

Indeterminate Public Protection Sentences (IPP)

What is an IPP sentence?

Sentences of IPP were introduced in the Criminal Justice Act 2003 (CJA 2003). Their object as set out in sections 224 and 225 of the CJA 2003 is to detain in prison people who pose a significant risk of causing serious harm to the public through further serious offences until they no longer pose such a risk.

In sentencing the courts will impose a specified part or tariff ('the minimum term') that the prisoner will have to serve before he/she can be considered for release by the Parole Board.

The Criminal Justice and Immigration Act (CJIA) 2008 (its provisions are set out in PSI 27/2008) made certain provisions relating to IPP sentencing:

- Sections 13 and 14 will restrict the circumstances in which imprisonment for public protection (IPP) can be imposed;
- for adults, the offence will either have to warrant a two-year minimum term or be committed by someone with a previous conviction for a specified violent or sexual offence; and
- for those under 18, the offence will have to warrant a two-year minimum term.

How is my sentence structured?

Initial categorisation of all newly sentenced male prisoners (not women or young adults) is carried out using an ICA1 initial categorisation form. An initial sentence plan will be completed within the first eight weeks (for those with tariffs of two years or less) or 16 weeks (for those with tariffs of more than two years).

PSI 07/2008 introduced a presumption that IPP prisoners with short tariffs (three years and under) are suitable for category C prisons.

According to PSI 07/2008 IPP prisoners will be treated as if they were determinate

sentenced prisoners in terms of their sentence management. So prisoners assessed as category B will progress to category C through the usual process of categorisation reviews held every 12 months. Prisoners who dispute their categorisation can challenge it.

Since January 2008, IPP sentences have also been subject to new offender management procedures whereby prisoners will have a dedicated 'offender manager' to assess and manage them throughout their sentence.

Am I allowed escorted absences in closed conditions?

To be eligible for an escorted absence (maximum 6 hours, 3 escorted absences in a 12 month period) an indeterminate sentenced prisoner (ISP) must;

- Have served a minimum of 10 years (from conviction) in custody on current indeterminate sentence
- Be within 12 months of the start of the next parole review process
- Be recategorised to Cat C/female second stage close for at least 6 months
- Have their suitability to apply for escorted absence written into their sentence plan.
- Deportees are subject to the above criteria but the additional risk of abscond must be considered

How do I get to an open prison?

For a prisoner to get to open conditions he/she will need a recommendation by the Parole Board and this recommendation will then be passed to the Public Protection Unit at the Ministry of Justice who will decide on behalf of the Secretary of State whether to accept or reject this recommendation. If a recommendation is rejected without adequate reasons being given or it is wholly unreasonable to have done so then it may be challengeable in the High Court.

The key to decision making throughout the sentence is now the sentence planning and review meetings (SPRM) held once every 12 months as a minimum. The SPRM meetings include a number of reports from the offender manager, supervisor and others about progress, sentence plan objectives and risk. The OASys should also be revised and updated for the SPR meetings. This is the responsibility of the offender manager.

PSI 33/2009 has introduced a new sifting process for pre-tariff reviews in respect of all ISP's. SPRMs will now make recommendations to the Public Protection Casework Section (PPCS) on whether a prisoner should be referred to the Parole Board for a pre-tariff review. This policy only applies to ISP's approaching their first Parole Board review where consideration is for transfer to open conditions only. It does not apply to post-tariff reviews. The PSI 33/2009 sets out circumstances where a prisoner will not be deemed to meet the criteria for referral to the Parole Board unless there are exceptional circumstances (it includes an OASy assessment of high/very high risk of harm, escape or attempted escape in last 2 years, previous abscond or attempted abscond from escorted absence or open conditions in last 2 years and a proven adjudication for serious violence within last 12 months). A prisoner may use the complaints procedure to challenge a refusal to refer his case to the Parole Board.

Once a prisoner has reached open conditions then they revert to being treated as life sentence prisoners in terms of the prison programme they go on and for the purposes of Release on Temporary Licence (ROTL) according to PSO 6300.

How do I get released?

Release is solely determined by the Parole Board. The Parole Board in considering release must, as in the case of mandatory and discretionary lifers, assess the level of risk to life and limb presented according to the circumstances of each case. A complete dossier should be prepared and disclosed to the IPP prisoner in line with the relevant timetables.

If released an IPP-sentenced prisoner is subject to life licence but can apply for discharge of a life licence 10 years after release.

Is it unlawful to keep me inside without access to OBCs that I have been told I have to do?

The case R (Lee and Wells) v Secretary of State for Justice [2008] EWHC 2326 (Admin) and Walker was considered by the House of Lords. It was conceded that the decision to introduce the IPP sentencing regime by bringing the statutory provisions into force before the resources were in place was unlawful as a matter of public law, reaching the level of irrationality. However in relation to Art 5(1), the fact that the sentence was imposed under a regime that was irrationally brought into effect did not mean that there was a breach of Art 5(1)(a): So long as the prisoner remained dangerous and there was an ongoing regular assessment of that, there was no breach of Art 5(1)(a). The third conclusion of the House was even more conservative. The Secretary of State conceded that there would be breaches of Art 5(4) if post-tariff prisoners were not provided with any courses and so had no chance to demonstrate a reduction of risk and so have any prospect of release. However, the Parole Board intervened and argued that Art 5(4) was not breached. The House concluded that in fact Art 5(4) was not in play: it provided a procedural right only, limited to having a court review of detention. That was still provided, even though the Parole Board considering the cases where there had been no offending behaviour work would not have anything of substance on which to adjudicate.

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