period are to protect the public, to prevent reoffending and to secure the successful reintegration of the individual on licence into the community. Licence conditions must be preventative as opposed to punitive and must be proportionate, reasonable and necessary' (MoJ and HMPPS, 2022a).

People being released from prison after many years need time to understand their licence conditions and to think through how they will manage their life to ensure they comply. For example, they may worry about how to get to work or visit family without using transport that enters an exclusion zone. IPP prisoners often express fear that they will be recalled for a minor infringement. People with learning difficulties or neurodivergent conditions may need additional time and help to prepare for release.

²¹ We had selected the sample based on 12 prisons where they were currently located.

Most people in our sample were made aware of their licence conditions in sufficient time before their release and, where appropriate, they were helped to understand them. In one case, there was evidence of a cognitive functioning test to assess whether the individual was able to understand and remember instructions. This was good practice. In a few cases, we felt that more could have been done to explain the conditions, particularly where there had been several previous recalls.

Everyone in our sample had between three and nine additional conditions in their licence, and 18 people had at least five additional conditions. The most common were: living at a named place (usually an AP); abiding by a curfew (usually overnight in an AP, and sometimes at set points during the day); participating in specified activities (e.g. offending behaviour or substance misuse programmes); exclusion zones; not contacting certain individuals; allowing the inspection of specified items or documents; disclosing intimate relationships.

In all but one of the cases in our sample, we judged that the licence conditions were proportionate to the risk that the individual posed. In six cases, we thought that there should have been additional conditions, including drug testing in four of the six. In one of these cases, a drug test would have corroborated other information and prevented the COM from relying on the word of the individual on licence in the period before the decision to recall them.

Practitioners had sufficiently considered the need to protect an identifiable victim or victims in the majority of cases. That still left three cases where further attention should have been paid to the victim's safety.

Risk management

At the point of release, 22 of the people in our sample were assessed as presenting a high risk of serious harm to other people; the other four were classified on OASys as medium risk.²²

All 26 were eligible to be managed under MAPPA: eight under category 1 and 18 under category 2. All 26 were managed at level 1.²³ We saw good practice where the decision to manage the individual at this level was appropriately evidenced and where a level 1 discussion before release set out the proposed licence conditions. Overall, however, we found little evidence that level 1 management was adding value.

Given the challenges of managing people on IPP sentences in the community, and the potential value of involving other agencies, we query whether more of these cases should be managed at level 2 or above, at least initially on release.

3.3. Overall

In this chapter, we have considered whether the people in our case sample were adequately prepared for their release from prison and whether a sufficient plan was in place to manage the risks they presented.

Overall, we found that, in the majority of cases (21 out of 26), at the point of release, a sufficient and proportionate plan was in place to manage the risk of harm that the individual presented to other people.

However, we found that too few of the people in our review were prepared well for their release into the community (14 out of 26). Many of our findings were echoed by the people surveyed by User Voice. Two-thirds (of 104 people) rated the quality of support before release as 'poor' or 'very poor'.

²² OASys is the Offender Assessment System used in HMPPS.

²³ Level 1 management is where the risks posed by the offender can be managed by the lead agency in cooperation with other agencies but without the need for formal multi-agency meetings. Responsible authority and duty to cooperate agencies have a statutory obligation to engage with MAPPA at all levels, including level 1, and will be involved in managing the offender as necessary. <https://mappa.justice.gov.uk/> (accessed 26 September 2023)

4. The period on licence

Kemshall (2021b) has noted that, although for some commentators, risk practice and desistance practice are seen as distinct paradigms, they 'can work in tandem to achieve both non-offending and public safety'. Indeed, that is the task of probation practitioners, who need to support, encourage and enable individuals, while never losing sight of the risks they may present.

Good resettlement practice involves:²⁴

- early planning for release
- co-producing plans that are not just focused on risk
- consistent, personalised supervision
- developing social capital – resources in the community that will address needs and build on strengths
- being responsive to diversity and the needs of different groups
- using a strengths-based approach – treating the person as an individual with talents and abilities who can make a positive contribution to society (Maruna and LeBel, 2015, cited in Cracknell, 2023).

In the first section of this chapter, we consider how well the people in our sample were supported after their release from prison. The second section considers how well the risk of serious harm to other people was managed.

4.1 Living in the community

Induction

People released from prison are expected to report to a probation practitioner on their day of release, or as soon as is practical. Although this appointment can easily be seen as a routine or 'tick-box' exercise (HMPPS and National Probation Service, 2021a), done well it is an opportunity to engage with the individual, assess their reaction to release, support their transition back into the community, reinforce the conditions of their licence and agree future reporting arrangements. 'Procedural justice theory states that, if people feel they are treated in a procedurally fair and just way, starting from the very first contact, they will view those in authority as more legitimate and respect them more' (HM Inspectorate of Probation, 2023c). Ideally, the individual will have already met or spoken to the practitioner during the period of preparation for release. Those released to an AP will also have an induction about living in this accommodation.

We found evidence of a personalised initial appointment in 14 of the cases we examined. We saw some good practice, for example where the COM went carefully through the licence conditions, considered any neurodiversity needs, discussed the individual's concerns about compliance, and talked about how they planned to spend the first week. In cases where the initial interview was positive, it formed a good foundation for working with the individual.

Other induction appointments were less helpful. Telephone contact at this stage set the wrong tone, particularly in cases where there was a history of poor engagement, or where the appointment was with someone the individual had not met.

When the individual has to start the process again with new practitioners, they can experience confusion and frustration (Maguire and Raynor, 2006; Cracknell, 2020, cited in Cracknell, 2023) and find it hard to develop trust. Practitioners need to be reliable, and consistent in their approach. They need to communicate well and, significantly, be transparent about the basis of their decisions.

²⁴ With acknowledgement to Cracknell, M. (2023). *Effective practice in resettlement*.

People who have already been recalled – sometimes on several occasions – may find it particularly difficult to develop trust in their COM. Without trust, they are less likely to be honest about problems they are experiencing.

Assessments and sentence plans

At the point of release, a good assessment of risks and needs should be in place and should support a sentence plan that prioritises the most significant offending-related factors.

Many of the people in our sample had problems in a number of areas.

Table 9:

In the opinion of the inspector, the most important factors linked to offending (in most cases more than one factor was identified)	Number of cases
Accommodation	8
Education, training and employment	7
Finance, benefits and debt	5
Family and relationships	20
Lifestyle (including friends and associates)	17
Alcohol misuse	17
Drug misuse	14
Thinking and behaviour	24
Attitudes to offending	21

We found that assessments and plans were sufficient or good in over half of the cases in our sample, but we also identified a number of deficits. These included:

- the assessment and/or sentence plan had not been reviewed or updated on release
- the assessment did not take account of the behaviour that led to the recall
- the assessment had a good grasp of risk factors, but this was not translated into relevant objectives in the sentence plan, or the objectives were not sufficiently specific about how they would be achieved
- previous experience of trauma was acknowledged but its significance was not sufficiently analysed
- insufficient attention was paid to problems with alcohol, even though this was identified as a risk factor
- the link between domestic abuse and safeguarding children was underestimated
- sexual offending was not adequately explored or addressed in the plan.

Accommodation

Everybody in our sample had accommodation to go to on the day of release, with 22 released to an AP. HMPPS manages around 100 APs, which are used to manage risk, rather than primarily as an accommodation resource. Most residents have been released from prison, and the majority are assessed as presenting a high or very high risk of harm to others.

Four months after release, 14 people in our sample were living in stable and sustainable accommodation, including independent accommodation, or living with family or friends. Five,

however, were living in transient accommodation and a further six had been recalled. We make further comment about these recalls in chapter 5 of this report.

IPP progression panels were introduced as part of the National Probation Service's 2017 IPP action plan. Panels should be held following a period in an AP, in sufficient time to enable practitioners to develop move-on plans (HMPPS and National Probation Service, 2021b). This happened in only two cases in our sample. We noted, however, that 17 of the 22 people who were released to an AP were helped to find move-on accommodation and make the transition from the hostel. For some, these plans had started before release, which was good practice. In others, plans were made during the period at the AP. We saw evidence of referrals to housing agencies and providers who offered support. One AP ran a Tenancy Sustainment Programme – a series of sessions that helped individuals to cope with independent living. In one case, having been successful in securing a council property, the COM applied for grants and gave the individual some pots of paint as a starter pack for their new home. By contrast, there were examples of people who did not have sufficient support after they moved out of the AP – a challenging time for someone who has never lived independently or outside a structured environment.

Where there were public protection concerns related to move-on accommodation, an IPP panel or referral to MAPPA would have added value. In one case, a panel should have been used to escalate concerns about the prospect of someone on an IPP licence becoming homeless. Additionally, where domestic abuse was a concern, police and safeguarding checks should have been carried out before move-on plans were approved.

Personal and social relationships

The value of positive relationships is evident in the research literature. Families and friends can:

- motivate and support the individual to cease offending
- help the individual to comply with substance misuse treatment and supervision requirements
- encourage self-belief and engender hope in the possibility of change
- widen access to information and resources, especially employment and housing.²⁵

Ten people in our sample had been able to sustain or rebuild supportive and positive relationships with family. Seven others had some contact, but this was not a positive or protective factor. One had no family contact, his closest relatives having died during his time in prison. Only four had contact with friends or associates, and this was not always enough to provide support. In seven cases, although there was contact, this was not a positive or protective factor.

In some cases, contact with family members or associates was identified as a trigger for increased substance misuse. We heard of people on IPP licences who isolate themselves because they fear social contacts that could lead to recall. While this may be a successful strategy for some, for others, social isolation was a risk factor. One individual convicted of sexual offences admitted inappropriate use of the internet when he was bored; another admitted to struggling to form age-appropriate relationships.

For 15 people it appeared that issues with relationships or social isolation were relevant to the recall decision. Several recalls were initiated following allegations of harassment or abuse in former or new relationships.

²⁵ HM Inspectorate of Probation (undated). *Family relationships*. <https://www.justiceinspectorates.gov.uk/hmiprobation/research/the-evidence-base-probation/specific-areas-of-delivery/family-relationships/> (accessed 22 September 2022)

Mental health

Mental ill-health can affect a person's ability to comply with their sentence and engage with supervision. Probation practitioners need to be able to help people to access the appropriate treatment (Criminal Justice Joint Inspection, 2021).

Twenty-one of the people in our sample experienced problems with their mental health during their period on licence, but only seven had been able to access sufficient help.

Fourteen people were identified as having been referred on to the OPD pathway.²⁶ In some cases, there was an initial formulation, but less than half had received the help they needed. As we noted in chapter 3, some had been able to access appropriate help through services provided by psychology professionals, the NHS and probation practitioners. One had been released to a PIPE AP, where positive work was undertaken by the personality disorder advocacy worker. Overall, more needed to be done to ensure that people with a personality disorder were able to access the appropriate services.

In 13 cases, mental health issues were relevant to the behaviour or concerns that led to the recall decision. The picture regarding these individuals was bleak. We noted the following:

- several had suffered a significant level of trauma, and the impact of this on how they thought, felt and behaved needed to be better understood
- for some, the trauma was exacerbated by their sentence, particularly for those who had spent their formative years in custody
- many had a history of poor coping skills, and this was linked to a lapse into drug or alcohol misuse.

Many of the people in our review had a complex range of problems, including mental health and neurodiversity conditions, trauma, poor coping abilities, substance misuse, and unsuitable accommodation. These resulted in behaviour that was challenging and hard to predict. For women in particular, offending may be only one part of the complexity of their lives (MoJ, 2018), along with personality disorder, mental health, trauma and substance misuse. One woman in our sample had worked with a project for two years, and losing this support at the end of the allocated time had a massive impact on her.

Some, but not all, had been able to access help from the NHS, psychologists and other professionals. For some who had received good support for their mental health while in custody, the transition to the community was not well managed. Given the range of problems some of the individuals faced, many would need intensive help and support. The importance of help with practical matters should not be underestimated. For those who have been in prison for a long time, tasks like getting a bank account or registering with a GP or dentist can feel overwhelming. For some people, it appeared that the behaviour that triggered recall was a form of self-sabotage, because the individual was finding life in the community so stressful.

Substance misuse

During their period on licence, 20 people experienced a substance misuse problem, with over half of them struggling with both drugs and alcohol. Only eight received sufficient support in tackling their problems.

The issues we identified included:

- not enough work to motivate the individual to engage with substance misuse services, or to set up appointments for release

²⁶ This may be an underestimate, as there were a few cases where the recording was not clear.

- too much reliance on the individual's self-reporting, which was not corroborated by drug testing or better partnership working with other agencies
- progress made in custody being taken for granted, when relapse prevention work would have been helpful
- regular testing in AP that stopped after the individual moved on
- insufficient action following positive drug tests, for example referral to a substance misuse agency
- insufficient work to tackle the triggers or root causes of substance misuse.

In 19 cases, substance misuse issues were relevant to the behaviour or concerns that led to the recall.

Finance, benefits and debt

Seventeen people had problems with finance, benefits and debt during their period on licence. Most received appropriate support, including help with applying for benefits and bank accounts, and for grants. The main gap in this area was in addressing financially motivated offending and the links between substance misuse and debt.

Problems with finance, benefits and debt were less likely to be connected to the recall decision than concerns about mental health or substance misuse.

Education, training and employment and other constructive activities

Education, training and employment (ETE) help people leaving prison to develop or re-establish networks and reinforce a positive identity (HM Inspectorate of Probation, 2023c).

Seven people had received help in finding ETE or other constructive activities, and six had obtained and sustained employment. Thirteen others had either been in employment that had ended, or, because ETE was not relevant to them, they had been using their time in other constructive ways.

Twelve would have benefited from more help in this area of their lives, especially as it was relevant to the recall decision for nine of the people in our sample. The timing of Covid-19 lockdowns appears to have had an impact on the opportunities available to some individuals. In a few cases, boredom and isolation were a recurrent theme, linked with increased substance misuse. The converse was also true; increased substance misuse led to the loss of employment. For some people, more could have been done to continue education or training started during the custodial period.

Thinking skills

Twenty people needed to undertake work on their thinking skills, or to continue work begun in prison. Only three had been able to do this work. The backlog of people waiting to access accredited programmes in the community has been recorded elsewhere (HM Inspectorate of Probation, 2023b). For some, the need for offence-focused work was evident from their behaviour, or because this was a condition of their licence. In one case, although no structured interventions on sexual offending were delivered, the COM had run meaningful sessions focused on harmful attitudes and how to deal with disclosure to employers.

Supporting compliance and engagement on licence

During their period on licence, 12 people had only one or two COMs. Fourteen had at least three, and some had considerably more. Where the individual had the same COM over a lengthy period, the value of a personalised and consistent relationship was often clear. We saw good examples of COMs providing practical support, challenging the individual's behaviour, praising progress and being open about risk management. In around half of the cases we reviewed, there was evidence of a strong working relationship between the probation practitioner and the individual on licence, and supervision was meaningful.

On the other hand, we saw cases where there had been numerous changes of COM and it was evident that this had had an impact on relationship-building. Some of the people on licence had clearly struggled with having to tell their story again with every change. For those who have previously been recalled, rebuilding trust is important, but can be especially challenging when supervision has been fragmented and inconsistent. In our case review, we noted examples of the dilemma facing those on licence: if they are honest about the temptations or challenges they face, they may be recalled because this may be seen as increasing risk; on the other hand, if they fail to disclose material issues, they may be recalled for failing to be transparent.

Twelve people had been offered enough appointments throughout their period on licence to help with their resettlement needs. In these cases, we noted that appointments were initially weekly, usually conducted face to face, and supplemented by telephone contact, home visits and contact with other agencies. In one case it was good practice to increase reporting when the individual became homeless and their mental health declined.

Three other people initially had sufficient contact with their COM, but this had reduced too quickly. In the other 11 cases, there needed to be more contact. For one person who had been recalled several times and struggled to trust probation, contact was usually by telephone; face-to-face contact would have helped to build the relationship. Contact with another individual was reduced when they left the AP, but this was the point when they needed more help coping with day-to-day independent living.

People interviewed by User Voice had some powerful messages about how overwhelming release felt, and how difficult it was, after years in prison, to adjust to a world they 'didn't understand'. They needed more support managing relationships with family and friends, finances, and loneliness and mental health. Some participants admitted that they got themselves recalled on purpose because they didn't have the support to adjust to life on the outside – comments that are in accord with our perception of self-sabotage in some cases. The report by User Voice cites an example of a man who got himself recalled in less than six months because, after 12 years in prison, he could not cope with the loneliness.

Covid-19

Some of the people in our sample had been released during periods when the Covid-19 pandemic had an impact on the services that were available in the community. People in our sample were affected in various ways, including:

- delays in beginning ETE provision, including obtaining the CSCS card they needed to start work
- delayed ROTL opportunities
- face-to-face contact with the COM being replaced by telephone contact for several months
- increased drug and alcohol use during lockdowns
- lack of drug testing
- eviction from accommodation for failing to comply with Covid-19 restrictions.

We considered that Covid-19 related issues were relevant to the events that led to the recall decision in five cases.

4.2 Protecting the public

Licence conditions

As we noted in chapter 3 of this report, the people in our sample were subject to a range of licence conditions, which in almost all cases were proportionate to the risks presented. Compliance with

these conditions was adequately monitored in only 14 cases, and 10 people were not seen often enough for their risk of harm to others to be properly monitored.

Most of those interviewed by User Voice said that they understood their licence conditions, but some people felt the conditions were too restrictive, especially if they had not offended for years.

MAPPA

All the people in our sample were eligible for MAPPA and all were managed at level 1. In the majority of cases (20 out of 26), we felt that MAPPA had not made an effective contribution to the management.

National figures show that the majority of MAPPA cases (98.4 per cent) are managed at level 1 (MoJ and HMPPS, 2022c). In a previous thematic inspection, we found that 'over a fifth of the level 1 cases we examined ... should have been managed through formal multi-agency panel arrangements at level 2, which was a concern ... for too many of the level 1 caseload, this status had little meaning, and only enhanced the management of risk of harm in just under a third (32 per cent) of the cases we inspected' (Criminal Justice Joint Inspection, 2022. Cited in HM Inspectorate of Probation, 2023b).

This inspection of IPP recalls supports this finding and is of particular concern given the complexity of these cases and the need for a range of agencies to be involved to ensure effective and safe resettlement in the community.

Risk management

In some cases, it was clear that the probation practitioner was focused on public protection. Good examples included:

- daily liaison with the AP and police
- involvement of IOM to support joint work and information-sharing
- regular checking of mobile devices
- use of polygraph testing
- contact with the victim liaison unit.

In most applicable cases, practitioners had paid sufficient attention to the safety and views of victims. It was positive to see that 14 people had been actively involved in identifying and managing their own risk of harm to other people.

In other cases, however, our findings were less positive. We noted, for example:

- insufficient liaison with the police
- lack of home visits
- overreliance on self-reporting
- inadequate reaction to signs of decline in mental health.

A more proactive approach would not necessarily have led to earlier recall, although in a few cases it may have done, as relevant information may have been uncovered earlier. In other cases, expedited access to mental health services could have helped the individual through a crisis.

4.3 Terminating the supervision or the licence

Termination of licence

Under section 31A of the *Crime (Sentences) Act 1997*, a prisoner sentenced to an IPP has the right to request consideration to be given to terminating their licence 10 years after their initial release from custody. This is regardless of whether they have been recalled to prison at any point during the 10 years (Parole Board, 2022a).

Following the commencement of the relevant section of the *Police, Crime, Sentencing and Courts Act 2022*, referrals to the Parole Board are now made automatically by the Secretary of State, even where the individual is in prison following recall or is serving another determinate sentence. In these cases, the Parole Board will determine whether it is necessary for the protection of the public that, when released, the individual remains under the IPP licence.

Although this provision is designed to bring to an end more IPP licences, probation staff commented that the process of completing a termination assessment felt pointless when someone had recently been recalled, or their behaviour in the community had been problematic. Not only was the licence unlikely to be terminated, but the individuals concerned perceived the exercise as futile and one that unnecessarily raised their hopes. Other probation staff admitted that they were not fully conversant with the termination processes for IPPs.

The Justice Committee (House of Commons, 2023) 'supported calls for the Government to legislate to reduce the qualifying period for terminating a licence from ten years to five. The Committee said Government should examine the issue of recalls in depth and devote greater energy to tacking the "recall merry go round".' At the time of publication, the government rejected the Committee's recommendation that the qualifying period for terminating a licence should be reduced from 10 years to five (House of Commons, 2023). More recently, on 16 October 2023, the Lord Chancellor, the Rt Hon Alex Chalk KC MP, in a statement to the House of Commons, said that he was 'looking at options to curtail the licence period to restore greater proportionality to IPP sentences'.²⁷

Termination of supervision

Where someone on an IPP licence has spent five continuous years in the community, an IPP progression panel may consider recommending the suspension of the supervisory conditions of the licence. An application to suspend the supervision is submitted to PPCS, which makes the final decision (MoJ and HMPPS, November 2020, reissued May 2023). This did not apply to most of the cases in our sample, although it had been considered in two cases, and in three others we thought that it could or should have been considered.

Around 12 per cent of those recalled between January 2019 and March 2023 had spent five years or more in the community before their most recent recall. Just over a quarter of our small case sample were recalled after five years in the community.²⁸

4.4 Overall

In this chapter we have considered whether people in our sample were adequately supported after release from prison and whether the risk they presented was managed.

Overall, in our view, only a minority of people were given adequate and appropriate support during their period on licence (9 out of 26). During the period on licence, the risk of harm to other people was adequately managed in less than half of the cases we reviewed (11 out of 26).

Over half of those interviewed by User Voice rated the quality of support they received in the community as 'poor' or 'very poor'. Some did describe receiving practical and emotional help, but others said that they were not referred to community organisations for support, and, when they were, they did not receive the help they needed.

²⁷ Ministry of Justice and Rt Hon Alex Chalk KC MP (2023). 'The government's approach to criminal justice'. Oral statement to Parliament. Available at: <https://www.gov.uk/government/speeches/the-governments-approach-to-criminal-justice>

²⁸ Our sample did not include those currently in the community, so may have been biased.

5 The recall decision

Prisoners who are released into the community subject to licensed supervision may be recalled to custody by the Secretary of State if they have breached conditions of their licence or if their behaviour is sufficiently concerning to indicate that the risk they pose may no longer be safely managed in the community.

The recall process is initiated by probation staff, through a recommendation to the PPCS. This is a significant power and requires skilled use of professional judgement. Being overly risk averse may deprive someone of the opportunity to get their life back on track, as well as using prison places for people who do not need to be there; on the other hand, being too slow to act may result in further crime and further victims.

As we noted in chapter 1 of this report, recall policy and practice have evolved over recent years. Current HMPPS guidance (HMPPS and National Probation Service, 2023a) to probation staff is clear that, 'There are cases where recall will continue to be the most necessary and proportionate measure to protect the public and this must be the overarching principle when you are reviewing and deciding on recall applications. However, there will be instances where *alternative actions should be considered* to secure compliance and engagement'. Some actions that could be considered include increasing reporting, varying licence conditions, involving other agencies, referring to MAPPA, or directing the person to an AP.

This chapter focuses on whether, in the cases that we reviewed, the decision to recall was proportionate to the risks that the individual presented at the time the decision was made.

5.1 Responding to concerns

In some of the cases in our review, the concerns that led to the recall arose quickly. We noted that concerns about behaviour arose within the first week in four cases, and within a month in a further seven.

Four people were recalled within three months of their release and a further six were recalled in less than a year. All those recalled within three months had been recalled previously, with two having experienced three or more previous recalls. The four recalled very quickly were all recalled from the APs where they were living. Some of those interviewed by User Voice expressed their view that APs were not conducive to rehabilitation, citing financial issues, as well as feeling vulnerable to substance misuse. A senior manager told us that in their area they had had some success in placing people in supportive accommodation instead of an AP, but acknowledged the challenge of finding appropriate places.

As we noted earlier in this report, having a confirmed AP place for the day of release provides some certainty that the person will not be homeless and that their risks will be managed. However, it is also easy to see that a behavioural issue that may be difficult to manage in an AP – but would be unobserved in the wider community – may trigger recall if the AP bed is withdrawn. One practitioner told us that anxiety about becoming homeless led to an escalation of risky behaviour. It may be valuable to explore further the threshold for recall from an AP and to review what options short of recall are available if the AP placement breaks down.

Other people in our sample had spent much longer in the community before they were recalled. Seven had been in the community for more than five years at the point when they were recalled.²⁹ Three of them had tariffs of less than two years; two had tariffs of two to four years; and two had tariffs of four to six years.

²⁹ 6.4 per cent of IPP offenders (179 out of 2,794) who were recalled on first release between 01 January 2010 and 30 September 2021 had spent five years or longer on licence in the community. Justice Committee (2022). *IPP sentences*, Third Report of Session 2022–23, HC 266, 22 September 2022, p. 42, paragraph 108, cited by Shute, S. (2023).

Three of the recalls had been initiated out of hours.

Concerns that arose included:

- increased substance misuse
- deterioration of mental health
- disclosure of inappropriate sexual thoughts or feelings
- disclosure of thoughts of offending
- police intelligence that indicated increasing risk
- rumination and grievance thinking, which was seen as a risk factor
- risk of domestic abuse in a deteriorating relationship.

Appropriate and prompt action short of recall was taken to improve compliance for 15 of the 23 people where this was seen as an option. Actions taken included:

- licence compliance letter issued
- increased reporting, including more regular office appointments and home visits by probation and police
- referral to mental health and substance misuse services
- contact with the person's partner
- reinstated curfew
- referral to the Thinking Skills Programme
- referral to the IOM scheme to get additional input from the police
- polygraph testing
- GPS tagging
- behaviour management plan within the AP.

When concerns arose, the probation practitioner almost always discussed these with their manager, often on more than one occasion. We noted good management oversight, collaborative decision-making, and prompt action. In a few cases, the recall decision had to be taken when the responsible probation practitioner was away from the office or, in the case of two of the recalls from an AP, by the out-of-hours duty manager. One practitioner told us that they had been putting in place move-on plans and relapse prevention strategies, and felt that these could have been used rather than recalling the individual. User Voice reported that more people said they had been recalled without a warning than those who said they had received fair warnings.

As noted in the previous section, all the people in our review were managed at MAPPA level 1. Concerns were discussed with other key MAPPA agencies in five cases. We saw examples of good communication with public protection police officers, who provided valuable information about alleged offending and ongoing investigations, details of associates and a potential escalation in the risk of harm to others. This liaison was positive, but it was often initiated in response to concerns. Proactive multi-agency management at an earlier stage would generally have been valuable. In one case where it worked well, the MAPPA meeting agreed on actions to manage risk, including regular police visits and contact with the victim.

People on IPP licence should also be discussed at a progression panel when there is a risk of recall (HMPPS and National Probation Service, 2021b). This only happened in seven of the cases we reviewed, although there were also examples of panels convened after the recall.

Although some of those who had been recalled blamed probation for the decision, some of the COMs we interviewed said that when they had worked with an individual for several years, it was hard to see their life unravelling. One probation practitioner reported that they 'hated' recalling the IPP and just wanted them to gain stability. The individual had been recalled previously and seemed to find living in the community too challenging. In the end, when the person lost contact, the COM felt that they had no option but to initiate the recall.

Reconsideration

Since July 2019, a prisoner or the Secretary of State for Justice has been able to apply for reconsideration of a parole decision, including recall. Research (Shute, 2023) has shown that between 2019 and 2022, there were nine published Parole Board decisions relating to applications for reconsideration made by IPP prisoners who had been recalled after five years (or nearly five years) in the community. For eight of these people, it was their first recall. Only two of the nine were recalled in circumstances that did not include further criminality or alleged offending. In each case the initial panel agreed with the recall decision. In eight cases, the Board rejected the prisoner's reconsideration application.

5.2 Reasons for recall

For those serving a determinate sentence, recall may be triggered by breach of a licence condition or loss of contact with the probation practitioner. As noted in chapter 1 of this report, MoJ/HMPPS policy (MoJ and HMPPS, 2019, reissued 2023) sets a higher threshold for the recall of those serving an indeterminate or extended sentence: 'Probation practitioners must demonstrate a "causal link" in the current behaviour [to that] that was exhibited at the time of the index offence.' One of the criteria in the table below must be met, and there must be evidence of increased risk of harm to the public.

In every case that we examined, we judged that the decision was in line with the policy for individuals serving an indeterminate sentence.

Table 10:

On which of the criteria was the recall decision based?	Number of people
Exhibits behaviour similar to behaviour surrounding the circumstances of the index offence	14
Exhibits behaviour likely to give rise (or does give rise) to a sexual or violent offence	14
Exhibits behaviour associated with the commission of a sexual or violent offence	6
Is out of touch with the COM/probation practitioner and the assumption can be made that any of (i) to (iii) may arise	5
Other	0

For 19 people, the reasons for recall included concerns about their substance misuse. In 16 of these cases, this was a feature of the index offence and for most the substance misuse was clearly linked to an increase in the risk of serious harm that they presented. We noted the following concerns:

- failing or avoiding drug tests
- inappropriate or harmful behaviour aggravated by alcohol
- chaotic behaviour linked with taking illegal drugs instead of prescribed medication
- use of alcohol and drugs as a disinhibitor to facilitate offending
- entering into a relationship with a drug user, which led to an increase in substance misuse.

In some cases, more could perhaps have been done to pre-empt these issues, for example by better continuity of help from the prison into the community, and stronger relapse prevention strategies.

Fourteen people were facing a further charge. In these circumstances, 'there is no requirement for the COM/Probation Practitioner to await the outcome of police investigations or for the individual to be charged, if they are satisfied that the reported behaviour meets the recall threshold.' The practitioner should consider 'whether additional risks have been identified as a result of the alleged behaviour which would warrant an assessment of suitability for re-release by the Parole Board or Secretary of State.' In some of the cases we reviewed, the COM reported that the recall decision was 'cut and dried' due to the seriousness of the new charges.

Table 11:

If the recall was for an offence/alleged offence, what was the charge?	Number of cases
Violence against the person	5
Sexual offence (non-contact)	1
Burglary	2
Robbery	1
Theft and handling	1
Other summary offences	1
Other indictable offences	2
Not known/not charged	1

Not all those recalled for an alleged offence are ultimately convicted; this is a source of much discontent from recalled IPPs, most of whom will stay in custody at least until their next Parole Board hearing. One of our probation interviewees commented, however, that at times the police do not proceed with a charging decision if the person is already back in prison. We have no information to corroborate this suggestion.

At the time of our inspection, four individuals had been convicted of offences that led to their recall. All four received prison sentences of less than two years.

One of the alleged offences was identified as a serious further offence (SFO) (MoJ and HMPPS, 2021). Of over 2,000 SFO convictions for offences reported from 2014 to 2021, 69 were committed by people on IPP licences.³⁰ Consistently fewer than 10% of all SFO convictions involve an offender whose index sentence was a life sentence or an IPP (MoJ, 2022). The vast majority were committed by those released on licence from a determinate sentence or those on community supervision.³¹

In three cases we concluded that the decision to recall could have been avoided.

- One person's accommodation was unstable and, although they had provided alternative addresses, these were not considered when the individual was out of contact. Other agencies may have been able to provide information and could have offered the support that the person needed to deal with the impact of previous trauma.

³⁰ Unpublished data provided by MoJ.

³¹ Far more people are on determinate sentences or community sentences than on IPPs.

- In another case there was an allegation of harassment of a former partner. This had occurred some months earlier and there had been no further complaints, but when the individual was charged, recall action was initiated.
- The third case involved failure to disclose the use of drugs and alcohol, which was seen as a 'lack of transparency'. It was also suggested that the individual may become violent if challenged, but this appeared to be speculative.

Our reviews led us to the judgement that in these cases the decision to recall appeared disproportionate. We note, however, that we may not have been in possession of all the information that was available to the practitioner and managers at the time when the decision was made.

User Voice asked their interviewees what would have helped to avoid the recall. Some acknowledged that their own behaviour had triggered the recall, but also said that they had needed more support before it got to that point, particularly with housing, substance misuse and mental health conditions. Others regretted telling probation about their problems. Several felt that probation had acted too quickly on allegations.

5.3 Overall

In this chapter we have considered how the recall decision was made, and whether it was a reasonable decision in light of HMPPS guidance that practitioners must demonstrate a causal link between the current behaviour and that which was exhibited at the time of the index offence.

Overall, in our view, the decision to recall the individual to custody was appropriate and proportionate to the risks they presented at that point in time in a large majority of cases (23 out of 26). Often other action to improve compliance and manage risk had been taken before the recall was initiated.

6 After the recall

'Recalled individuals often perceive their treatment to be inconsistent with how others are treated, and feel overly punished for their actions ... Progressing to re-release feels very difficult for recalled prisoners. Delays, confusion about what they need to do, unclear timeframes, and reliance on others to make important decisions means that re-release feels out of their control. Recalled individuals commonly feel hopeless about the future and powerless to change this. However, they also express motivation and desire for a different future, and wanting opportunities to learn new skills, which some prisoners, particularly those who are more resilient, may push forward in achieving regardless' (HMPPS, 2018a).

In this chapter we consider what happens to people serving an IPP sentence who have been recalled to prison.

6.1 Parole Board review

Indeterminate sentenced prisoners are not eligible for a fixed-term recall or executive release and can only be released when the Parole Board assesses that they can be safely managed in the community. Following the Calder judgement in 2015, at the first review after recall, the Parole Board has a duty to consider the appropriateness of the recall decision at the first review. It is unusual for the Parole Board member approval panel to decide that the recall itself was not justified, although this is a different point from whether more could have been done to keep the individual in the community.

In the first instance, recall papers are considered at a Member Case Assessment (MCA). Few people are released or approved for open conditions 'on the papers'. It is understandable that Parole Board members wish to have a full picture of what has gone wrong in the community, and for this they need a comprehensive report from the COM.

The COM must submit a report to PPCS and the recalled prisoner within 15 working days of recall to custody (Ministry of Justice and HMPPS, 2019, reissued 2023). Probation practitioners told us that it is often difficult to do justice to this report within the required timescale, given the need to meet with the individual and prison staff, and to collect and analyse information from a range of sources. Cases may therefore be sent to an oral hearing so that a panel can properly review and consider the circumstances of the recall and future risk management plans. It takes at least six to nine months for a case to reach an oral hearing.

For panels considering recalls, the paramount issue is whether the individual can be managed safely in the community. In recent years, in around 70 to 75 per cent of recalls considered by a panel, the individual was re-released back into the community.

Table 12:

IPP – completed paper hearings conducted by the Parole Board, 2018/2019 to 2022/2023

Paper hearings (Parole Board, 2023)

Recall	Negative	Oral	Open	Release
2018/2019	126	476	0	17
2019/2020	155	545	0	28
2020/2021	120	506	1	25
2021/2022	115	450	0	29
2022/2023	105	449	0	18

IPP – completed oral hearings conducted by the Parole Board, 2018/19 to 2022/2023

Oral hearings (Parole Board, 2023)

Recall	Negative	Open	Release
2018/2019	94	27	280
2019/2020	88	43	324
2020/2021	92	46	419
2021/2022	88	41	364
2022/2023	94	20	272

People interviewed by User Voice expressed their discontent that when hearings were adjourned, it meant that they had to spend longer in prison. One described feeling ‘ambushed’ when dates were rearranged at the last minute. Many had experienced a lot of changes of probation practitioner. When this happened close to their parole date, some reported that they could not be released because they did not have an established relationship with a COM. Many felt pessimistic about their parole hearings and said that they had to ‘jump through hoops’, and complete courses that they had already done, and may not be able to access again until they had a release date. Moreover, they saw little value in courses that would not assist their rehabilitation.

We found some ambivalence among professionals about whether completing or repeating programmes at this stage was necessary. Some were concerned that people may be disadvantaged if they were unable to move from the local prison to which they were recalled. One POM endeavoured to pre-empt a ‘parole hold’ by finding opportunities for recalled prisoners to be transferred to a prison that provided the relevant programme. Others commented that it was more important to understand the root cause of the behaviour that led to recall – work that may involve a trauma-informed approach rather than a cognitive behavioural programme. In one case the Parole Board had recognised that the cycle of repeated recalls needed to be interrupted and they requested full psychiatric and psychological assessments to gain a better understanding of the reasons for the individual’s behaviour and non-compliance.

6.2 Understanding the recall

On return to custody, all recalled prisoners have a statutory right to be informed of the reasons for their recall and their right to make representations in regard to their suitability for re-release. This information is provided to the recalled prisoner in the form of the recall dossier (MoJ and HMPPS, 2019, reissued 2023). For three people in our review, there was no evidence that this had happened.

Best practice guidance (HMPPS, 2018b) for practitioners outlines the importance of engaging with recalled prisoners to rebuild trust and professional relationships, to acknowledge that the individual may feel disappointed or resentful about the recall, and to focus collaboratively on the future.

A few of the people in our case review sample were reluctant to engage with professionals after their recall. Others still appeared unaware of the reasons for the recall some months later. However, in 20 cases we found that there had been meaningful discussions with the prisoner about their recall by the POM and/or COM. COMs sometimes made contact through videocalls or in-cell telephones. We saw good practice where COMs sought to understand the prisoner’s perspective on the circumstances leading up to the recall, and to present this in the recall reports.

6.3 Impact of recall on the individual

It was evident from our case reviews and discussions with COMs and POMs that people reacted in different ways to being recalled. Some felt resentful and hopeless, believing that the recall and the

continuation of the IPP sentence were unjust. Three out of four of those interviewed by User Voice thought that their most recent recall was unfair and unjust. Those recalled on 'hearsay evidence' or when charges were later dropped felt particularly aggrieved. Others admitted that they had committed offences and that the recall was legitimate.

Some exhibited a marked deterioration in their mental health. Feelings of hopelessness were commonly reported (Edgar et al, 2020). The Select Committee noted evidence³² of high levels of self-harm and suicide and said that 'the (psychological) harm caused is a considerable barrier to progression for some IPP prisoners' (House of Commons, 2023).

Those awaiting court hearings for alleged offences could not be considered by the Parole Board for re-release, which added to their uncertainty about how long they would remain in custody and their resentment about recall action taken on the basis of matters that may ultimately be unfounded. For women, the experience of prison can be particularly traumatic; for example, male staff shouting on the wing can be distressing for women who have experienced abusive relationships. Some women also lose their support in the community, which can compound their feelings of hopelessness and make them harder to release. The Independent Advisory Panel on Deaths in Custody has noted that the rate of self-harm for female IPP prisoners is considerably higher than that for other women in prison.³³

Some people who had been recalled acknowledged that their behaviour had contributed to the actions taken. In a few cases, the behaviour that had led to the recall was seen as 'self-sabotage'. One stated that the recall was positive because it helped him to avoid offending.

It was noticeable that several people appeared to feel that prison is a safe space. One stated that they did not want to terminate their IPP status. Another described their fear that they would never get out of prison – and yet, as potential release approached, became increasingly anxious. One practitioner described people on IPP sentences as living in a constant state of fear: fear of not being released, fear of not coping in the community and fear of being recalled.

Of those interviewed by User Voice, 88 per cent (91 out of 103) said that the most recent recall had impacted on them and/or their families to a great extent, with their physical and mental health particularly affected. Some described the distress experienced by their loved ones. Others said that they had lost their homes and possessions as well as family relationships.

6.4 Next steps in prison

Progression regimes (MoJ and HMPPS, 2019, reissued 2021) were developed for those in the men's estate, particularly indeterminate sentenced prisoners who were within four years of tariff expiry, who were recalled, who were excluded from open conditions, or who had difficulty progressing through their sentence. They are available at a limited number of prisons. These regimes offer enhanced monitoring of behaviour, which plays a crucial role in risk assessment and reinforcement of positive behaviour. Individuals are encouraged to take personal responsibility for day-to-day tasks that they may find difficult. They also participate actively in sentence planning and in identifying their resettlement needs and taking active steps to meet them.

Given the challenges that we have described for many recalled IPP prisoners, it was disappointing that only two had been considered for the regime, and neither was suitable.³⁴

We did note, however, that since recall prisons had been active in helping a number of the people in our sample to progress.

³² From the Prisons and Probation Ombudsman, the Independent Advisory Panel on Deaths in Custody and the Prison Reform Trust and others.

³³ Independent Advisory Panel on Deaths in Custody (2021). Submission to the Justice Select Committee call for evidence on Imprisonment for Public Protection (IPP) sentences. Available at: <https://committees.parliament.uk/writtenevidence/41068/html/> (accessed 01 October 2023)

³⁴ The majority of cases in our sample were not located in prisons with a progression regime.

Table 13:

Since recall, is there evidence that the prison has undertaken any of the following:

Next steps in prison	Number of people
Monitoring of behaviour – e.g. offence paralleling behaviour	6
Promoting personal responsibility for day-to-day self-management	10
Encouraging the individual to take an active role in sentence planning and identifying resettlement needs	11
Helping the individual to improve their employability	5
Helping the individual with management of finance, benefits and debt	1
Helping the individual with their mental health	8
Taking a positive role within the prison – e.g. peer mentor, wing representative	8
Promoting family relationships	3

Prison staff and COMs were actively working with prisoners to build a new release plan and address issues that contributed to their recall. Some examples included:

- access to trauma therapy work
- meetings with the COM by videolink
- individual work with the POM on violence and conflict resolution
- good liaison between COM, POM and psychologist
- multi-agency meetings to work towards more stable accommodation.

Some prisons offer IPPs wing meetings with governors to discuss any individual concerns. HMP Buckley Hall had started a course run by life-sentenced prisoners for other lifer/IPP prisoners to try to motivate them and address resettlement issues. The prison had also appointed additional keyworkers to provide additional support and consistency to this cohort. Since recall, psychology services had been involved with 12 of the people in our sample. There were five other cases where we felt that help from psychology would have been valuable.

Women who were recalled were offered in-reach support from psychologists in the community. Similarly, some OPD pathway services were also able to provide in-reach support. This was a positive way of retaining the professional relationship over a period of time and has become more possible in recent years with the expansion of video-conferencing facilities.

Women serving IPP sentences were also referred into the Women's Estate Case Advice and Support Panel (WECASP), a supportive process designed to help prisoners with complex needs progress through their sentence and into the community.

6.5. Overall

In this chapter we have considered the experience of people who had been recalled, and what help they received after they returned to prison.

Overall, in 19 of the 26 cases in our sample, enough had been done to help the individual to cope with their recall, and to progress, tackle their behaviour, and improve the likelihood of future success on licence.

Those interviewed by User Voice were less positive about the general support they had received in prison since their most recent recall, but reported better support in specialised units and on enhanced wings, such as drug recovery wings or PIPE units.

7. HMPPS actions

In this chapter we consider some of the initiatives that are in place to support the aims of the 2023 action plan. We did not conduct a comprehensive review of actions being taken in different regions, prisons or departments, but we note here some of the initiatives that we identified during the course of our inspection.

7.1. IPP action plan – April 2023

Following the publication of the report by the Justice Select Committee (House of Commons Justice Committee, 2022), the then Lord Chancellor and Secretary of State committed to renewing and refreshing the IPP action plan. In April 2023, the incumbent Lord Chancellor and Secretary of State wrote to the chair of the Justice Committee with a new action plan, which 'focuses on ensuring that HMPPS systems and processes effectively support those serving an IPP sentence towards a safe and sustainable release' (MoJ, 2023).

The plan sets out four principles that underpin six work streams:

Principle 1: HMPPS monitors and publishes data on how those serving the IPP sentence are progressing through their sentences, whether in custody or the community.

Principle 3: Community provision for and management of those on an IPP licence gives people the best prospect of a future safe and sustainable life outside of the justice system.

Principle 2: HMPPS ensures that those serving an IPP sentence have a sentence plan that specifies their required interventions to reduce their risk and has access to them.

Principle 4: HMPPS communicates effectively with all stakeholders, including engaging on current plans, activity and outcomes.

The plan introduces new governance arrangements, with accountability for delivery of the work streams through a new senior IPP progression board, chaired at executive director level.

Performance monitoring

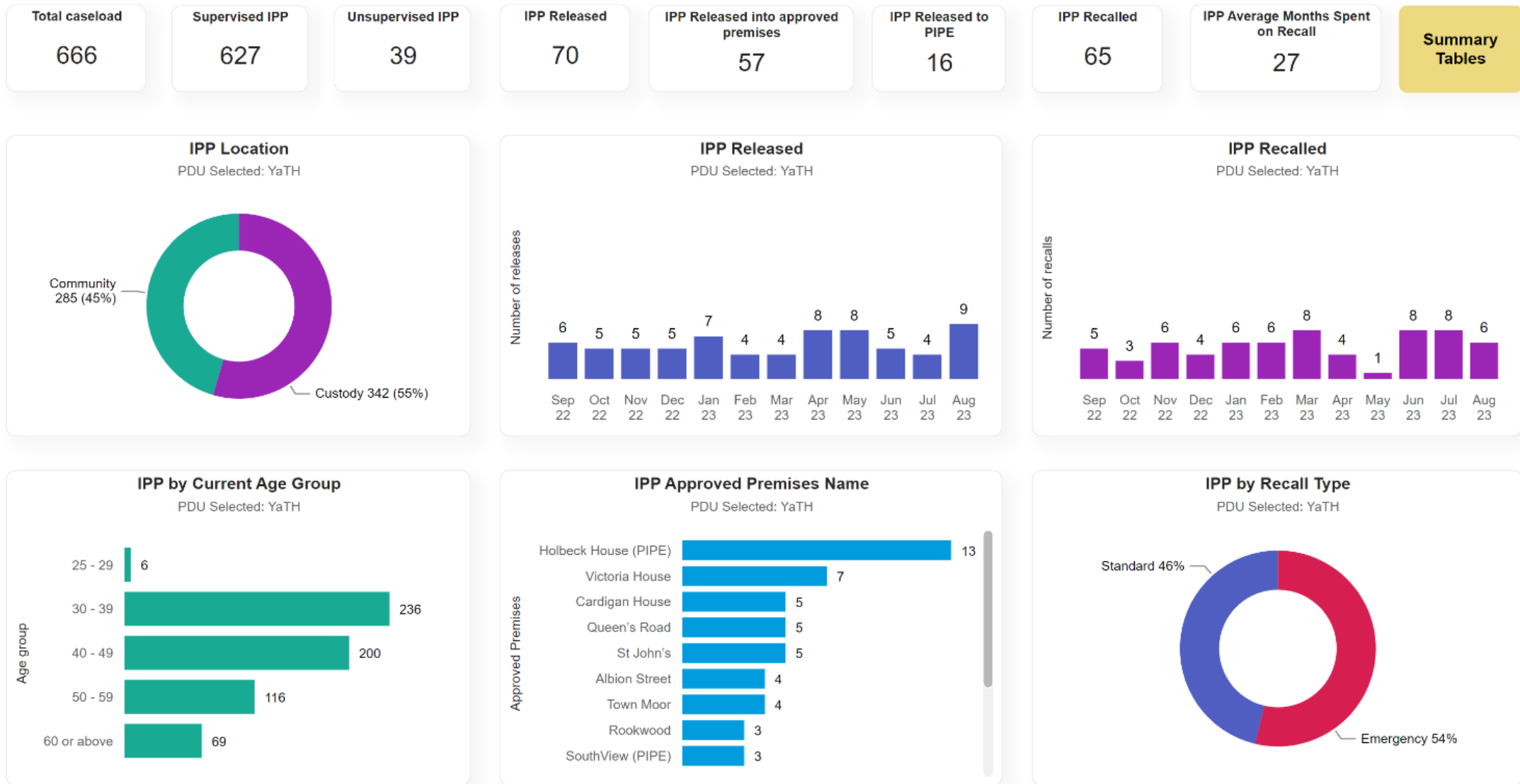
The action plan identifies the need to ensure that the organisation has sound data and metrics, and mechanisms for tracking performance in delivering the IPP action plan and case progression.

HMPPS is currently rolling out a digital platform that guides and records decision-making on recall.³⁵

We also saw a good example of how Yorkshire and the Humber probation region was using management information to track individual cases and to monitor the trends in IPP releases and recalls.

³⁵ 'Consider a Recall' – digital service.

Figure 5: Good practice example – using a dashboard to monitor trends



Progression panels

Progression panels should be held at several points in the IPP journey (HMPPS and National Probation Service, 2021b): at the point of transition from prison to community; when the individual is leaving an AP; when recall is being considered; and when suspension of supervision is being considered. As noted earlier in this report, we found that panels were used inconsistently, with few cases where they had been held at the appropriate points. Some practitioners were frustrated that panel members did not always know the individual concerned. We also heard that panels held in the community often did not include representation from the prison where the individual was currently residing, and as a result were not able to engage with the prison about progression routes.

By contrast, we heard of good practice, for example in the Yorkshire and the Humber probation region, where progression panels involved staff who had developed expertise in managing IPPs. Panels included professionals from other agencies who were working with the individual, for example health providers and psychologists. Training had been provided for housing providers who worked with challenging cases. When appropriate, the individual subject to the IPP was also invited to part of the meeting as a way of providing agency, as well as influencing the individual's behaviour. The area had also devised psychologically informed letters that took account of the individual's history of trauma and how that affected their response to authority. Where appropriate, the panel met to review the basis for any concerns before deciding whether or not to recall.

Senior leaders acknowledged that there is currently a lack of consistency in how panels operate in different regions and that this is an area for development. We welcome the proposal in the action plan to review the use of panels for both custody and community cases and to develop a quality assurance framework.

Psychology

The Psychology Services Group (PSG) has a key role in delivering parts of the action plan. The group has reviewed research related to IPP recalls. Many of the findings are in line with what we found in our case reviews and will inform the ongoing analysis of the needs of people who have never been released and those who have been recalled. The group also provides consultancy and training for probation staff working with complex cases and has some limited resources for working directly with individuals.

A significant proportion of those serving IPP sentences 'screen into' the OPD pathway,³⁶ as we found in our case sample. Pathway resources are jointly funded by HMPPS and the NHS, and staff work closely with psychology services in HMPPS and in the NHS. Those on the pathway have access to around 250 services nationally, including: PIPEs in both prison and the community; mentoring and advocacy services; accommodation support; and the Intensive Intervention and Risk Management Service, which works with people in the community and provides in-reach support if someone is recalled. The latter draws on therapeutic approaches that are seen as potentially beneficial within the OPD pathway, such as dialectical behaviour therapy, mentalisation based therapy, and eye movement desensitisation and reprocessing, which is recommended as an approach to working with trauma (HMPPS and NHS, 2021). We saw examples of these therapies being used with some of the people in our sample.

The importance of working in a relational way is fundamental to this model. We heard from OPD staff that when they are working with someone in an AP, they are able to provide additional insights into possible ways of averting recall. As we found that several people were recalled quickly from an AP, consultation with OPD or other psychologists at this point may be helpful. More broadly, the involvement of OPD staff, where relevant, or psychologists in progression panels could offer a valuable perspective.

³⁶ Using an automated process built into OASys.

Many more people are referred into the pathway after screening than are provided with services. A triage process determines those whose needs require the services. Probation practitioners are able to consult with a clinician or specialist practitioner, but more needs to be done to promote this service and to ensure that individuals who would benefit from it are referred.

We note that the 2023 action plan does not repeat the earlier intention to improve access to accredited programmes, and focuses more on OPD pathway interventions, which better meet the needs of this cohort.

Training

We interviewed 23 of the COMs who are currently responsible for individuals serving IPP sentences. Three were not available, but where possible we spoke to their line managers. Twenty-one of the COMs were qualified probation officers, of whom 13 had been qualified for more than three years, four for between one and three years, and four for less than a year. Another COM was undertaking PQiP training, and one was a probation services officer (PSO).

Some of the probation practitioners had been allocated IPP cases during their training, but others felt that their training had not equipped them to understand the sentence. One commented that the IPP title raises anxiety. On the other hand, we saw experienced and skilled probation staff who were frustrated that their workload made it difficult for them to work intensively with individuals. The facility to seek consultation from psychology or OPD colleagues is valuable, but probation staff still need the capacity to use this to good effect.

Training for prison staff on working with indeterminate sentenced prisoners was not mandated and did not have a big take-up locally. We note that the current learning and development materials are being reviewed as part of the action plan, and a new IPP toolkit is being developed in consultation with key stakeholders, including those serving IPPs and their families.

People in prison who were interviewed by User Voice overwhelmingly said that probation and prison staff do not know enough about IPP sentences or their impact on those serving the sentence.

7.2. Solutions proposed by those serving the sentence

People interviewed by User Voice were given the opportunity to suggest solutions to the issues they raised. Some of their suggestions included:

- being resentenced
- specialised training for prison and probation staff
- specialised houseblocks/wings for those serving IPP sentences
- a clear progression plan for each individual
- removal of the requirement to stay at an AP, or shorten the time there
- better access to tailored mental health services
- IPP group forums, with a well-informed member of staff.

7.3. Overall

In our inspection, we found a widespread commitment by senior leaders to addressing the well-recognised concerns about the IPP sentence.

8. Conclusions and implications

This inspection has considered whether decisions to recall individuals to custody were proportionate to the risks they presented at that time. We have concluded that, in the majority of cases, the actions taken were appropriate because the behaviour exhibited was associated with the index offence. That is not to overlook the fact that there were a few cases where it could have been possible to avoid recall. Therein lies the dilemma for probation practitioners and their managers. To act too swiftly risks recalling to prison someone who does not need to be there. Not to act quickly enough risks someone committing a serious offence. We do not underestimate the challenge, or the skills that are required to make the decision.

For probation practitioners, the question 'is the decision to recall this person proportionate to the risk they present?' needs to be considered within a broader context – namely, 'can the risks be managed in the community?' and, significantly, 'is this person manageable in the community given the resources that are available to support them and manage their risk?' In this report we have outlined the complex needs and longstanding problems faced by many of the people serving IPP sentences. When their lives start to unravel, so too does their behaviour. Our inspection considered, therefore, whether these needs were adequately met, first in preparation for release, and later when they were living in the community.

Support in the community

We found that, too often, not enough support was in place. The solution lies with a number of agencies. For many people, without substantial multi-agency support in the community, their behaviour will break down. Probation staff will have little choice but to initiate the recall, and the 'merry go round' of IPP recalls will remain an intractable problem.

Many of those in our sample experienced problems with their mental health, often associated with substance misuse and commonly rooted in longstanding trauma. These factors were the source of the behaviour that triggered the recall. The involvement of the PSG and services provided by the OPD pathway is positive, but more needs to be done to ensure that referrals are made to the appropriate services. For those with other mental health issues, neurodiverse conditions or problems with substance misuse, access to a broader range of resources is needed, both to prepare them for release and to support them in the community. Where therapy or medication is provided in prison, this should be continued seamlessly into the community; too often this is not the case.

In the period before their release, many prisoners feel anxious about being homeless. We were pleased, therefore, to find that all of the people in our sample had somewhere to live on the day of release. Although many would not have chosen to go to an AP, this option did offer the Parole Board a satisfactory release plan, providing both support and risk management. A few people were recalled quickly from an AP when the placement broke down. We think that it would be worth considering why this happens and what other options could be put in place as an emergency measure.

For some people released from prison, social isolation and lack of purposeful activity contribute to their struggles in the community. Boredom and isolation were linked with increased substance misuse and ultimately with the recall decision in several of the cases we reviewed. We were pleased to note that the 2023 action plan includes a review of resettlement services for IPP prisoners.

All of the cases we reviewed were managed at MAPPA level 1, but we saw little evidence that this added value. Multi-agency management at level 2 or 3 could have provided a more proactive approach, with a range of agencies assessing how well the individual was coping in the community and facilitating prompt access to the appropriate resources. IPP panels – which could provide an effective alternative to MAPPA – did not work well in all areas. Not all met at the required points of transition for the individual, few were convened routinely to monitor progress through the sentence and in the community, and few met as a multi-agency forum. We heard of a disconnect between panels held in prison and those held in the community.

Given the importance of working effectively, and often intensively, with the range of problems presented by many of those on IPP sentences, the possibility of developing a 'team around the person' approach – as used by several health and social care teams – would be worth exploring. An alternative model may be that used by Circles of Support and Accountability.

The quality of the relationship between the person on licence and their probation practitioner is crucial. Where there was consistent, sustained contact, we saw meaningful engagement, support and a collaborative approach. Unfortunately, too often staffing challenges in the probation service (HM Inspectorate of Probation, 2023b) have led to fragmented contact and have damaged trust in probation practitioners. As a result, the individual is less likely to disclose problems they are experiencing and may be more likely to be recalled by those less familiar with their patterns of behaviour and the best way of helping them through a crisis. Options to reduce discontinuity should be considered, for example: a probation practitioner retaining responsibility for someone on IPP licence whenever this is practical; the allocation of a pair/back-up officer;³⁷ or specialist IPP teams. Shared responsibility for an individual could help to avoid the situation where a duty officer or manager has to make a decision about recall.

People interviewed by User Voice commented that some prison and probation staff lack an understanding of the IPP sentence and the impact on individuals. A consistent, responsive and relational approach is needed to help those with a complex range of problems. Prison and probation staff need the skills and the time to use trauma-informed and motivational approaches.

After the recall

People serving a determinate sentence may be recalled to prison for a fixed period of 14 or 28 days (unless they have committed a sexual or violent offence) or a standard recall until the end of their sentence. Either way, they know that their time in prison will, at some point, come to an end. Those serving IPP sentences do not have this certainty and there is little surprise that many express their feelings of hopelessness. Some of those recalled feel despair at their failure to cope in the community, uncertainty about what they need to do to be re-released, and anxiety about whether they will fare any better next time.

Few re-release decisions are made by the Parole Board at the MCA stage. Most people are referred to an oral hearing, and a high proportion are released at that stage. Probation practitioners told us that it can be difficult to submit an adequate report within the timescale required for the decision to be made 'on the papers'. Referral to an oral hearing allows more time for a full report, but with the current waiting time for hearings, many people wait longer than may be necessary.

We consider that there would be some merit in the MoJ and Parole Board exploring options that may help to reduce the need for oral hearings, while ensuring that probation practitioners have sufficient time to provide an informative assessment for consideration at MCA stage. For example, in some cases it may be possible for the probation practitioner to give an early indication of whether a decision on the papers looks like a viable option, and whether there may be some merit in an adjournment for a fuller assessment and a firmer risk management plan.

Another option may be to introduce fixed-term recalls for some of those on IPP sentences. Such an option would require legislative change, but fixed-term recalls where appropriate could help to reduce the sense of uncertainty and despair that many currently experience.

³⁷ This was formerly common practice in working with life sentenced prisoners. HM Inspectorates of Prisons and Probation (1999). *Lifers: A Joint Thematic Review by Her Majesty's Inspectorates of Prisons and Probation*.

References

- Albertson, K. (2021). *Social capital building supporting the desistance process*. HM Inspectorate of Probation Academic Insights 2021/06. Manchester: HM Inspectorate of Probation.
- Cracknell, M. (2023). *Effective practice in resettlement*. HM Inspectorate of Probation Academic Insights 2023/01. Manchester: HM Inspectorate of Probation.
- Criminal Justice Joint Inspection (2021). *A joint thematic inspection of the criminal justice journey for individuals with mental health needs and disorders*. Available at: <https://www.justiceinspectors.gov.uk/cjji/wp-content/uploads/sites/2/2021/11/Mental-health-joint-thematic-report.pdf>
- Criminal Justice Joint Inspection (2022). *Twenty years on, is MAPPA achieving its objectives?* Manchester: HM Inspectorate of Probation. Available at: <https://www.justiceinspectors.gov.uk/hmiprobation/wp-content/uploads/sites/5/2022/07/A-joint-thematic-inspection-of-Multi-Agency-Public-Protection-Arrangements.pdf>
- Edgar, K., Harris, M. and Webster, R. (2020). *No Life, No Freedom, No Future*. London: Prison Reform Trust.
- Grimshaw, R. (2022). *Imprisonment for Public Protection: Psychic Pain Redoubled*. London: Centre for Crime and Justice Studies.
- Grimshaw, R. (2023). *"A death row of sorts" – Indeterminate custodial sentences in the UK*. London: Centre for Crime and Justice Studies.
- Hillier, J. and Mews, A. (2018). *The reoffending impact of increased release of prisoners on Temporary Licence*. Analytical Summary. Ministry of Justice. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/709123/rotl-report.pdf (accessed 29/09/2023)
- HM Inspectorate of Prisons (2016). *Unintended consequences: Finding a way forward for prisoners serving sentences of imprisonment for public protection*. London: HM Inspectorate of Prisons.
- HM Inspectorate of Prisons (2023). *Annual report 2022–23*. Available at: <https://www.justiceinspectors.gov.uk/hmiprison/inspections/annual-report-2022-23/>
- HM Inspectorates of Prisons and Probation (1999). *Lifers: A Joint Thematic Review by Her Majesty's Inspectorates of Prisons and Probation*. Available at: <https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2014/08/lifers-rps.pdf> (accessed 03 October 2023)
- HM Inspectorate of Prisons and HM Inspectorate of Probation (2008). *The indeterminate sentence for public protection*. Available at: https://www.justiceinspectors.gov.uk/probation/wp-content/uploads/sites/5/2014/03/hmip_ipp_thematic-rps.pdf
- HM Inspectorate of Probation and HM Inspectorate of Prisons (2010). *Indeterminate Sentences for Public Protection*. Available at: <https://www.justiceinspectors.gov.uk/hmiprobation/inspections/indeterminate-sentences-for-public-protection-a-joint-inspection-by-hmi-probation-and-hmi-prison/>
- HM Inspectorate of Probation and HM Inspectorate of Prisons (2022). *Offender Management in Custody – pre-release*. Manchester: HM Inspectorate of Probation.
- HM Inspectorate of Probation and the Care Quality Commission (2021). *A joint thematic inspection of community-based drug treatment and recovery work with people on probation*.
- HM Inspectorate of Probation, HM Inspectorate of Constabulary, Fire & Rescue Services and HM Inspectorate of Prisons (2022). *Twenty years on, is MAPPA achieving its objectives?* Manchester: HM Inspectorate of Probation.

HM Inspectorate of Probation (2018). *Enforcement and Recall*. Manchester: HM Inspectorate of Probation.

HM Inspectorate of Probation (2020a). *Accommodation and support for adult offenders in the community and on release from prison in England*. Manchester: HM Inspectorate of Probation.

HM Inspectorate of Probation (2020b). *Independent review of the case of Joseph McCann: final report*. Manchester: HM Inspectorate of Probation.

HM Inspectorate of Probation (2020c). *A thematic review of probation recall culture and practice*. Manchester: HM Inspectorate of Probation.

HM Inspectorate of Probation (2020d). *Effective Practice Guide: Case supervision*. Manchester: HM Inspectorate of Probation. Available at: <https://www.justiceinspectors.gov.uk/hmiprobation/effective-practice/case-supervision/>

HM Inspectorate of Probation (2021). *Annual Report: inspections of probation services*. Manchester: HM Inspectorate of Probation. Available at: <https://www.justiceinspectors.gov.uk/hmiprobation/inspections/par-2021/> (Accessed 24/09/2023)

HM Inspectorate of Probation (2022). *Effective Practice Guide: Offender Management in Custody – pre-release*. Manchester: HM Inspectorate of Probation. Available at: <https://www.justiceinspectors.gov.uk/hmiprobation/effective-practice/case-supervision/>

HM Inspectorate of Probation (2023a). *Offender Management in Custody – post-release*. Manchester: HM Inspectorate of Probation. Available at: <https://www.justiceinspectors.gov.uk/hmiprobation/effective-practice/case-supervision/>

HM Inspectorate of Probation (2023b). *Annual Report 2022/2023*. Available at: <https://www.justiceinspectors.gov.uk/hmiprobation/inspections/annual-report-2022-2023/>

HM Inspectorate of Probation (2023c). *Effective Practice Guide: Working with people subject to custodial sentences*. Manchester: HM Inspectorate of Probation. Available at: <https://www.justiceinspectors.gov.uk/hmiprobation/effective-practice/case-supervision/>

HM Inspectorate of Probation (undated). *Family relationships*. <https://www.justiceinspectors.gov.uk/hmiprobation/research/the-evidence-base-probation/specific-areas-of-delivery/family-relationships/> (accessed 22 September 2022)

HM Prison and Probation Service (2017). *Alternatives to recall guidance*.

HM Prison and Probation Service (2018a). *Better outcomes for recalled prisoners*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765656/better-otcomes-recalled-prisoners.PDF

HM Prison and Probation Service (2018b). *Working with Recalled Prisoners: Best Practice Guide*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/963280/recall-pf-annex-a-best-practice-guide.pdf

HM Prison and Probation Service (2019). *Managing Indeterminate Sentence Prisoners*. Indeterminate Sentence Operational Support.

HM Prison and Probation Service (2020a). *A Response to: Independent Review of the case of Joseph McCann*. Available at: <https://www.gov.uk/government/publications/independent-review-of-the-case-of-joseph-mccann-action-plan> (accessed 21 September 2023)

HM Prison and Probation Service (2020b). *Managing Indeterminate Sentences in Custody and on Licence: Staff Guidance Overview*.

HM Prison and Probation Service (2020, updated 2021). *A Thematic Review of Probation Recall Culture and Practice: Action Plan*. Available at:

<https://www.gov.uk/government/publications/thematic-review-of-probation-recall-culture-practice-action-plan>

HM Prison and Probation Service (2021). *Recording recall decision making and issuing letters*. Effective Practice and Service Improvement Group.

HM Prison and Probation Service (2021). *Enabling Effective Progressive Transfers for Indeterminate Sentenced Prisoners*. Central Policy & Projects Team Public Protection Group.

HM Prison and Probation Service and NHS (2021). *Guidance for implementing the intensive intervention & risk management service (IIRMS) specification: Offender Personality Disorder Pathway*. Available at: <https://www.justiceinspectrates.gov.uk/hmiprobation/wp-content/uploads/sites/5/2022/01/IIRMS-guidance-final-Nov-21.pdf> (accessed 04 October 2023)

HM Prison and Probation Service (2022). *Resettlement and Pre-Release Planning Guidance Document vs.2*. Offender Management in Custody team.

HM Prison and Probation Service (2023). *OMiC POM to COM Handover Guidance*.

HM Prison and Probation Service and National Probation Service (2020). *Release of indeterminate sentence prisoners from custody vs.2*. Offender Management in Custody team.

HM Prison and Probation Service and National Probation Service (2021a). *Compliance and Engagement on Licence vs.2*. Effective Practice and Service Improvement Group in conjunction with the Public Protection Casework Section.

HM Prison and Probation Service and National Probation Service (2021b). *IPP Progression Panels vs.3*.

HM Prison and Probation Service and National Probation Service (2021c). *Management of indeterminate sentences on licence in the community vs.3*. Offender Management in Custody team.

HM Prison and Probation Service and National Probation Service (2021d). *Assessment and management of indeterminate sentences in custody vs.2*. Offender Management in Custody team.

HM Prison and Probation Service and National Probation Service (2023a). *7 Minute Briefing – Recall decision making, thresholds & tests vs.2*. Effective Practice and Service Improvement Group.

HM Prison and Probation Service and National Probation Service (2023b). *7 Minute Briefing – Recall Types*. Effective Practice and Service Improvement Group.

Home Office (2001). *Making Punishments Work: A Review of the Sentencing Framework for England & Wales*. Available at:

<https://webarchive.nationalarchives.gov.uk/ukgwa/+http://www.homeoffice.gov.uk/documents/halli-day-report-sppu/>

House of Commons Justice Committee (2022). *IPP sentences*. www.parliament.uk/justicecttee

House of Commons Justice Committee (2023). *IPP sentences: Government and Parole Board Responses to the Committee's Third Report*. www.parliament.uk/justicecttee

House of Commons (2023). *Sentences of Imprisonment for Public Protection*. Research briefing. Available at: <https://commonslibrary.parliament.uk/research-briefings/sn06086/>

House of Lords (2009). *Judgments – Secretary of State for Justice (Respondent) v James (FC) (Appellant) (formerly Walker and another) R (on the application of Lee) (FC) (Appellant)*. Available at: <https://publications.parliament.uk/pa/ld200809/ldjudgmt/jd090506/james-1.htm>

Independent Advisory Panel on Deaths in Custody (2021). *Submission to the Justice Select Committee call for evidence on Imprisonment for Public Protection (IPP) sentences*. Available at: <https://committees.parliament.uk/writtenevidence/41068/html/> (accessed 01 October 2023)

Independent Monitoring Board (2023). *The impact of IPP sentences on prisoners' wellbeing*. Available at: <https://imb.org.uk/news/ipp-prisoners-report-increased-hopelessness-following-resentencing-rejection/> (accessed 24 September 2023)

Kemshall, H. (2021a). *Bias and error in risk assessment and management*. HM Inspectorate of Probation Academic Insights 2021/14. Manchester: HM Inspectorate of Probation.

Kemshall, H. (2021b). *Risk and desistance: A blended approach to risk management*. HM Inspectorate of Probation Academic Insights 2021/07. Manchester: HM Inspectorate of Probation.

Kemshall, H. and McCartan, K. (2022). *Desistance, recovery, and justice capital: Putting it all together*, HM Inspectorate of Probation Academic Insights 2022/10. Manchester: HM Inspectorate of Probation.

McCartan, K. (2020). *Trauma-informed practice*, HM Inspectorate of Probation Academic Insights 2020/05. Manchester: HM Inspectorate of Probation.

Ministry of Justice (2018). *Female Offender Strategy*. Available at: <https://www.gov.uk/government/publications/female-offender-strategy> (accessed 23/09/2023)

Ministry of Justice (2022). *Serious Further Offences*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1113507/Serious_Further_Offences_bulletin_2022_-_Final.pdf

Ministry of Justice (2023). *Letter and action plan from Lord Chancellor and Secretary of State for Justice to Sir Robert Neill MP*, House of Commons Justice Committee. Available at: <https://committees.parliament.uk/publications/39321/documents/192968/default/> (accessed 21/09/2023)

Ministry of Justice and HMPPS (2018). *Manage the Custodial Sentence Policy Framework*. Available at: <https://www.gov.uk/government/publications/manage-the-custodial-sentence> (accessed 21 September 2023)

Ministry of Justice and HMPPS (2019, reissued 2023). *Recall, Review and Re-release of Recalled Prisoners Policy Framework*. Available at: <https://www.gov.uk/government/publications/recall-review-and-re-release-of-recalled-prisoners>

Ministry of Justice and HMPPS. (2019, reissued 2021). *Progression Regime Policy Framework*. Available at: <https://www.gov.uk/government/publications/progression-regimes>

Ministry of Justice and HMPPS (2019, reissued 2022). *Release on Temporary Licence (ROTL) Policy Framework*. Available at: <https://www.gov.uk/government/publications/release-on-temporary-licence> (accessed 21 September 2023)

Ministry of Justice and HMPPS (January 2020, reissued August 2023). *Generic Parole Process Policy Framework*. Available at: <https://www.gov.uk/government/publications/generic-parole-process-policy-framework> (accessed 21 September 2023)

Ministry of Justice and HMPPS (November 2020, reissued May 2023). *Managing Parole Eligible Offenders on Licence Policy Framework*. Available at: <https://www.gov.uk/government/publications/managing-parole-eligible-offenders-on-licence-policy-framework> (accessed 21 September 2023)

Ministry of Justice and HMPPS (2021). *Notification and Review Procedures for Serious Further Offences Policy. Annex A Qualifying Offence List*. Available at: <https://www.gov.uk/government/publications/probation-service-serious-further-offence-procedures-policy-framework>

Ministry of Justice and HMPPS (2022a). *Licence Conditions Policy Framework*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1105940/licence-conditions-pf.pdf (accessed 21 September 2023)

Ministry of Justice and HMPPS (2022b). *Pre-release and Resettlement Policy*. Available at: <https://www.gov.uk/government/publications/hmppps-pre-release-and-resettlement-policy-framework>

Ministry of Justice and HMPPS (2022c). *Multi-Agency Public Protection Arrangements (MAPPA) Annual Report 2021/22*. Available at: <https://www.gov.uk/government/statistics/multi-agency-public-protection-arrangements-mappa-annual-2021-to-2022> (accessed 30 September 2023)

Ministry of Justice and HMPPS (2023). *Offender Management Statistics Quarterly: April to June 2023*. Available at: <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2023>

Ministry of Justice, Home Office and Department of Health and Social Care: Independent Advisory Panel on Deaths in Custody (2023). *Chair's end of term report September 2019 – January 2023*. Available at: <https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/644aa8478a97511ab4333da3/1682614346183/End+of+term+report+-+FINAL+with+edits+.pdf> (accessed 04/10/2023)

Ministry of Justice and Rt Hon Alex Chalk KC MP (2023). 'The government's approach to criminal justice'. Oral statement to Parliament. Available at: <https://www.gov.uk/government/speeches/the-governments-approach-to-criminal-justice>

National Audit Office (2017). *Investigation into the Parole Board*. Available at: <https://www.nao.org.uk/reports/investigation-into-the-parole-board/>

National Offender Management Service (2014). *Recall Review & Re-Release of Recall Offenders*. Available at: <https://webarchive.nationalarchives.gov.uk/ukgwa/20190201124545/https://www.justice.gov.uk/offenders/probation-instructions/pi-archive-2014>

National Offender Management Service (2015). *Managing Indeterminate Sentenced Offenders on Licence*. PI 08/2015. Available at: <https://www.gov.uk/guidance/probation-instructions-pis#instructions-5> (accessed 21 September 2023)

National Offender Management Service (2017). *HMCIP IPP thematic report: action plan*. Available at: <https://www.justiceinspectors.gov.uk/hmiprison/wp-content/uploads/sites/4/2016/11/HMIP-IPP-thematic-action-plan-1-March-2017.pdf> (accessed 21 September 2023)

Parole Board Rules 2016 (SI2016/1041). Available at: <https://www.legislation.gov.uk/uksi/2016/1041/contents/made>

Parole Board (2022a). *Types of Case Guidance vs.2.0*. Available at: <https://www.gov.uk/government/publications/parole-board-types-of-cases-guidance-2022> (accessed 21 September 2022)

Parole Board (2022b). *Licence Conditions Member Guidance*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1122379/Licence_Conditions_Guidance_version_2.1_external.pdf

Parole Board (2022c). *Member Case Assessment Guidance, vs.2.0*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1122381/Member_Case_Assessment_MCA_Guidance_v2.0_external.pdf (accessed 25 September 2023)

Parole Board (2023). *The Parole Board for England and Wales: Annual Report and Accounts 2022/23*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1171892/Parole_Board_ARA_2022-23_-_Final.pdf (accessed 25/09/2023) Figures available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1171924/Website_Figures_22-23_draft.xlsx

Prison Reform Trust (2023). *Letter to The Rt Hon Damian Hinds MP*. Available at: <https://prisonreformtrust.org.uk/wp-content/uploads/2023/03/2023.02.17-Damian-Hinds-IPPs-%E2%80%93HMIP-review-of-recalls.pdf>

Prisons and Probation Ombudsman (2023). *Learning Lessons Bulletin Issue 18: Self-inflicted deaths of IPP prisoners*. Available at: https://s3-eu-west-2.amazonaws.com/ppo-prod-storage-1q9rkhjhkjmqw/uploads/2023/09/14.322_PPO_LL_Bulletin_Issue18_FINAL.pdf (accessed 01 October 2023)

Sentencing Academy (undated). *Sentencing explained*. Available at: <https://www.sentencingacademy.org.uk/wp-content/uploads/2023/08/IPP-Sentences-Explainer.pdf>

Shute, S. (2023). *Memorandum to HM Chief Inspector of Probation Concerning Recalled IPP Prisoners Who Spent Lengthy Periods On Licence In The Community Before Their Recall*. (unpublished)

TSO (The Stationery Office) (2002). *Justice for all*. Available at: <https://brdo.com.ua/wp-content/uploads/2016/01/Justice-for-All-WPUK.pdf>

Wong, K. and Horan, R. (2021). *Needs assessment: risk, desistance and engagement*, HM Inspectorate of Probation Academic Insights 2021/03. Available at: <https://www.justiceinspectors.gov.uk/hmiprobation/research/academic-insights/>

Annexe 1: Glossary

Accredited programme	A programme of work delivered to offenders in groups or individually through a requirement in a community order or a suspended sentence order, or as part of a custodial sentence or a condition in a prison licence. The Thinking Skills Programme and Kaizen (for high-risk men convicted of violent or sexual offences) are examples of accredited programmes.
ADHD	Attention deficit hyperactivity disorder
Approved premises (APs)	Premises approved under Section 13 of the <i>Offender Management Act 2007</i> , and managed either by the Probation Service or by independent organisations. They are used mostly for people considered a high risk of serious harm to others, who will sometimes live there for a few weeks when they are released from prison.
CAS3	The Community Accommodation Service Tier 3 (CAS3) programme provides up to 84 nights of accommodation for people leaving prison or approved premises who would otherwise be at risk of homelessness.
Category D – open prisons	These prisons have minimal security and allow eligible prisoners to spend most of their day away from the prison on licence to carry out work or education, or for other resettlement purposes. Open prisons only house prisoners who have been risk-assessed and deemed suitable for open conditions.
Circles of Support and Accountability (COSA)	Small groups of community volunteers who support people convicted of sexual offending. COSA works in close partnership with criminal justice agencies to reduce the risk of offending.
CRCs/NPS	Community Rehabilitation Companies (CRCs) operated from 2014 to 2020 and were run by a mix of providers from the private, statutory and voluntary sectors. The National Probation Service (NPS) was responsible for the supervision of high-risk offenders, while CRCs were responsible for low- and medium-risk offenders.
CRS	Commissioned rehabilitative services are part of the Ministry of Justice’s probation system. They are procured by regional probation directors to provide services to people who have offended.
Determinate sentence/ indeterminate sentence	A determinate prison sentence is where the court sets a fixed length for the prison sentence. This is the maximum period of time the offender could spend in prison but may be released on licence. The rules governing when a prisoner is released vary depending on the length of the sentence and when the offence was committed. An indeterminate sentence is a sentence without a set release date. A minimum term that must be served in prison, known as the tariff, is set by the court.

Extended determinate sentence (EDS)/ extended sentence for public protection (EPP or ESPP)	Extended sentences are a type of determinate sentence but with an additional period on licence. Some extended sentences require approval by the Parole Board for earliest release, whereas for others that release is automatic.
ETE	Education, training and employment: work to improve an individual's learning, and to increase their employment prospects.
Fixed-term recall	Someone can be recalled to prison for 14 days if their original sentence was less than 12 months, or for 28 days if their original sentence was 12 months or more. Fixed-term recalls do not apply to indeterminate sentences.
Formulation	'Psychological formulation is a shared assessment process, where a client and therapist work together to understand a client's current, and previous, distress. It draws on available psychological theory to create hypotheses, or ideas, of what might be contributing to a client's current difficulties and what psychological therapy should offer to help that person.' https://www.bps.org.uk/
GP	General practitioner
HMPPS	HM Prison and Probation Service: from 01 April 2017, HMPPS became the single agency responsible for delivering prison and probation services across England and Wales. At the same time, the Ministry of Justice took on responsibility for overall policy direction, setting standards, scrutinising prison performance and commissioning services. These used to fall under the remit of the National Offender Management Service (NOMS).
IIRMS	Intensive Intervention and Risk Management Services. One of the services available as part of the Offender Personality Disorder pathway.
Integrated Offender Management (IOM)	Integrated Offender Management is a multi-agency approach to identifying and working with the most persistent and problematic offenders.
Indeterminate sentence	An indeterminate sentence has no fixed length. The person will have to spend a minimum amount of time in prison (the 'tariff') before they are considered for release. The Parole Board is responsible for deciding if they can be released from prison.
Intervention	Work with an individual that is designed to change their offending behaviour and/or to support public protection.
IPP	Sentences of imprisonment for public protection (IPPs) were created by the <i>Criminal Justice Act 2003</i> and started to be used in April 2005. They were abolished in 2012.
ISP	Indeterminate sentence prisoner – someone serving an indeterminate sentence of imprisonment.
Licence	Almost all individuals sentenced to imprisonment are, at some point, released on licence under probation supervision. This part of the sentence is served in the community. The licence includes a number of requirements and/or restrictions.

Life sentence	A court must pass a life sentence for an offence of murder and may decide to give a life sentence for other serious offences, like rape or armed robbery. If the subject of a life sentence is released from prison, they will remain 'on licence' in the community for the rest of their life and could be sent back to prison if they break the licence conditions or commit another crime.
MAPPA	Multi-Agency Public Protection Arrangements: probation, police, prison and other agencies work together locally to manage offenders who pose a higher risk of harm to others. At level 1 management the risks posed by the offender can be managed by the lead agency in cooperation with other agencies. Levels 2 and 3 require active multi-agency management.
Member case assessment (MCA)	Every case referred to the Parole Board is required to go through the MCA process. An accredited MCA member determines whether the case can be concluded on the papers or should be referred to an oral hearing.
MoJ	Ministry of Justice
nDelius	National Delius: the approved probation case management system used in England and Wales.
NOMS	National Offender Management Service: until April 2017, the single agency responsible for both prisons and probation services, now known as HM Prison and Probation Service (HMPPS).
OASys	Offender assessment system currently used by the Probation Service in England and Wales to assess the risks and needs of people under probation supervision.
OMiC model COM/POM/Keyworker	Offender Management in Custody: the way prisoners are case managed through the custodial sentence. Under the OMiC model, COMs, POMs and keyworkers work closely together and with the prisoner. Community offender managers are probation practitioners based in the community who work with people before and after release from prison, as well as those on community sentences. Prison offender managers work with people who are in prison and liaise with the COM. They may be prison or probation staff. Keyworkers are prison officers who work closely with individual prisoners and liaise with POMs.
Offender Personality Disorder (OPD) pathway	The OPD pathway is an initiative jointly commissioned by the NHS and HMPPS. It provides psychologically informed services for a highly complex and challenging offender group who are likely to have a severe personality disorder, and who pose a high risk of harm to others or a high risk of reoffending in a harmful way.
Oral hearing	An oral hearing is conducted by the Parole Board when further evidence is needed in addition to the written material in the dossier. A hearing provides the opportunity to take oral testimony and to test evidence in support of an independent assessment of risk of serious harm and its manageability in the community. It can also be an opportunity for a prisoner to talk directly to parole decision-makers.

Parole Board	The Parole Board is an independent body possessing quasi-judicial function. It determines whether prisoners can be safely released into the community. The Parole Board is an executive non-departmental public body, sponsored by the Ministry of Justice.
Partners	Partners include statutory and non-statutory organisations that work with the Probation Service.
PIPE	Psychologically Informed Planned Environments (PIPEs) are interventions offered as part of the wider HM Prison and Probation Service (HMPPS) and NHS England Offender Personality Disorder (OPD) pathway – a programme for high-risk, high-harm offenders who are likely to have a personality disorder. PIPEs run in some prisons and some approved premises.
Progression regime	Progression regimes were developed for those in the men’s estate, particularly ISPs, to help them to progress through their sentence. They are available in a limited number of prisons.
Probation Service	The Probation Service (formerly the National Probation Service) for England and Wales is a statutory criminal justice service, mainly responsible for the supervision of offenders in the community and the provision of reports to the criminal courts to assist them in their sentencing duties. The current Probation Service was created on 26 June 2021 following the Ministry of Justice withdrawing the contracts of 21 privately run CRCs. The service is part of HMPPS.
PO/PSO/SPO	<p>Probation officer: a probation practitioner who has undertaken a higher-education-based course for two years. They manage the most complex cases.</p> <p>Probation services officer: manage all but the most complex cases depending on their level of training and experience.</p> <p>Senior probation officer: a middle manager who may line-manage a team of POs and PSOs.</p>
POM	Prison offender managers are responsible for assessing the prisoner’s risks and needs and planning how their sentence should run. They may be a prison officer or a probation officer.
PPCS	Public Protection Casework Section: the section in HMPPS that deals with pre- and post-release casework in respect of the release and recall of prisoners.
PPG	Public Protection Group: the group within HMPPS in which PPCS sits.
PQiP	The Professional Qualification in Probation (PQiP) is a full-time, 15-month or 21-month work-based training course equivalent to a higher education level 6 qualification.
PTSD	Post-traumatic stress disorder
Recall	Determinate and indeterminate sentenced prisoners who are released into the community subject to licensed supervision are liable to be recalled to custody by the Secretary of State, where (a) they have breached a specific condition of their licence, or (b) their behaviour is sufficiently concerning to indicate that the risk

	they pose is assessed as no longer safely manageable in the community.
Relational approach	'A 'relational approach' is <i>a way of interacting or communicating with others that embodies core values such as respect, inclusiveness, honesty, compassion, cooperation and humility.</i> ' https://relationalapproaches.com/approaches/
Risk of serious harm (RoSH)	The level of risk of serious harm that the service user is assessed as presenting. This assessment is part of the OASys tool, which considers both the imminence and seriousness of potential offending. There are four levels of RoSH: low, medium, high and very high.
Risk assessment/risk management	Risk assessment: the process of collecting, verifying and evaluating information to establish the nature and extent of risk, either of likelihood of reoffending or of the occurrence of serious harm. Risk management: strategies used to manage risk, either by reducing the likelihood that a harmful offence will occur, or by reducing the impact of the offence should it take place, for example by protecting the victim or potential victims. Risk management plan: a shared, actively monitored plan for managing the identified risk of serious harm.
ROTL	Release on temporary licence means being able to leave the prison for a short time and is an important process for the resettlement and rehabilitation of prisoners.
SED	Sentence expiry date: the date on which a determinate sentence ends.
SFO	Serious further offence: where a service user subject to (or recently subject to) supervision by the Probation Service commits a specified serious offence, a review of the management of the case is conducted.
Tariff/tariff expiry date	The minimum term an offender must spend in prison before becoming eligible to apply for parole. This is specified by the sentencing judge.

Annexe 2: Terms of reference

HM Inspectorate of Probation – an inspection of the proportionality of decisions to recall offenders on an IPP licence to custody.

Background

The sentence of imprisonment for public protection (IPP) was introduced under the *Criminal Justice Act 2003* and following criticism of the sentence it was abolished in 2012.

On 28 September 2022 the Justice Select Committee published a report outlining ongoing concerns about the sentence, including the fact that the number of individuals who have been recalled would soon exceed the number who had never been released. The Committee argued that some individuals serving an IPP sentence on licence in the community are being recalled unnecessarily.

In response, on 03 March 2023, the Secretary of State for Justice asked HM Inspectorate of Probation to conduct a thematic inspection to consider the necessity and proportionality of decisions to recall to custody offenders who have been released on an IPP licence.

Proposed scope

The inspection will include:

- a sample of IPP prisoners who were released and subsequently recalled to custody
- current policy and practice regarding recall of IPP prisoners
- the views of recalled IPP prisoners
- ongoing work in custody with those who have been recalled.

The inspection will not include:

- released IPP prisoners who have not been recalled
- IPP prisoners who have never been released
- prisoners serving a determinate sentence, a life sentence or an extended sentence.

Workstreams:

1) Data analysis

We will review MoJ/HMPPS data on IPP recall events for the period 01 January 2019 to 31 March 2023, including:

- length of time since sentence for those recalled during this time period
- how long those recalled during this time period had spent in the community prior to the recall event (i.e. from most recent release to most recent recall)
- how many individuals recalled during this time period had been re-released (up to 31 March 2023)
- for those who had been both recalled and re-released during this time period, how long they had spent in custody between recall and re-release³⁸
- how many were recalled more than once during this time period
- the stated reasons for the recall events that took place during this time period, including reoffending, poor behaviour and non-compliance.

2) Policy and practice

- We will interview national policy and practice leads about relevant issues and actions being taken to address these.

³⁸ Because of the number of multiple recalls during this time, this question proved too complex.

- We will conduct meetings with groups of staff and managers in the Probation Service to elicit evidence about practice at a local level.
- We will review current policy and practice documents.

3) Case reviews

We will review a sample of 25 to 30 cases to assess the necessity and proportionality of decision-making and to provide case studies for the published report. The sample will be selected from those recalled between 1 January 2022 and 31 March 2023.

The lines of enquiry will include:

- How long had the individual been in the community before the (most recent) recall?
- Was there adequate preparation for their release?
- During their period in the community, did they have access to sufficient support, including, but not limited to: appropriate accommodation, substance misuse services, mental health and wellbeing services?
- If not, did the gap in support contribute to the decision to recall?
- Had the individual been given a warning about their behaviour prior to recall?
- What was the primary reason for the recall – e.g., facing a further change, non-compliance, or poor behaviour including substance misuse.
- Was there a clear link between the behaviour that triggered the recall and behaviour exhibited at the time of the index offence?
- Were alternatives to recall sufficiently considered?
- Was the decision to recall necessary – i.e., proportionate to the risk they presented to the public at that point?
- Was the recall initiated out of hours?
- Was it an emergency recall?

4) The views of recalled prisoners

- We will commission User Voice to interview up to 30 IPP prisoners who have been recalled
- These will be the prisoners in our case sample as far as possible.

Methodology:

Ahead of the fieldwork:

- We will conduct an analysis of relevant data relating to IPP recalls during the period 01 January 2019 to 31 March 2023, in order to identify any trends and to inform the selection of the case sample.

Fieldwork:

- We will conduct a deep dive review of a sample of IPP prisoners who have been recalled to custody during the period from 01 January 2022 to 31 March 2023.
- The case sample will be designed in order to pursue identified lines of enquiry, including: length of time in custody; preparation for release; period in the community; reasons for recall.
- Issues of organisational policy and culture will be addressed through a review of policy, focus groups and semi-structured interviews.

Publication:

We intend to publish this independent review by the end of March 2024. We will make recommendations as appropriate, e.g. to the Probation Service, HMPPS and MoJ.

Annexe 3: Methodology

Analysis of data

The MoJ provided us with data on all 2,783 recall events that took place between 01 January 2019 and 31 March 2023. These events related to 2,057 individuals; some were recalled on more than one occasion during this time period.

Case sample

In advance of our fieldwork, we analysed data provided by the MoJ on all recall events that took place between 01 January 2019 and 31 March 2023. We selected our case sample from those recalled between 01 January 2022 and 31 March 2023, reflecting a range of criteria, including the number of recalls, offence category, tariff, reasons for recall, length of time in the community before recall, and gender and ethnicity.

Our review is based on those who, at the time of our fieldwork, remained in custody. Those who were released after a recall and have remained in the community are excluded from our review. Arguably, that means that our sample is biased towards those who may be feeling the most negative about their recall. However, these are not two distinct groups. Some of those currently in the community may be recalled at some point in the future; and some of those currently in prison will be released and resettle successfully in the community.

Inspection fieldwork

The fieldwork took place over two weeks. During the week beginning 05 September 2023, we reviewed a sample of cases. During the week beginning 11 September, we met with senior leaders from MoJ and HMPPS. We also followed up lines of enquiry with other policy and operational leads.

Case review

From the people recalled between 01 January 2022 and 31 March 2023, we selected 26 individuals to review in more detail. The case sample was selected to reflect as far as possible some characteristics of the larger sample: index offence; original tariff; number of recall events; reasons for recall; length of time in the community before the most recent recall; gender; and ethnicity.

The selected sample did not include those who had been recalled and subsequently re-released, although in one case the individual was re-released shortly before the fieldwork week, and another individual was transferred to a hospital facility. We decided to keep these people in our sample.

The selected cases were in (or had been until re-release/discharge) one of 12 prisons: Buckley Hall, Featherstone, Holme House, Leeds, Low Newton, Northumberland, Oakwood, Ranby, Stafford, Styal, Thameside and Wormwood Scrubs).

They were managed by COMs from nine probation regions: Greater Manchester, West Midlands, East of England, North East, Yorkshire and the Humber, North West, South Central, East Midlands and London.

The case records of the selected cases were reviewed through OASys and nDelius. COMs and POMs responsible for these cases were interviewed through Teams meetings.

User Voice

User Voice visited 11 of the 12 prisons from which our cases were drawn. Four lived experience peer researchers and the project lead conducted semi-structured interviews with 26 people, ran four focus groups, and surveyed 105 people. In total, 111 people on IPP sentences had their voices heard.

Their findings did not inform our case reviews, which were conducted with no knowledge of the interviews with these individuals. We have drawn on their overall findings in this report. [User Voice will publish a full report separately on 23 January 2024.](#)

Leadership, policy and practice

Senior leadership

During the inspection we met with:

- Executive director, HMPPS Wales and Public Protection
- Director of Public Protection Group
- Head of Public Protection Casework Section
- Chief Executive of the Parole Board
- Regional probation director, South West (with portfolio responsibility for prison and resettlement)
- Lead psychologist, HMPPS Women's Directorate
- Chartered and registered psychologists (indeterminate sentenced prisoners lead)
- Public protection operational policy and support managers
- OMiC case management delivery leads
- Head of psychology at HMP Thameside
- Head of Hull and East Riding Probation Delivery Unit
- Performance and quality officer, Yorkshire and the Humber probation region
- Head of OPD pathway and senior commissioning managers (HMPPS and NHS)
- Head of strategy and assurance, South West probation region.

Practitioners and operational managers

We interviewed practitioners responsible for the cases in our sample. We also conducted two focus groups, with a total of eight probation officers and six senior probation officers from Greater Manchester and London.

Policy and practice

Before the fieldwork, we read policy and practice documents produced by the MoJ and HMPPS. These are listed in the references.

Where we needed further information, we followed up lines of enquiry by email and Teams calls.

Annexe 3: Profile of our case sample

Profile of the 26 case samples reviewed:

Gender	
Male	22
Female	4

Race and ethnic category	
White	23
Asian or Asian British	1
Black or Black British	2

Age now	
Under 30	0
30 – 39	9
40 – 49	9
50 – 59	6
60 or over	2

Index offence	
Violence against the person (including affray, violent disorder and threatening behaviour, even where there is no actual physical assault)	11
Sexual offence (contact)	6
Burglary	1
Robbery	6
Arson	1
Other indictable offences not listed above	1

Tariff	
Less than 2 years	10
2 years to less than or equal to 4 years	9
Greater than 4 years to less than or equal to 6 years	5
Greater than 6 years to less than or equal to 10 years	2
Greater than 10 years	0

Number of times each individual had been recalled during their sentence	
One recall	5 people
Two recalls	11 people
Three recalls	6 people
Four recalls	2 people
More than four recalls	2 people

Reasons for the most recent recall (more than one reason may apply)	
Facing further charge	14
Non-compliance	16
Failed to reside	3
Poor behaviour	7
Drugs/alcohol	5
Failed to keep in touch	6
Other	0

Date of first release from prison	
2011 – 2013	7
2014 – 2016	11
2017 – 2019	6
2020 – 2022	2

Date of release prior to most recent recall	
2014 – 2016	6
2017 – 2019	5
2020	4
2021	3
2022	8

Time in the community before most recent recall	
This table is based on how long people had spent in the community in the period from the release prior to their most recent recall.	
Less than 3 months	4
3 months – under 12 months	6
12 months – under 2 years	3
2 years – under 5 years	6
Over 5 years	7