

Indeterminate Sentences for Public  
Protection:

A Joint Inspection by HMI Probation  
and HMI Prisons

March 2010

## FOREWORD

This is the second of two joint inspections by our two inspectorates, the first of which was led by HMI Prisons and published in September 2008. Our first report commented principally on how the influx of prisoners subject to the new indeterminate sentences, introduced in 2005, was flooding the prison system; this report focuses more on probation's role in managing these offenders, both in custody and after release.

A very wide range of offenders has been caught by the new sentences of Imprisonment for Public Protection (IPP) and Detention for Public Protection (DPP) for the under-18s. By 31 December 2009, 5,788 individuals had received one of these sentences, of whom only 99 had been released (and 24 of these had been recalled). They now constitute about one in fifteen of the total prison population.

As shown in our first inspection, managing such cases through their indeterminate sentences is a more demanding task than work with those serving fixed-term sentences. With indeterminate sentences, prisoners cannot be released at all until probation and prison staff have done all the work they can with the offender - with the offender's active cooperation - and made an evidenced case to the Parole Board that the individual can now be safely managed in the community. If the work done with IPP prisoners while in custody is not fully effective for any reason, it leads to people staying in prison longer, which in turn makes the capacity problem for the system as a whole even worse.

Our original aim in this inspection was to assess work done with these cases after their release, but because so few of these prisoners have been released to date there is little for us to report on such work. As for pre-release work, we have seen some examples of very good practice, but overall probation practice does not meet the exacting quality needed with IPP cases often enough. Accordingly, we have some detailed findings to report for every stage of the work done with these cases: from assessment and pre-sentence reports, through the sentence itself, then parole reports and finally to supervision on licence and attending to the needs of victims.

Nevertheless, the more important issue is the one of overall capacity. We have doubts about probation's capacity to work effectively with each case under current resourcing arrangements, when the numbers of cases still coming through the system are so great. Although the range and scope of the IPP sentence was restricted, in amending legislation in 2008, a high number of prisoners remain in the system and continue to enter it.

The wide scope of these sentences means that there will continue to be a huge number of such prisoners that neither the probation service nor the prison system currently have the capacity to handle effectively. They also place a considerable burden on an already stretched Parole Board. We consider that the present position is unsustainable. This suggests the need for a major policy review at Ministerial level. Such a review would need to consider whether the resources needed to manage these sentences properly are proportionate to the benefits they might achieve.

**ANDREW BRIDGES**  
HM Chief Inspector of Probation

**ANNE OWERS**  
HM Chief Inspector of Prisons

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Ray Wegrzyn; Joy Neary; Les Smith  
**HM Inspectors of Probation**

Laura Nettleingham  
**Senior Research Officer, HMI Prisons**

Liz Calderbank  
**HM Assistant Chief Inspector of Probation**

Oli Kenton; Kevin Ball  
**Information Team, HMI Probation**

Liam Murphy  
**Inspection Support Team, HMI Probation**

Catherine Calton; Christopher Reeves  
**Publications Team, HMI Probation**

## EXECUTIVE SUMMARY

### Introduction

1. The Criminal Justice Act 2003 established two new indeterminate sentences, Imprisonment for Public Protection (IPP) for adults and the parallel sentence of Detention for Public Protection (DPP) for children and young people under-18. (For a description of these sentences see Chapter 3.)
2. These sentences became available to the courts in 2005 and resulted in a sudden increase in prisoners serving indeterminate sentences. This created a number of problems, most immediately for the prisons who suddenly had to deal with a huge influx of prisoners, many with short tariffs and some as low as 28 days, who were particularly difficult to manage.
3. As a result of widespread concerns about the new indeterminate sentences, the government amended the legislation; the Criminal Justice and Immigration Act 2008 gave the courts more discretion in deciding whether to impose an indeterminate sentence. These changes came into effect in July 2008 and over the remainder of the year the rate of new IPP sentences fell by about half. This drop was, however, less than predicted and the number of IPP prisoners held within the prisons continued to rise by 20% year on year, mainly as few were being released. As of December 2009, there were 5,788 sentenced IPP and DPP prisoners, of whom only 99 had been released and 24 later recalled. The management of the increasing numbers serving indeterminate sentences has therefore been a continuing problem for the prison system.
4. Perhaps not surprisingly, given the immediate difficulties of containing and managing IPP prisoners, not a great deal of attention has yet been paid to planning for their release into the community. Yet success on release will depend, to a large extent, on the quality of the work undertaken whilst in custody, which now needs to be undertaken with growing numbers of prisoners. Although only a small proportion of IPP/DPP prisoners had been released by the end of December 2009, they will be subject to active supervision for a minimum ten year licence; and their rising numbers will be a potentially increasing problem for the probation service to manage in the years to come.

### The inspection

5. This was the second of two thematic inspections of IPP sentences over a three-year period. The first inspection, led by HMI Prisons and supported by HMI Probation, was the subject of our first report, *The*

*indeterminate sentence for public protection – A thematic review*, published in September 2008.

6. That first report drew attention to the serious problems which had resulted from the growth in IPPs and DPPs; and made 30 separate recommendations to tackle them.
7. This second inspection was led by HMI Probation. It was designed to build upon the first inspection, although not to replicate it, and it focused on the work by the probation service. During its course, we assessed 176 IPP sentenced cases, from six probation areas/trusts, against specific criteria. The inspection's terms of reference were to:
  - ▶ *examine the impact of the new indeterminate sentences for public protection on offenders and their management*
  - ▶ *assess the effectiveness of preparation for their safe release and management in the community and the contribution of probation areas/trusts in ensuring that the public was better protected as a result of these sentences.*

### **Overall findings**

8. There are key differences between IPP and other prisoners. Managing such offenders through their indeterminate sentences is a more demanding task than work with those serving fixed-term sentences. With indeterminate sentences, prisoners cannot be released at all until probation and prison staff have done all the work they can with the offender, with the offender's active cooperation, and made an evidenced case to the Parole Board that the individual can now be safely managed in the community. Their management consequently requires an intensive level of service by the offender manager ('home' probation officer) as well as by prison staff.
9. We did not consider that sufficient planning had been done to take into account the implications for probation's future overall workload, or the future costs of supervising this sizeable and growing number of IPP cases for many years. Meanwhile, although we found some good examples of individual practice, our general finding was that the probation practice we saw during this inspection was not done well enough often enough.
10. Although we have documented, in the main body of this report, where practice could be improved, we have given higher priority to our two main findings. First, we have doubts about the probation service's capacity to work effectively with each IPP case, under the current resourcing arrangements. Secondly, we have doubts about the viability of a system which places responsibility for sentence planning and its implementation with an offender manager ('home' probation officer), who lacks the authority to command the necessary resources within the prison system, even where these are actually available.

## **Conclusion**

11. The current situation is not sustainable. IPP prisoners now constitute around one in fifteen of the total prison population. As of December 2009, only 75 IPP prisoners had been released and stayed out, while there were around 70 newly sentenced IPP prisoners every month entering prison. Of the 5,788 IPP prisoners in custody, 2,393 had passed their tariff date, i.e. the period announced by the judge as the due punishment for the offence.
12. Even with the recent changes in legislation, these numbers far exceed the capacity of the probation service and the prison system (and the Parole Board for that matter) to deliver the necessary quality of service. The resources in both systems are finite and, in effect, decreasing. This requires a policy review at Ministerial level. Choices will need to be made about the costs and benefits of these sentences; and where and how resources can most usefully be deployed.

## RECOMMENDATIONS

Our main recommendation is directed at the highest strategic level:

### **Main recommendation:**

- ▶▶ Given that the present position is unsustainable, a major policy review should be conducted at Ministerial level, analysing the costs and benefits of these sentences.

Pending implementation of our main recommendation, a number of operational issues would benefit from immediate attention in the meantime:

### **Practice recommendations:**

#### **National Offender Management Service should:**

- ▶▶ produce an appropriate information leaflet for circulation to all victims where an IPP sentence is imposed
- ▶▶ provide further guidance on pre-sentence report writing and the preparation of parole reports in IPP cases, supported by training

#### **National Offender Management Service and local probation areas/trusts should:**

- ▶▶ create opportunities for probation and prison staff to learn more about each other's organisational culture and practice so that they can each engage more effectively with each other.

#### **Probation areas/trusts should:**

- ▶▶ ensure that offender managers supervising IPP cases have sufficient knowledge and support to implement their role as required
- ▶▶ implement effective quality assurance arrangements to ensure that pre-sentence reports and parole reports in IPP cases meet the required standard
- ▶▶ improve the timeliness and quality of sentence plans in IPP cases
- ▶▶ include victim contact staff in briefings and training about IPP sentences to strengthen the relationship between the victim contact work and the management of each case, so that victims receive an improved service
- ▶▶ improve the arrangements for managing the transfer of young people subject to DPP from the YOT to the probation service. This should take into account the needs and experiences of children and young people and include at least a proper three-way handover meeting.



## 1. STRUCTURE OF THE INSPECTION AND ITS METHODOLOGY

### Summary

This chapter outlines the development of the inspection structure and methodology.

### Key points

- » This was the second of two inspections planned by the Criminal Justice Chief Inspectors Group.
- » The focus of the inspection had to change due to the small numbers of IPP prisoners released on licence.

### Terms of Reference

- 1.1. The inspection of IPPs was agreed by the Criminal Justice Chief Inspectors Group (CJCIG) and formed part of the Joint Inspection Business Plan 2007-2008<sup>1</sup>, as agreed with the relevant Ministers.
- 1.2. Two inspections were planned. The first, led by HMI Prisons and supported by HMI Probation, focused on work prior to and immediately after sentence. The resulting inspection report<sup>2</sup>, *The indeterminate sentence for public protection - A thematic review* was published in September 2008 and made 30 recommendations to tackle the serious problems created by the rapid growth of IPPs and DPPs:

*The indeterminate sentence for public protection - A thematic review*

Introduction:

*First, the breadth of the definition meant that this expensive and long-term sentence could be, and indeed was, over-used and insufficiently focused on the population for which it was designed. Second, there was no planning or resourcing to ensure that the already overstretched systems into which these prisoners were to be decanted were capable of dealing with them. Third, this created a vicious circle, in which IPP prisoners were both casualties and contributory causes of a severely overcrowded prison system. Moreover, as they tend to be younger, frustrated prisoners with complex needs, they are likely to pose significant control problems and self-harm risks.'*

- 1.3. This second inspection was led by HMI Probation and was originally intended to focus on offenders who were on licence in the community. However, according to the Public Protection Unit in NOMS, as of April 2008, when the inspection was being planned, only 35 of the 4,335 prisoners sentenced to an IPP had actually been released by that time,

although many had passed their 'tariff date'. As a result, there was not a sufficient sample upon which to base an inspection; and we decided instead to inspect all aspects of the work undertaken with IPP prisoners by probation areas/trusts.

- 1.4. The terms of reference for the inspection were subsequently redefined and approved by the CJCIG as:
  - ▶▶ to examine the impact of the new indeterminate sentences for public protection on offenders and their management
  - ▶▶ to assess the effectiveness of preparation for their safe release and management in the community and the contribution of probation areas/trusts in ensuring that the public was better protected as a result of these sentences.

### **Developing the inspection**

- 1.5. Detailed criteria were developed to support the terms of reference. Each criterion had a series of sub-criteria against which a questionnaire was developed for file assessments. Greater Manchester Probation Trust kindly allowed us to pilot this questionnaire on a sample of their IPP cases.
- 1.6. In order to identify the areas for fieldwork, we needed to find out how many IPP sentences were being supervised in each of the 42 probation areas/trusts. This information was not stored routinely by NOMS at the time, but the departmental statistics unit was able to provide us with a breakdown of IPPs by committing courts; and we worked on the hypothesis that in most cases this analysis would usually link with that court's probation area. Thus, we were able to identify areas/trusts that had the highest and lowest proportions of IPPs compared to their overall custodial caseload.
- 1.7. Fieldwork for the inspection was carried out between October 2008 and January 2009 in Avon & Somerset, Leicestershire & Rutland, Merseyside, South Wales, Suffolk and Sussex.

### **Profile of Sample**

- 1.8. The number of cases inspected was in proportion to the total number of IPP cases supervised by the areas/trusts. We selected 176 files across the six areas. The inspection sample comprised 168 male and eight female prisoners. Three-quarters of the total identified themselves as white British and 32% were serving sentences for offences of violence, including attempted murder. Almost one-quarter (23%) had been convicted of robbery.
- 1.9. In each area we tried to identify any IPP offenders who had been released on licence, so that we could examine outcomes from the sentence. Seven of the male offenders came into this category and,

whilst this was too small a number on which to draw any firm general conclusions, we comment on these cases at points in this report.

### **Inspection methodology**

- 1.10. During fieldwork, we met with strategic managers, middle managers, offender managers and victim liaison staff in each of the areas/trusts visited. These meetings provided an opportunity to consider a range of themes, as well as seek comparisons across areas. It also allowed us to explore any issues arising from the files we had read.
- 1.11. We also met with representatives from NOMS and, in Leicestershire & Rutland, with four staff from two prison Offender Management Units within the county; three of whom were prison officers who worked as offender supervisors and the fourth was a seconded senior probation officer. They were able to provide an invaluable insight into the prisons' perspective.
- 1.12. In addition, a questionnaire for victims was developed in consultation with HMI Prisons' research department.

## 2. THE IPP SENTENCE

### Summary

This chapter describes the legislation introducing the IPP sentence and subsequent amendments.

### Key points

- ▶ Although legislation had been passed to limit the number of IPP sentences, the numbers in custody continued to rise because of the slow rate of release, putting pressure on already stretched prison resources.

### The initial legislation

- 2.1. The Criminal Justice Act 2003 created a new sentence of IPP for adults and a parallel sentence of DPP for children and young people under-18. These new sentences were similar to a life sentence of imprisonment in that:
  - ▶ the court set the minimum term – the ‘tariff’ - which had to be served before the release date could be determined by the Parole Board
  - ▶ offenders were not released until they had satisfied the Parole Board that they could be safely managed in the community
  - ▶ after release, offenders were subject to a life licence and could not apply for it to be suspended for at least ten years.
- 2.2. The sentence was available for any one of 95 serious violent or sexual offences (ranging from manslaughter to indecent assault) that carried, but did not always attract, a maximum sentence of ten years or more. In addition, until July 2008, if an offender had previously committed one of the 95 serious violent or sexual offences, or any offence from a further list of 58 (which included, for example, affray or criminal damage), the court had to make a *presumption of dangerousness*, that is, that the offender posed a significant Risk of Serious Harm (RoSH) to the public. The court was then required to impose an IPP, unless presented with information about the offence or the offender, which made an indeterminate sentence unreasonable.
- 2.3. The combined effect of the wide range of specified offences and the *presumption of dangerousness* ensured a rapid increase in the use of

indeterminate sentences, giving rise to widespread concerns\*. By July 2007, the number of sentences passed had exceeded NOMS' estimates for IPPs by some 600. Some offenders were sentenced to IPPs with short tariffs, one as low as 28 days. Although most would have received a custodial sentence of some kind before the introduction of the IPP, the increase put considerable pressure on prison resources as IPP prisoners' rate of release was much slower than that of prisoners serving a determinate sentence.

### **Subsequent legislative changes**

- 2.4. The government acted to address some of these concerns. The Criminal Justice and Immigration Act 2008 removed the *presumption of dangerousness* and allowed courts greater discretion in the use of IPPs. It also introduced a minimum tariff for IPPs, normally two years of actual custodial time.
- 2.5. Following the implementation of the Criminal Justice and Immigration Act 2008, in July 2008, the rate of new IPP sentences being passed fell by about a half. In the six months up to July 2008, 850 IPP sentences were made, averaging 141 per month, whereas the number for the next six months halved to 420, an average of 70 per month. The numbers held in prison, however, continued to rise at an annual rate of 20%, because of the continuing slow rate of release.
- 2.6. As of December 2009, there were 5,788 IPP and DPP prisoners in custody. They constituted around one in fifteen of the total prison population. Only 75 had been released and stayed out, while of the total 5,788 IPP and DPP prisoners, 2,393 were past their tariff date, i.e. the period announced by the judge as the due punishment for the offence.

\* In July 2007, the Prison Reform Trust and the then Chairman of the Parole Board for England and Wales independently drew attention to the impact of the increased numbers of IPP prisoners.

### 3. STRATEGIC MANAGEMENT

#### Summary

This chapter describes the implementation of IPP sentences.

#### Key points

- ▶▶ From January 2008, IPP prisoners were managed within the Offender Management Model (OMM) instead of the lifer model. However, the potential benefits of this change were not achieved because of the limited range of programmes available
- ▶▶ Phase III of the Offender Management Model was not consistently implemented across either the prison or probation services and we found considerable confusion amongst probation staff about key aspects of practice
- ▶▶ There were a potentially sizeable and accumulating number of IPP cases who would be subject to active supervision for many years. Probation areas/trusts needed to give more consideration to the implications of this for their overall workload and future resources.

#### Implementation of the Criminal Justice Act 2003

- 3.1. As part of the implementation of the 2003 Criminal Justice Act, in June 2005, NOMS published a national guide<sup>3</sup> to the new sentences for public protection. The publication date was deliberately timed to coincide with a training programme to be delivered in all probation areas. This training was aimed at offender managers and generally reported by those who attended as helpful.
- 3.2. At first, IPP prisoners were treated as lifers. This might have seemed appropriate, but it failed to recognise that the numbers of IPP prisoners were likely to be significant and would include a sizeable proportion with short tariffs, given the basis upon which the sentence was made; and that provision within the prisons estate for lifers was not geared up to take on such a sizeable group over such a short period of time.
- 3.3. Although lifers and IPP prisoners were both subject to an indeterminate sentence, they differed in a number of ways. The lifer may have committed only the one offence of murder and not otherwise be criminally active, whereas the majority of offenders receiving an IPP

have a criminal history and criminalised lifestyle. These differences were recognised by many lifers themselves who, we were told, felt considerable resentment towards the IPP prisoners who were being prioritised for programmes that they had been waiting to access.

- 3.4. The subsequent pressures placed on the prisons were well documented by HMI Prisons in the first inspection\* on this subject:

*The indeterminate sentence for public protection - A thematic review*

Introduction:

*This large number of new, and resource-intensive, prisoners was fed into a system that was already under strain. By autumn 2005, when such sentences began to be passed, the prison population was surging, and has continued to do so. There are now nearly 8,000 more prisoners in the system than the average for 2005. This has not only increased pressure, and reduced manoeuvrability, within the prison system; it has also meant that a great deal of officials' time and energy has been taken up with simply finding enough prison spaces. Similarly, the Probation Service was increasingly under strain as a result of increased workloads.... This was a perfect storm. It led to IPP prisoners languishing in local prisons for months and years, unable to access the interventions they would need before the expiry of their often short tariffs.....*

- 3.5. The human consequences were brought to national attention by a report<sup>4</sup> prepared by Stephen Shaw, the Prisons and Probation Ombudsman, into the sudden death of a prisoner subject to IPP, where he stated:

*'This report raises important questions about the sentence of Imprisonment for Public Protection (IPP) and the extent to which the Prison Service can currently provide for those serving such sentences.'*

- 3.6. Mr Shaw continued to make the following recommendation:

*'The National Offender Management Service should review the number and location of prisons that are able to work with those serving an IPP sentence with a view to increasing such places as quickly as possible. Delays in transferring someone to a suitable prison where they can start to work towards their sentence plan targets must be minimised.'*

### **Inclusion of IPP prisoners in the Offender Management Model**

- 3.7. It was recognised that inclusion of IPP prisoners in the lifer system was unsatisfactory and it was determined that, from January 2008, they were to be managed within the Offender Management Model. This move was designed to provide IPP prisoners with a clear path through the prison system, focused on their offending behaviour and *Risk of Harm to others*. It resulted in a series of major changes in the way that they

\* HMI Prisons and HMI Probation, *The indeterminate sentence for public protection – A thematic review*

were to be managed which are detailed in the chapter: Offender Management.

- 3.8. The changes were introduced by a one-day briefing event to all offender managers, supported by guidance<sup>5</sup> that highlighted the processes, procedures and roles involved in the model and an implementation manual<sup>6</sup> that placed particular emphasis on partnership working and information exchange.
- 3.9. The briefing event was not generally experienced quite as positively as the previous training. Whilst some offender managers described the manual as extremely useful, it was not consistently implemented by either the prison or probation services. There was consequently no structured approach across both services for ensuring that IPP prisoners' sentences were actively managed.

### **Guidance**

- 3.10. In addition to the key guidance documents, NOMS have, from time to time, circulated notes and newsletters providing a variety of information about IPPs and the legislation. Unfortunately, given the amount of material circulated from the centre to probation areas/trusts, specific items rarely received any significant attention, unless flagged up for staff and we found that very few offender managers were aware of these additional documents.
- 3.11. Whilst the national guidance was reasonably thorough and comprehensive, it could not take account of variations within team structures, or of other local practices. These, and other such issues, needed to be addressed by the areas themselves. Overall, although some areas had issued practice notes which were, on the whole, helpful, we found little local guidance for staff and considerable confusion amongst offender managers about key aspects of practice with IPP prisoners.

### **Business planning**

- 3.12. One of the effects of the change in legislation in July 2008 was that the rate of new IPP sentences being passed reduced considerably. The number of offenders subject to an IPP, both in prison and potentially in the community, nevertheless, continued to rise because of the slow rate of release and the length of period to be spent on licence. The active licence period, a minimum of ten years up to life, is longer than that served by some life sentence prisoners in practice and will undoubtedly have resource implications.
- 3.13. It was apparent that areas/trusts needed to consider further the practice issues generated by IPP prisoners and the implications for their workload overall, and the future costs of a sizeable and cumulating number of offenders, subject to active supervision for many years.



- 3.14. Although all areas could produce a list of their IPP cases, we found considerable variations, including inaccuracies, in recording tariff length. If an area was to try to scope the level of offender management activity (sentence planning and review meetings, parole visits, problem solving), they would consequently struggle to identify all of the elements to inform their deliberations. Inaccuracies in recording tariff length also had implications for offender management practice.

### **Conclusion**

- 3.15. The legislative and administrative changes made in 2008 for the management of IPP prisoners had not been sufficient to bring about the improvements required
- 3.16. We therefore recommend that:
- ▶ **given that the present position is unsustainable, a major policy review should be conducted at Ministerial level, analysing the costs and benefits of these sentences**

## 4. ASSESSMENT PRIOR TO SENTENCE

### Summary

This chapter focuses on the preparation of pre-sentence reports (PSRs) and the assessment of *Risk of Harm to others* on offenders facing an IPP sentence.

### Key points

- ▶ The language used in the national guidance to help practitioners distinguish between RoSH and dangerousness was not easy for practitioners to understand
- ▶ Although we saw some general improvement in practice overall, compared to the first inspection, the quality of PSRs written on IPP prisoners was often still unsatisfactory
- ▶ Report writers did not assess the offender fully enough in over one-third of the cases examined. This had implications both for sentencing and the way the individual was managed within the prison system.

### Provision

- 4.1. The *National Guide for the new Criminal Justice Act 2003 sentences for public protection*, issued by NOMS in June 2005, stated that: *'it will ultimately be a matter for the court how they form their opinion of risk, but Section 156(3)(a) of the act requires the court to obtain a PSR before forming any opinion on risk which would inform sentencing under the provision, unless the court believes no question of significant risk arises, or the offender is so obviously dangerous as for it to be indisputable.'* This statement suggested that PSRs would normally be requested when an IPP was being considered or within the scope of sentencing options. Given the nature of the offenders and the offences under consideration, it would be unlikely for these reports to be requested under the 'fast delivery' arrangements.
- 4.2. Only 3 of the 60 cases (5%) examined during the first inspection had no PSR completed for court, compared with 20 (11%) of 176 cases in this second inspection. These cases were usually where the offender was considered as *'so obviously dangerous'* that none was required under the Act and often related to charges of robbery or violence. In two cases, a PSR had not been provided because the offender refused to cooperate, despite being remanded in custody. In one, they simply refused to accept

a visit from the report writer and in the other, behaved in such a threatening and abusive manner that an interview was not possible. Reports could, and possibly should, have been prepared under these circumstances, based on the information available, but may have had limited value.

### **'RoSH' and 'Dangerousness'**

- 4.3. The *National Guide* attempted to explain the requirements of the legislation and the respective roles of the probation service and the courts in assessing 'RoSH' and 'dangerousness' to practitioners. The language used was, at times, unfortunately convoluted and lacked clarity. The guidance asserted that PSRs should *not* assess or indicate dangerousness but continue, as previously, to provide an identification of RoSH issues to assist the court in *its* determination of *dangerousness*. It goes on to say '*the Risk of Serious Harm assessment should not be framed in 'significant risk' or 'Schedule 15 test' terms.... it should be framed in terms of risk of reoffending and impact so the court can take both variables into account along with information from the prosecution, defence and other specialist reports in coming to its assessment of dangerousness. It is for the court to come to the judgement of significant risk as defined in the Act. The role of the probation service is to help the court come to their judgement through the delivery of evidence based assessments*'.
- 4.4. The guidance then included a caution stating that '*practitioners must note the particular use of the word serious..... it is not to be confused with serious as used in previous legislation or in determining sentencing thresholds.*'
- 4.5. This was clearly a potentially difficult issue. It was hard to be confident that probation staff would not confuse this use of the term '*serious*' with those used on a daily basis but with different meanings.

### **Quality of PSRs**

- 4.6. The first inspection report contained a series of findings on PSRs on IPPs. It also raised significant concerns about the quality of the assessments of *Risk of Harm to others*, undertaken prior to sentence.
- 4.7. NOMS had since paid significant attention to report writing and OASys assessment; and we were therefore pleased to find some improvements in the reports written on IPP cases in the short time since the first inspection.
- 4.8. Nevertheless, although the reports examined during this second inspection were invariably based on an OASys assessment, the overall quality of too many of them still remained insufficient. We found that:
  - ▶ only 65% of the reports contained an analysis of the offence that provided helpful information to the court. Although this finding

showed a marginal improvement on the first inspection, it still left some 55 occasions when the PSR simply told the court what they already knew and did not explore the motivation behind the offence

- ▶▶ only 83% of the reports were considered to outline the pattern of offending behaviour sufficiently clearly to assist the courts in their considerations.

In summary, they were often long on description but short on analysis or explanation.

- 4.9. There were very few instances where report writers had not had access to the previous convictions and circumstances of the current offence from the Crown Prosecution Service (CPS). It was, however, a matter of some concern that there were *any*, particularly in a sample of IPP cases. Properly written PSRs provide an analysis of the offender's motivation for their criminal behaviour. Without knowing precisely the circumstances of the offence, even the best report writer is limited in their ability to provide the court with a useful and accurate account. Given the work that had gone into developing systems to ensure its availability, areas should consider checking how often reports were being prepared without access to CPS information and, if necessary, take the matter up with local Crown prosecutors.
- 4.10. Whilst the proportion of reports containing a clear assessment of *Risk of Harm to others* had increased significantly (from 19% to 62%), since the first inspection, we were still disappointed to find that 38% were not of a sufficient standard. These assessments were so central to the purpose of the report and the overall judgement of the court, that to find that over one-third were not satisfactory was of considerable concern.
- 4.11. We nevertheless agreed with 76% of the 'classifications of RoSH' in the reports sampled, as opposed to 43% in the previous inspection. However, given that all these offenders had been convicted of serious offences, had relevant previous convictions and were facing a significant sentence; the proportion was lower than expected and still not to our satisfaction.
- 4.12. It was clear that many report writers were uncertain how to word the risk assessment section of their report. In some areas, offender managers told us that they were not allowed to make reference to sections of the national guidance by the use of terms such as '*indeterminate public protection*', '*dangerousness*' or '*schedule 15*'. The guidance did not, in fact, say that these terms should not be used and the confusion may have resulted from offender managers relying on their memory of the training, rather than the documents themselves. Where an area had issued local guidance, the reports were clearer and more consistent in style.
- 4.13. We were unable to tell, from half of the reports considered, whether the report writer had made any attempt to prepare the offender for the

likelihood of an IPP. This surprised us and it may well be that, in some cases, these discussions had taken place but were not referred to in the report. However, we also came across examples of offenders claiming that they had not realised the implications of the IPP until some time after sentence. Given that one of the functions of the PSR was to prepare the offender for sentence, this was a significant cause for concern.

### **Identification of diversity needs**

- 4.14. The first thematic inspection of IPPs, led by HMI Prisons, found that a large proportion of report writers were unable to explain the implications of any particular need identified in their assessment of the offender.

*The indeterminate sentence for public protection - A thematic review*

Probation input to IPP prisoners:

*Of the 45 adult IPP cases with a PSR, 31, or over two-thirds, had a special need identified, with some having more than one such need. These included mental health in 21 cases, ethnicity in seven, substance misuse in six, learning difficulties in one, age in another and social care history in another. But in only 14 (one female and 13 male) of the 31 cases had the PSR author demonstrated an understanding of how the need was relevant to the offending and to future risk.*

- 4.15. The Sainsbury Foundation similarly highlighted the prevalence of mental health concerns in its report *In the dark*<sup>7</sup>, published in the summer of 2008.

Foreword to *In the dark*:

*Some have perceived a growing relationship between IPP sentences, the management of 'risk' and 'dangerousness', and mental health. Our findings suggest IPP has converged the worlds of criminal justice and mental health and has sharpened concern about the availability of mental health treatment in prisons.*

### **Prevalence of diversity needs**

- 4.16. We were therefore keen to see how issues around specific needs, in particular mental health, had been developed in PSRs. We decided from the outset that all the identified female and minority ethnic offenders should be included in the inspection to give us the best opportunity to examine any diversity issues in the management of these sentences. Eight (5%) of our sample were female and 44 (25%) were from a minority ethnic group and therefore reflected the fact that we deliberately over-represented both these groups in the sample. We did not, however, find any significant differences in practice between white and black or other minority ethnic groups; the sample group of women IPP prisoners was too small to allow us to make any statistical comparison.
- 4.17. It was not always clear from the record how the individual's race and ethnicity had been determined. It appeared that it was sometimes done

by staff, or copied from a previous document rather than by use of a self-identification form. This practice could have implications for future work with the prisoner if assumptions were then made about key aspects of their life, in particular religion and/or language.

- 4.18. Similarly, few areas had an effective self-identification system for disability and so we relied on our own assessment of the offender's circumstances from the case file. This approach suggested that one-quarter of the sample had a disability that would require attention if it were not to prevent them from making progress with their sentence plan. Of this group, over half had a mental health or emotional difficulty and a further 20%, a learning difficulty or disability. The remainder had some form of identifiable physical impairment.

### **Assessment of diversity factors in PSRs**

- 4.19. In over one-third of the cases we examined, the report writer had not shown any awareness or understanding of the offender's individual needs. This shortfall had implications beyond the sentencing process; learning disabilities, mental health problems or other significant diversity considerations could be significant barriers to success in meeting sentence planning objectives. The PSR was a key document for all those who dealt with the offender after sentence and, if it did not raise such issues, these considerations could easily continue to be missed until a new, and more thorough, assessment was undertaken.
- 4.20. Although this inspection was not designed to consider mental health issues, *per se*, we were alert to any case examples. Once again, we found that PSRs did not demonstrate sufficient understanding of the IPP prisoner's individual need in one-third of the 46 cases where some form of disability had been identified. Whilst still unsatisfactory, this was far fewer cases than in the first inspection and less than we had expected. The responses to these problems varied from prison to prison and between offender managers; and we found instances of people with mental health problems clearly being unable to comply with the requirements of the sentence, whereas others received appropriate support and care.
- 4.21. The principle of equality of access applies to prisoners serving their sentence, as well as to society at large. We were therefore concerned to find a small number of offenders who, it was self-evident, were unable to comply with the rigorous requirements of their sentence and demonstrate a reduction of *Risk of Harm to others*. Examples of such cases are given in the boxes below. In these cases, the reason that the work could not be completed was outside of the control of the individual offender and not linked with their motivation or willingness to comply. These examples mirror examples from the first IPP inspection report. Even with the benefit of an active, assertive and capable offender manager it was unlikely these offenders would reach the point in a realistic timeframe whereby they could be considered for release.

## Conclusion

- 4.22. Probation areas/trusts could do more to improve the quality of reports in cases likely to attract an IPP sentence.
- 4.23. We therefore recommend that:
- ▶ **NOMS should provide further guidance on report writing in cases likely to attract an IPP sentence, supported by training,**
  - ▶ **probation areas/trusts should implement effective quality assurance arrangements to ensure that pre-sentence reports in IPP cases meet the required standard.**

## Practice Examples

One of the eight female offenders in the case sample had mental health problems combined with a significant learning disability. Her general demeanour and behaviour was affected by her limitations and was disruptive. It was evident that her ability to empathise with her victim was very limited, as was her ability to handle the concepts of an offending behaviour programme successfully. She presented a management challenge to prison staff and was unlikely ever to be able to demonstrate, through organised approaches, that she had reduced her level of *Risk of Harm to others*.

An Eastern European man, who had not been in the country very long and whose level of English was minimal, committed a serious rape. He was rightly referred to a sex offender treatment programme, but could not participate because of his poor command of English. He was accordingly directed to an English speaking class which he attended once per week. Whilst well intentioned, the chances of him being able, in a reasonable time period, to learn sufficient English to undertake the sex offender programme, or indeed any other offending behaviour programme, were slender at best.

George had Aspergers syndrome and had been sentenced to an IPP with a three-month tariff, at the end of which he was still waiting for allocation and transfer to a prison that ran the programmes he required. Although he had some understanding of the sentence (although possibly not that he was serving a potential life sentence) he was highly resistant to change and did not accept responsibility for his offending, tending to blame others for his behaviour.

Whilst it could be argued that George was not capable of complying with an IPP sentence, his offender manager worked well with him, as did his offender supervisor. The offender manager continued to prepare his parole report, despite the fact that no decisions had been made as to George's allocation, explaining carefully to the Parole Board what had happened and portraying an accurate picture of George's limitations.

## 5. OFFENDER MANAGEMENT

### Summary

This chapter describes the joint management arrangements for IPP prisoners during their sentence, by the prison and probation services.

### Key points

- ▶ The completion rate of sentence plans for IPP prisoners was unacceptably low, as was the rate of reviews
- ▶ The high level of demand for the limited range of programmes within the prisons made attempts to sequence work virtually unworkable
- ▶ One-quarter of the cases in the inspection sample had not undertaken any work to address their offending or other related issues
- ▶ An offender manager had been allocated to the case within the required timescale in only just over two-thirds of the inspection sample.

- 5.1. The introduction of our first thematic report concluded by commenting on the then anticipated relocation of IPP prisoners from the lifer system, into the offender management units:

*The indeterminate sentence for public protection - A thematic review*

Introduction:

*It is good that action has now been taken, both legislatively and operationally, to manage the crisis this has created... However, the crisis has a long tail: there are thousands of prisoners already in the system who, together with the prison and probation services, will feel its consequences for a long time to come.*

- 5.2. Although some advances had been made, our inspection suggested that there had still been insufficient progress in the management of IPP prisoners.

### Contact between offender managers and offender supervisors

- 5.3. Phase III of the Offender Management Model placed responsibility on offender managers to develop a sentence plan, which was then to be implemented by the offender supervisor in the prison. The offender supervisor was then expected to work collaboratively with the offender



manager and the offender to help the offender access whatever relevant facilities or programmes were available within the prison; and achieve the outcomes specified in the sentence plan. The relationship between the offender manager and the offender supervisor was, therefore, central to effective work with IPP prisoners.

- 5.4. We were pleased to find that 92% of cases in the sample had been allocated an offender supervisor and 99% (all but two) an offender manager. Delays in the allocation of offender managers were, however, a concern. The 2007 IPP guidance stated that offender managers should be allocated within three working days of the sentence, but only 68% of the cases met this requirement.
- 5.5. It had become customary for some years for the probation service only to have contact with the prisoner from the time of the parole report interviews in the majority of cases. For IPP prisoners, however, work needed to start almost as soon as the sentence was passed. The PSR was required, sentence planning had to take place and in cases with a short tariff (less than nine months) work had to start on collecting the parole dossier immediately after sentence. This active form of sentence management constituted a significant change in practice for many offender managers.
- 5.6. It was, however, subject to certain constraints. The Offender Management Model intended that the report writer retained the role of offender manager after sentence. This was clearly ideal and avoided repetition at the start of the order. The model recognised, however, that not all areas were organised in a way that allowed this to happen. Some, sometimes due to the geography and/or distribution of population, still used specialist court report writing teams or 'public protection' teams to good effect. Under these circumstances, a new offender manager had to be allocated within three working days of the sentence. They then had to familiarise themselves with the pre-sentence OASys and quickly make arrangements to undertake a new start of sentence OASys to inform the sentence planning meeting.
- 5.7. They also needed to make contact with the offender supervisor, who should have been allocated to the IPP prisoner within two days of reception. Perhaps not surprisingly, we found many examples of where this crucial link had not been established and the work had either not begun, or else had been started by the prison service without the involvement of the offender manager in order to make an expeditious start to work with the individual prisoner. We also found, in some areas, the offender supervisor in prison took the initiative in establishing contact, whereas in other parts of the country it was the other way round. This core working relationship needed to be established quickly, and failure to do so could have a negative impact on the offender's progress through the sentence.

- 5.8. Whilst recognising that the offender manager was responsible for the overall management of the sentence, much of the actual work had to be delivered, in practice, through the offender supervisor. We looked for evidence of liaison between offender manager and offender supervisor that was more than the formal exchange of the required documents, but a good working relationship, characterised by frequent emails and/or telephone calls and knowledge of each other's approaches and concerns. About three-quarters of the cases we examined met this standard, leaving a disappointing 45 individual cases where the sentences were not being actively managed by their offender manager.
- 5.9. But we did see some very good individual examples of offender managers managing the sentence in an active manner. These individuals had confidence, persistence and ability; they also had support from their area to travel to establishments at key points during sentence planning procedures. In the context of areas having to meet tight financial and performance targets, none of which included IPP sentences, the issue of travel was a vexed one, which different areas handled in different ways. Some had introduced restrictions on travel, partially on the basis of the increased availability of video conferencing facilities. In principle, this was an acceptable compromise. However, offender managers consistently made it clear that video conferences were not a sufficient substitute for actual visits; we learnt of prisoners not being able to access video conferencing suites, because of the pressures of court hearings, or the absence of staff to escort them to and from locations. We also heard accounts of poor video conferencing equipment, making proper interviewing impossible. Both of these complaints constituted surmountable challenges. Improving the equipment and perhaps adding to the provision could result in more effective offender management, though it is probable that certain interviews will always benefit from being done by a real visit.

## **Sentence planning**

### **The role of the offender manager in sentence planning**

- 5.10. The principle of sentence planning exists for all prisoners sentenced to over 12 months' imprisonment irrespective of the nature of their offence. The timely completion of a sentence plan is a key performance target within the prison service. Responsibility for the completion of sentence plans is, however, located with the offender manager in the community who, having completed a thorough assessment of the prisoner, identifies the steps to be taken to address their offending behaviour, *Risk of Harm to others* and any particular vulnerabilities. Interventions might focus on alcohol or drug abuse, cognitive skills; work on employment, training and/or education; or around victims. Sentence planning is, thus, at the heart of managing an IPP sentence.
- 5.11. The low completion rate for sentence plans was therefore a cause for considerable concern. We found no initial sentence plan at all in 26% of

the cases inspected. Only 60% of the remainder had been developed under the active leadership of the offender manager and only half of this last group of cases had been completed within the appropriate timescale.

- 5.12. Ideally, the offender manager would start the process by attending a meeting in the prison, comprising all the other relevant workers as well as the prisoner. However, they did not have control over the system for setting up these meetings, which were sometimes agreed without reference to the offender manager.
- 5.13. Some prisons (or more accurately some offender supervisors) were singularly proactive at trying to engage with offender managers, some of whom were resistant, to make arrangements that suited all concerned. This inconsistency of approach featured throughout this inspection and was in line with the findings of the Offender Management Inspection of prison regions conducted by HMI Probation and HMI Prisons.
- 5.14. Barriers to the successful completion of sentence plans included offender managers' lack of confidence and knowledge about chairing meetings with staff from other organisations. Training had been provided for sentence planning meeting chairs, but according to the feedback had not covered key concerns, such as working across organisational cultures or engaging with the prison appropriately. Some areas had attempted to address these matters by holding joint training sessions with offender managers and prison staff together; these had been well received on the whole but as one-off events in an already full agenda. Some prisons considered, however, that it was the prison's role to chair sentence planning meetings. Some offender managers were happy to comply with this view, although it was at odds with the Offender Management Model and contrary to the majority's expectations.
- 5.15. Other challenges included the lack of up-to-date information about the various programmes run by different establishments. Whilst some programme details had been circulated in the past and had apparently been well received, they had not been updated and quickly became invalid. It would be immensely helpful for such information to be stored on the NOMS *EPIC* database, so that offender managers could access up-to-date information about programmes and their waiting lists, before attending a sentence planning meeting.
- 5.16. Although the offender manager had responsibility for managing the offender's order, once an offender had been received into prison, access to OASys transferred to the prison establishment and the offender manager then had to seek permission from the institution to undertake any changes, including the review. Although this was usually granted without problem, the process could take up to two days.
- 5.17. The poor quality of many initial sentence plans, although perhaps not surprising given the constraints, undermined the offender management process. Without a secure framework provided by good sentence

planning, it was difficult to ensure that effective work with IPP prisoners was undertaken. Shortfalls in the initial plans led to uncertainty and difficulty at the review stage.

### **Reviews**

- 5.18. The national standard requires that sentence plans for people in custody be reviewed within 12 months of the initial planning meeting or following any significant event.
- 5.19. Reviews had been undertaken in only half of the 94 cases in the inspection sample who had reached their review date. In some cases, the failure to complete the review may have been a misunderstanding of the requirements. However, the review date was a key milestone in the sentence planning and management process and it was important that the prisoner had an opportunity to reflect on their progress thus far, as well as consider the challenges ahead.
- 5.20. We identified positive changes in 61% of the reviews we read, which was an encouraging figure. In the other cases, negative changes were reflected in only 5% of the reviews; in the remainder, the status quo applied.

### **Involvement of prisoners in sentence planning**

- 5.21. The implementation manual for Phase III of the Offender Management Model emphasised the importance of the offender's involvement in the sentence planning process. This applied not only to their attendance at meetings, but also to their active participation in determining which areas of work were to be accomplished; they therefore had to understand what they had to do as well as what they could reasonably expect from their offender manager and offender supervisor.
- 5.22. It was, thus, disappointing to find evidence of offenders' active engagement in sentence planning process in only 49% of the sample. Of the remainder, it was clear that 11% had not been actively engaged. We could find no sentence plan in half of the remaining 40% and no information about whether the offender had attended sentence planning meetings or not, or taken part in any way, in the other half. Whilst this may have been because of poor recording practice, the lack of information demonstrated limited understanding about the importance of the offender's contribution. Without a clear 'buy-in' from the offender to the process, its prospects of success were reduced.

### **Getting the work done**

- 5.23. As each of the establishments within the prison estate had different programmes and other interventions, the offender manager had to sequence the different pieces of work to be undertaken and then identify which prison could provide the appropriate programmes. According to the implementation manual, the offender supervisor then had to oversee the

arrangements for moving the prisoner to the appropriate establishment for the first piece of work and ensure handover to the offender supervisor in the new establishment to ease continuity. Inevitably, given the high level of demand for interventions within the prisons and the limited range of programmes, this process was unworkable in practice. Population pressure in the prison system as a whole also inhibited or delayed movements for sentence planning purposes.

- 5.24. Regardless of whether or not good sentence planning had occurred, a significant minority of the cases in the sample had been engaged in constructive work during their sentence. The numbers were, however, still disappointingly low and contributed to concerns about IPP prisoners becoming stuck in the system; 26% of the cases sampled had not undertaken any work at all. Nearly half (48%) had taken part in one or more offending behaviour programmes. This seemed a relatively low proportion, as the majority of prisoners managed by Offender Management Units were expected to take part in an offending behaviour programme. One-third (34%) had received some form of intervention on substance misuse. Again, this seemed relatively low, given that counselling on substance misuse – though not alcohol misuse – was universally available through CARATS.

### **Conclusion**

- 5.25. A number of practical constraints severely impacted on the probation service's ability, as well as that of the prison service, to work effectively with IPP prisoners. Although the same constraints apply to all prisoners within the Offender Management Model, IPP prisoners have to access the limited provision within prisons and cooperate with any programme of work if they are ever to be successful at parole review. This requires the active involvement of both the probation and the prison services, working cooperatively together. The numbers concerned, however, make it difficult for either service to deliver a consistent service to IPP prisoners. More, however, could be done by both the prison and probation services to ease the situation.
- 5.26. In addition to a policy review at Ministerial level, we also recommend that:
- ▶▶ **NOMS and local probation areas/trusts should create opportunities for probation and prison staff to learn more about each other's organisational culture and practice so that they can each engage more effectively with each other**
  - ▶▶ **probation areas/trusts should improve the timeliness and quality of sentence plans in IPP cases.**

## 6. VICTIMS

### Summary

This chapter outlines the work undertaken with the victims of offenders serving an IPP sentence.

### Key points

- ▶▶ The particular needs of victims in IPP cases had not been sufficiently recognised at either a strategic level or by the areas themselves
- ▶▶ The complex terms of the IPP sentence were often not understood by victims on initial contact
- ▶▶ Victims often did not receive clear messages about the IPP sentence, not least because victim contact staff themselves were not always clear about the details
- ▶▶ One area had responded to the general lack of information available to the victims in IPP cases, by producing a helpful leaflet which could be replicated nationally
- ▶▶ Work with IPP prisoners to raise awareness about victims was undertaken in only a small proportion of cases.

### The Legislative Position

- 6.1. Section 69 of the Criminal Justice and Courts Services Act 2000 placed a statutory responsibility on probation boards to make contact with victims of offenders who received sentences of 12 months or more, for serious sexual or violent offences. All areas now employ staff as victim liaison officers (VLOs) who, for the most part, specialise in victim contact work.
- 6.2. The role of victim contact staff within the probation service is to provide information to victims in the period immediately after sentence and thereafter at key points in the sentence. In addition to giving information, they also seek the victim's opinion about any constraints that might be included in the offender's licence, such as exclusion from a certain geographical area; and ensure that these views are passed on to the offender manager. They do not provide counselling, instead relying on other community resources, to which they can refer victims as required.

- 6.3. The victim contact staff are expected to make contact with the victim within 40 working days of sentence and offer them the opportunity of a face-to-face meeting to discuss their role and the services provided.
- 6.4. We found that such contact was made in a number of different ways by the areas visited for the inspection. Some wrote a letter asking the victim to contact them to arrange an appointment. Others adopted a more assertive approach whereby they wrote a letter stating when they would visit, unless they heard to the contrary. This latter method was more likely to result in a face-to-face contact and, from our point of view, was therefore preferable.

### **Guidance on work with victims in IPP cases**

- 6.5. The indeterminate nature of the IPP sentence impacted on victims as well as offenders. It was apparent from the inspection that the particular needs of victims in IPP cases had not been sufficiently recognised at either a strategic level or by the areas themselves. By the nature of the sentence, the offences committed by IPP prisoners are likely to involve a direct victim. The expectations placed on the probation service in IPP cases were the same as for victims and their families of serious violent and sexual offences where the offender received a sentence of four or more years' imprisonment. However, the indeterminate nature of the IPP sentence combined with the uncertainty caused by the potentially short notice of release meant that the victims in IPP cases required particularly sensitive handling.
- 6.6. There was no specific reference to victim work in the *National Guide for the new Criminal Justice Act 2003 sentences for public protection*, published by NOMS in June 2005, when the sentences were implemented. In most of the areas visited, VLOs had been included in the early training on the Act, but not in the implementation of Phase III briefings. There had been no reference in either briefing to victim contact work or the particular needs of victims.

### **The victim perspective**

- 6.7. Direct views from victims are an important part of any inspection but can be difficult to elicit.
- 6.8. In order to avoid causing distress, each area was asked to have an active role in the distribution of the questionnaire that had been developed in conjunction with HMI Prisons. It would appear, however, that the process may have been insufficiently robust as only two completed questionnaires were returned.
- 6.9. One was a man in his 60s and the other a woman in her 30s. Each was from a different area. Both identified themselves as white British and described very different experiences.

- 6.10. Clearly, these two responses could not provide a sufficient sample upon which to base general comments. They did, however, serve to illustrate the challenges faced by victim contact workers in IPP cases, when dealing with victims who decide that they wish to receive victim contact. Neither the provisions of the IPP sentence nor the underpinning tariff system are widely understood by the general public; it would appear that the IPP sentence is often confused with a conventional lifer term. We heard a number of reports of victims' shock on learning about what, to them, seemed an unacceptably short tariff, which was then exacerbated by the difficulties of predicting a possible release date, in even the broadest terms.

***Practice example:***

Victim contact staff across all areas spoke of their difficulties in explaining the complexity of IPP sentence to victims. One commented on how a victim had said: *"I thought he got a life sentence and now you're telling he could be out in two years. What am I supposed to do then?"* The VLO said that she was at a loss as to respond because until the parole decision had been made she could not give the victim any concrete information on which to base decisions.

**Inspection findings from the case sample**

- 6.11. There was an identifiable victim in 145 of the 176 cases included in the case sample.
- 6.12. The timeliness of contact with victims in the 145 relevant cases was not satisfactory. Of those cases which fell into the scope of the victim liaison contact requirements, only 60% had clearly had an offer of face-to-face contact within 40 working days, which was too low a figure. We were unable to identify in 18% of the cases whether contact had taken place or not.
- 6.13. Of those individuals that had been contacted, it was impossible from the file to identify again what had actually occurred, in a high proportion of the cases. It appeared that just under half had been given appropriate information about the criminal justice process in general terms. We were finally able to identify only 44 of the 137 relevant cases where specific information about IPP sentences had been provided. Even allowing for those victims who did not wish to engage, this figure seemed unacceptably low. It may, of course, reflect poor recording. Nonetheless, this was the sort of information that should be clearly and simply recorded, not least because these cases would be held by areas for a significant time and undoubtedly be subject to numerous staff changes. Without effective recording, new staff would not be able to find out what had happened in the case. Equally, there had to be some recognition of the implications for victims and victim contact staff of the lengthy periods of post-release supervision.



- 6.14. It was essential that victim contact files were kept separate from offender files within the same organisation. Equally, it was important that there was communication between offender managers and victim contact staff. Victim contact staff needed to know about key dates in the sentence as they were identified, so that they could make contact with the victim, as appropriate, to seek their views. The offender manager needed to know about the victim's concerns when formulating licence conditions.
- 6.15. The lack of systematic information available to victim contact staff in IPP cases made their reliance on offender managers all the more important. The information required by victim contact staff had not been systematised within the probation service electronic databases and they were, thus, dependent on offender managers to notify them of key items of information. This did not happen with sufficient consistency. Areas with good administrative resource were proactive in following up victim contact through the case records system. A consistent approach to this important issue was needed nationally.
- 6.16. One area had produced a leaflet specifically for the victims of offenders who received IPPs. It had been drawn up in the absence of any comparable material from the centre and was clearly a good idea, as long as the information was accurate. Consideration should be given to the production of a national leaflet so that information is given consistently across the country and not simply across one area.

### **Victim work with offenders**

- 6.17. Work to raise offenders' awareness about the impact of their behaviour has been a feature of probation supervision for many years and can, potentially, have a significant effect on an offender's attitudes and thinking processes. However, we noted that victim awareness work had been undertaken in only 19% of the cases with the IPP prisoners during the sentence\*.
- 6.18. We were more impressed to find that, in 80% of the cases, the offender manager had afforded appropriate priority to victim safety and ensured that its importance was understood by other workers involved in the sentence management process. Examples of this work included stopping prisoners from telephoning the victim or ensuring that letters were not sent inappropriately.
- 6.19. Whilst recognising that in recent years victim contact work and raising offenders' awareness of the impact of their offending on victims had come a long way, this inspection suggested that there was still a lot further to travel, to afford the victims of serious offenders the services to which they were entitled.

\* In inspecting this issue we were looking for programmes of work specifically about victims rather than including modules from other programs which covered general 'victim awareness' issues. We recognise the value of these victim modules within other programmes, but we wanted to identify evidence of focused work that specifically required the offender to engage fully in addressing the consequences of his or her behaviour.

## **Conclusion**

- 6.20. The needs of victims in IPP cases had not been sufficiently recognised at either a national or local level, even though the indeterminate nature of the sentence had as many implications for victims as for offenders.
- 6.21. We therefore recommend that:
- ▶ **NOMS should produce an appropriate information leaflet for circulation to all victims where an IPP sentence is imposed**
  - ▶ **probation areas/trusts should include victim contact staff in briefings and training about IPP sentences to strengthen the relationship between the victim contact work and the management of each case, so that victims receive an improved service.**

## 7. RELEASE ON LICENCE

### Summary

This chapter describes the arrangements for release on licence, including the preparation of parole reports. It also comments on the quality of work with the small number of inspected cases to have been released.

### Key points

- ▶ Despite national guidance, there was considerable variation in parole reports and procedures, both in terms of content and the process followed by different custodial establishments
- ▶ The quality of parole reports was not acceptable in a significant number of cases
- ▶ There seemed to have been little planning or preparation to manage the lengthy supervision period of released offenders.

### Parole Issues

- 7.1. Parole processes were clearly described in the implementation manual for Phase III of the Offender Management Model. This guidance was helpful, in that it was a single source of information available to all staff regardless of role or location. Some, however, felt that it was unnecessarily complex and it appeared to be interpreted differently by prison and probation staff.
- 7.2. Preparation of the parole dossier began nine months before the Parole Board hearing. This constituted a lengthy period of time, from a probation service perspective, and meant that where the tariff was short, in particular nine months or less, the process had to begin immediately after sentence, often taking some offender managers rather by surprise. Hearing dates were set by the Parole Board, insofar as possible, in consultation with all the relevant parties – but inevitably not always. It was therefore good that offender managers, even when simply notified of the date, seemed to allocate high priority to parole work and were often prepared to make changes to existing arrangements in order to attend hearings.

### **Inspection Findings – Pre-release**

- 7.3. Parole reports had been prepared for the Parole Board in 55 of the cases inspected. Of that number, 27 had been heard by the Board and the recommendations, whether for release or for further work in custody, were followed in 25 cases. Nevertheless, as in the previous inspection, we found that the standard of the parole reports scrutinised during this inspection was not good enough often enough.
- 7.4. We were concerned to find that a pre-existing OASys had been used, rather than an updated one, in 17 out of the 55 cases where a parole report had been prepared. Reliance on an outdated assessment made it very difficult for the offender manager, or staff within the prison writing supplementary reports, to reflect appropriately on any work undertaken or progress made. The majority of these cases had been sentenced during 2006, with only two of them being sentenced in 2007.
- 7.5. As with PSRs, assessments of *Risk of Harm to others* and Likelihood of Reoffending were clearly set out in only three-quarters of the parole reports inspected. We agreed with the RoSH classifications in only 70% of those cases.
- 7.6. Although most of the reports contained risk management plans, we considered only half to be of sufficient standard. Similarly, only 82% of the reports contained a clear recommendation about release. Many offender managers failed to recognize the need to demonstrate awareness, not only of the risks presented by the offender and any changes in their attitudes and behaviour, but also of relevant factors in the community to enable the Parole Board to act upon their recommendations.

### **Supervision in the community**

- 7.7. Only 7 of the 176 cases in the sample had been released from custody. None had been in the community for any length of time, the longest being released some three months prior to the inspection.
- 7.8. It was disappointing to find even in this small sample that these cases were being managed inconsistently. There was little evidence of planning to manage the supervision period meaningfully, at either a strategic or an operational level, even though it was due to last a minimum of ten years.
- 7.9. We had hoped that time would have been spent with the offender prior to release, clarifying exactly what their licence conditions meant in practice - the days immediately following release constitute a high risk of reoffending for many ex-prisoners. If they were actively supervised from the outset, they would have a much better chance of settling and engaging in supervision. However, we could only find evidence of this having happened in two of the cases inspected.

7.10. Equally, we had expected to find that work completed within the prison setting, as part of the sentence plan, would be continued and consolidated in the community. However, this occurred in only four of the seven cases (60%). In one of the cases, even the frequency of appointments did not meet the national standard. This standard of practice was difficult to understand and clearly unacceptable, given both the seriousness of the offence committed and the major challenges of engaging the offender during a lengthy period of supervision.

### **Conclusion**

7.11. As shown by the limited preparation for release and poor quality of the parole reports, none of the areas visited had considered sufficiently how they would manage a group of offenders who would be subject to supervision in the community for at least ten years and often longer.

7.12. We therefore recommend that:

- ▶▶ **NOMS should provide further guidance on the preparation of parole reports in IPP cases, supported by training**
- ▶▶ **probation areas/trusts implement effective quality assurance arrangements to ensure that parole reports in IPP cases meet the required standard.**

## 8. MAPP

### Summary

This chapter comments on multi-agency work to manage *Risk of Harm to others* in IPP cases.

### Key points

- » MAPP appeared to have been used effectively in only half the cases referred
- » There was considerable confusion amongst offender managers in the community about the purpose of the prison-based MARAP groups.

### Multi-agency Public Protection Arrangements

- 8.1. Multi-agency Public Protection Arrangements (MAPP) to manage the *Risk of Harm to others* posed by a number of identifiable offenders exist throughout England and Wales.
- 8.2. Offenders subject to MAPP are identified as one of three categories:
  - » a registered sex offender
  - » a violent offender or other sex offender sentenced to 12 months imprisonment
  - » an offender about whom there are significant concerns about their *Risk of Harm to others*.
- 8.3. Each category is then broken down by three levels of risk management:
  - » **Level 1** – where the risks posed by the offender can be managed in line with their assessed *Risk of Harm to others* by the agency responsible for the individual's supervision. This does not mean that other agencies are not involved, only that it is not considered necessary to refer the case to a level 2 or 3 MAPP meeting. The case is, however, still registered to MAPP, but as a level 1.
  - » **Level 2** - multi-agency risk management: where there is a formal multi-agency agreement as to how the offender's *Risk of Harm to others* will be managed by at least two agencies. This applies to cases where normal supervision is insufficient to contain and manage the identified *Risk of Harm to others* and additional activity (such as police surveillance) is required. Additionally, responsibility for planning such work is taken by the multi-agency group and reviewed on a regular basis.

- » **Level 3** - 'the critical few' cases requiring multi-agency risk management at a senior level. In these cases, additional resources may be commissioned, and senior managers assume responsibility for ensuring that appropriate work is undertaken and reviewed.
- 8.4. NOMS first issued guidance about the procedures for the referral, categorisation, management and review of all MAPPA cases in 2007. This guidance was subsequently updated and a revised version published in April 2009.
  - 8.5. The vast majority of offences committed by offenders in the inspection sample placed them in one or other of the MAPPA categories. It was not possible to estimate the proportion that would be managed at level 1, 2 or 3. At some point, however, a multi-agency discussion would need to be held about each offender to determine how their *Risk of Harm to others* could be best managed.
  - 8.6. Where an offender was registered to MAPPA prior to the commission of the offence for which they received an IPP, the initial registration would remain in existence but could be suspended during the period of imprisonment. The national guidance suggested that new referrals to MAPPA should be made some six months before the date of release. Some MAPPA coordinators interpreted this guidance as a direction, others, more correctly, as discretionary, subject to the circumstances of the case.
  - 8.7. This process presented some difficulties in relation to IPP prisoners. The first possible date of release was on completion of the tariff time, which was predictable but one at which, evidence suggested, few IPP prisoners were likely to be released. Once past their tariff date, IPP prisoners could be released at relatively short notice, following an oral hearing before the Parole Board, thereby allowing little time for a referral to MAPPA. It was therefore incumbent on the offender manager to pass all relevant information to their local MAPPA coordinator as soon as it became available. Equally, MAPPA coordinators needed to recognise the different arrangements for those offenders serving IPP and respond accordingly.

### **Inspection Findings**

- 8.8. Thirty-one of the cases in the sample appeared to have been referred into the MAPPA process. Clearly, a significant proportion of the remainder would be held until nearer to their potential release date before being referred.
- 8.9. We could find evidence of the effective use of MAPPA in only 44% of the 31 cases referred. To some extent, this may have been because the relevant information was held on the ViSOR system, to which we had not sought access. Nevertheless, it was essential that case records made reference to MAPPA meetings and that any notes were kept in the confidential section of the file. Where it was clear from the contact log

that the case had been referred to MAPPAs, we could see that offender managers and other relevant staff had contributed to the process, but the MAPPAs plan had been taken into account in the sentence plan and overall management of the custodial period in only half the relevant cases seen.

- 8.10. This appeared to be a missed opportunity. MAPPAs provided a range of expert views on an offender who presented a *Risk of Harm to others* in a particular area. Contributions from the local MAPPAs to the sentence plan were not only based on an assessment of the offender, but also on the knowledge of the local circumstances, agencies and other support that would be available.
- 8.11. The alternative to seeking a contribution from the local MAPPAs was to convene a multi-agency risk assessment planning (MARAP) meeting within the prison. This, however, was rarely appropriate. The purpose of this meeting is to assess the offender's *Risk of Harm to others* in the custodial setting. It does not necessarily take account of issues to be handled on release and, in a number of prisons, the local police would not attend MARAP groups for IPP prisoners.

### **Conclusion**

- 8.12. Many offenders who received an IPP were registered to MAPPAs or were due for such registration. Irrespective of whichever MAPPAs or MARAP was involved, we found little evidence of a multi-agency perspective contributing to the review process, but when this did happen it seemed to be helpful.



## 9. TRANSFERS FROM YOUTH OFFENDING TEAMS

### Summary

This chapter comments on the arrangements to transfer the supervision of children and young people subject to a DPP from youth offending teams to probation areas in the small number of cases seen.

### Key points

- ▶ In the three cases inspected, the needs of the child or young person were not properly considered, with the result that the transfer of supervision was, at best, potentially unproductive or, at worst, damaging.

### Children and young people

- 9.1. Children and young people subject to a DPP sentence were supervised by the local youth offending team/service (YOT/YOS), who were responsible, along with the staff in the institution, for developing the sentence plan and ensuring that the work required was available and undertaken as appropriate.
- 9.2. The national standards and quality guidance for YOT/YOSs identify a much higher level of contact during a custodial sentence than for adults, under the supervision of the probation service. This contact can be as frequent as monthly and includes considerable involvement with the child or young person's family. It is routine, for example, for YOT/YOS workers to bring family members with them to a planning or review meeting with the child or young person and to attend the institution to deliver some of the work directly.
- 9.3. Inevitably, when the child or young person, subject to a DPP, reaches the age of 18, usually whilst serving the custodial element of the sentence, arrangements have to be made to transfer supervision of the case to the probation service. This can be accompanied by a change of custodial setting, usually a young offender institution or possibly an adult prison.
- 9.4. The change in levels of contact and expectations at this point are significant and can be quite unsettling for the child or young person. We expected these events to be handled sensitively and managed by at least one three-way meeting between the worker, the child or young person and the new offender manager from the probation service. We also

expected the family to be told about why the changes were taking place and what they would involve.

### **Inspection**

- 9.5. There were only three such cases in the inspection sample. Although in one case a three-way meeting had been planned and arranged, it did not take place because, at the last minute, the YOT/YOS worker was unable to attend. In neither of the other cases was such a meeting even considered. This was not acceptable. Attending to such issues at the time of significant change could make all the difference to whether vulnerable children and young people successfully completed a period of supervision or struggled to engage in the work to be done.

### **Conclusion**

- 9.6. None of the three cases seen during the inspection, who had been sentenced to a DPP as a child or young person and subsequently transferred to the probation service when aged 18, had been properly prepared for the different approach to their supervision.
- 9.7. We therefore recommend that:
- ▶▶ **probation areas/trusts should improve the arrangements for managing the transfer of children and young people subject to DPP from the YOT/YOS to the probation service. This should take into account the needs and experiences of young people and include at least a proper three-way handover meeting.**

## 10. GLOSSARY

CARATS	<i>Counselling, Assessment, Referral, Advice and Throughcare Service</i> : a multi-disciplinary Tier 2 and 3 drug treatment service in prisons that provides a gateway to drug and other services for those in custody
CJCIG	<i>Criminal Justice Chief Inspectors Group</i> : consisting of the five Chief Inspectors of the criminal justice inspectorates
CPS	Crown Prosecution Service
FDR	<i>Fast delivery report</i> : short format pre-sentence report, as distinct from a <i>Standard Delivery Report</i>
EPIC	<i>The Electronic Probation Information Centre</i> : an intranet launched in October 2005
HMI Prisons	Her Majesty's Inspectorate of Prisons
HMI Probation	Her Majesty's Inspectorate of Probation
Interventions; constructive and restrictive interventions	<p>Work with an offender which is designed to change their offending behaviour and to support public protection.</p> <p>A <i>constructive intervention</i> is where the primary purpose is to reduce <i>Likelihood of Reoffending</i>. In the language of offender management this is work to achieve the 'help' and 'change' purposes, as distinct from the 'control' purpose. A <i>restrictive intervention</i> is where the primary purpose is to keep to a minimum the offender's <i>Risk of Harm to others</i>. In the language of offender management this is work to achieve the 'control' purpose as distinct from the 'help' and 'change' purposes.</p> <p>Example: with a sex offender, a <i>constructive intervention</i> might be to put them through an accredited sex offender programme; a <i>restrictive intervention</i> (to minimise their RoH) might be to monitor regularly and meticulously their accommodation, employment and the places they frequent, whilst imposing and enforcing clear restrictions as appropriate to each case.</p> <p>NB Both types of intervention are important.</p>
IPP/DPP	<i>Imprisonment for Public Protection/ Detention for Public Protection</i> : an indeterminate sentence for public protection for adults, and a parallel sentence of detention for children and young people under 18. The sentences are imposed on those who committed specified serious violent or sexual offences and who are deemed to pose a significant Risk of Serious Harm in the future.
Initial Sentence Plan	All cases should have a sentence plan. Usually this will be contained within the Offender Assessment System format
MAPPA	<i>Multi-Agency Public Protection Arrangements</i> : probation, police, prison and other agencies working together locally to manage offenders who are of a higher <i>Risk of Harm to others</i>
MARAP	<i>Multi Agency Risk Assessment Panel</i> : a multi-agency meeting held within the prison to share information about the prisoner in order to revise any pre-sentence assessment or arrive at a post-sentence assessment, and assist in formulating the sentence plan
NOMS	<i>National Offender Management Service</i> : the single agency responsible for both prisons and probation areas and trusts
OASys/eOASys	<i>Offender Assessment System/ electronic Offender Assessment System</i> : the nationally designed and prescribed framework for both probation and prisons to assess offenders, implemented in stages from April 2003. It makes use of both 'static' and 'dynamic' factors
Offender management	A core principle of offender management is that a single offender manager takes responsibility for managing an offender throughout their whole sentence, whether in custody or the community. Offenders are managed differently depending on their <i>RoH</i> and what <i>constructive</i> and <i>restrictive interventions</i> are required. Individual intervention programmes are designed and supported by the wider 'offender management team or network', which can be made up of the offender manager, offender supervisor, key workers and case administrators

<i>Offender Manager</i>	An <i>Offender Manager</i> is appointed to the case as soon as an offender first comes into scope and retains that role until the offender completes their sentence. The offender manager is located in the offender's home or resettlement locality. They are responsible for formulating an assessment and a sentence plan; this is done using the OASys (Offender Assessment System) format. The plan defines who is to do what and when in order to make the offender less likely to reoffend, and otherwise to fulfil the objectives of the sentence. The offender manager oversees the implementation of the sentence plan, and keeps it under continuous review, revising and updating it periodically.
OGRS3	<i>Offender Group Reconviction Scale</i> : Offender Group Reconviction Score 3: a predictor of probability of reoffending based only on 'static factors' such as age, gender and criminal history
OMM	The <i>Offender Management Model</i> defines the NOMS-wide case management approach to be used by all providers of correctional services
OS	An <i>Offender Supervisor</i> is appointed to act as the link between the custodial environment and the offender manager to drive forward the implementation of the Sentence Plan while the offender is in custody
PSR	<i>Pre-sentence report</i> : includes both <i>Standard Delivery Report</i> and <i>Fast Delivery Report</i>
<i>Risk of Harm to others</i>	As distinct from <i>Likelihood of Reoffending</i> : if an offender has a medium or higher <i>RoH</i> it means that there is some probability that they may behave in a manner that causes physical or psychological harm (or real fear of it) to others. The offender's <i>RoH</i> can be kept to a minimum by means of <i>restrictive interventions</i>  ' <i>RoH</i> work' is the term generally used by HMI Probation to describe work to protect the public. In the language of offender management, this is the work done to achieve the 'control' purpose, with the offender manager/supervisor using primarily restrictive interventions that keep to a minimum the offender's opportunity to behave in a way that is a <i>Risk of Harm to others</i> .  HMI Probation uses the abbreviation ' <i>RoH</i> ' to mean specifically <i>Risk of Harm to others</i> . We use it instead of Risk of Serious Harm in order to ensure that <i>RoH</i> issues being assessed and addressed by probation areas are not restricted to the definition given in OASys. The intention in doing this is to help to clarify the distinction between the probability of an event occurring and the impact/ severity of the event. The Risk of Serious Harm definition only incorporates 'serious' impact, whereas using ' <i>RoH</i> ' enables the necessary attention to be given to those offenders for whom lower impact/ severity harmful behaviour is probable
ROSH	This is the label used for classifying levels of risk in OASys, where offenders are classified as either 'low', 'medium', 'high' or 'very high' Risk of Serious Harm, where serious harm is defined as "an event which is life-threatening and/ or traumatic, and from which recovery, whether physical or psychological, can be expected to be difficult or impossible." (Chapter 8 of the Offender Assessment System Manual, July 2006). In this report this term is used solely to refer to this process of OASys classification
SDR	<i>Standard Delivery Report</i> : a 'full' Pre-sentence report, as distinct from a Fast Delivery Report. A written document prepared at the request of the court. It usually contains an analysis of the offender's <i>Risk of Harm to others</i> and their Likelihood of Reoffending, and proposals for sentence
' <i>Tariff</i> '	The minimum term, set by the judge as the due punishment for the offence, which has to be served before the release date can be determined by the Parole Board
ViSOR	<i>Violent and Sex Offender Register</i> : has been used by the police as an offender management system since 2005, but also enables access to a wide range of information and intelligence, e.g. to identify potential suspects of violent or sexual offences. Access to it was subsequently rolled out to the probation service in 2007 and the prison service in 2008. In principle it provides the three services with a confidential, shared, national database to assist in the identification, risk assessment and management of sexual and violent offenders
VLO/VCO	<i>Victim Liaison/Contact Officer</i> : victim liaison officer: responsible for delivering certain specific services to victims in accordance with the area/ trust's statutory responsibilities
YOT/YOS	Youth Offending Team Youth Offending Service/ Youth Offending Team

## References

- 1 Criminal Justice Joint Inspection: *Joint Inspection Business Plan 2007/2008*
- 2 HM Inspectorate of Prisons *The indeterminate sentence for public protection - A thematic review* (September 2008)
- 3 NOMS: *National Guide for the new Criminal Justice Act 2003 sentences for public protection* (June 2005)
- 4 Prisons and Probation Ombudsman: *Investigation into the circumstances surrounding the death of a prisoner in custody in July 2006* (November 2007)
- 5 NOMS *Specification and Implementation Guidance for Phase III of Offender Management* (October 2007)
- 6 NOMS *Implementation Manual: Phase III Offender Management and Indeterminate Sentence Prisoners* (January 2008)
- 7 Sainsbury Centre for Mental Health: *In the dark : The mental health implications of Imprisonment for Public Protection* (2008)