

## Equality Statement

### **1. Policy Summary**

The Imprisonment for Public Protection (IPP) sentence was introduced by the Criminal Justice Act (CJA) 2003 and was available for use from 2005. The intention behind the sentence was to provide a means of managing high risk prisoners, who did not meet the criteria for a life sentence.

Offenders were sentenced to a minimum term (tariff) which had to be served in full in prison. At the end of that term, they could only be released if the Parole Board, applying the statutory IPP release test, was satisfied that it was no longer necessary to confine the offender on the grounds of public protection.

If released, IPP offenders were then subject to a supervised IPP licence which could, on application by the offender, be terminated at the discretion of the Parole Board once 10 years had elapsed from the offender's first release by the Board. If not terminated at that, or subsequent points, the IPP licence could potentially last indefinitely. Since an amendment in the Police, Crime, Sentencing and Courts Act 2022, offenders are now automatically referred to the Parole Board for possible termination of the IPP licence once 10 years has elapsed from their first release by the Parole Board. IPP offenders on licence can be recalled to prison for breach of the IPP licence in certain circumstances but there must be a causal link between the breach and the index offence (for example an offender given an IPP for GBH is unlikely to be able to be correctly recalled for shoplifting).

The Justice Select Committee (JSC) published its report into the IPP sentence on 28 September 2022 following a year-long inquiry. One of its recommendations was to reduce the qualifying licence period from 10 years to five years on the grounds that this would go some way to restoring proportionality to the IPP sentence. Through this Bill, the Government intends to reflect this recommendation, by focussing on reducing the qualifying licence period and bringing an end to more IPP sentences.

The Government is reducing the qualifying licence period from 10 years to three years, meaning all IPP-sentenced offenders on licence, whose first release by the Parole Board was three or more years ago, will be automatically referred to the Parole Board for consideration of licence termination. Where the licence is not terminated by the Parole Board, it will be automatically terminated if the offender has a further two-year period in the community without being recalled to prison. This means that after the three-year qualifying period, there will be no annual review by the Parole Board, but if an offender spends two further years in the community without a recall to custody, their licence (and with it, their sentence) will automatically end. Should they be recalled to custody, the two year period will recommence on re-release.

The intention is that these policies should apply retrospectively, so that an IPP offender who has met both the three year qualifying period and spent at least two continuous years in the community ending on commencement of the provision will have their licence automatically terminated.

## 2. Equality Duties

This statement considers the impact of new legislation and associated operational changes against the statutory obligations under Section 149 of the Equality Act 2010 (the Act) that require Ministers and the department, when exercising their functions, to pay 'due regard' to the need to:

1. Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Act;
2. Advance equality of opportunity between those who share protected characteristics and those who do not; and
3. Foster good relations between those who share protected characteristics and those who do not.

The protected characteristics are ethnicity, sex, disability, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment. The protected characteristic of marriage and civil partnership is relevant only when considering the first limb of the duty.

## 3. Equality Considerations

### Affected groups

Data about IPP offenders is published regularly and we are able to identify protected characteristics in relation to sex, age and race.

#### Sex

IPP offenders in prison are overwhelmingly male. As at 30 September 2023, there are 1,269 unreleased IPP prisoners, of which 1,260 (99%) are male and nine (1%) are female. There are 1,652 recalled IPP prisoners in prisons, of which 1,631 (99%) are male and 21 (1%) are female.<sup>1</sup>

IPP offenders on licence are also overwhelmingly male. As at 30 June 2023, there are 3,098 IPP offenders on licence. Of these, 2,978 (96%) are male and 120 (4%) are female.<sup>2</sup>

#### Age

As at 30 June 2023 (the most recent published data on age), the total number of unreleased IPP prisoners was 1,312. Of those, 810 (62%) were aged between 30 and 49. There were no unreleased IPPs aged under 25.<sup>3</sup>

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<sup>1</sup> Prison population: 30 September 2023: [Offender Management Statistics quarterly: April to June 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2023)

<sup>2</sup> Probation population: 30 June 2023: [Offender Management Statistics quarterly: April to June 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2023)

<sup>3</sup> Annual prison population: 2023: [Offender Management statistics quarterly: January to March 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2023)

Data on the age of those subject to an IPP sentence who have been released on licence is not published.

### **Ethnicity**

As at 30 June 2023 (the most recent published data on ethnicity), of the total 1,312 unreleased IPP prisoners at that time, 1,026 (78%) were white, while 160 (12%) were from a black or black British background.<sup>4</sup>

Data on the ethnicity of those subject to an IPP sentence who have been released on licence is not published.

### **Direct discrimination**

Direct discrimination occurs when a policy would result in people being treated less favourably because of a protected characteristic. Our assessment is that the provisions of both this Bill and the proposed policies are not likely to be directly discriminatory within the meaning of the Equality Act 2010 since they will not treat anyone less favourably because of a protected characteristic.

### **Indirect discrimination**

Indirect discrimination occurs when a policy applies equally to all individuals but would put those sharing a protected characteristic at a particular disadvantage compared to those who do not.

We have considered the possible disproportionate impacts of the proposals. With regards to the protected characteristics we have identified above, any disproportionate impact from the amendment will likely be in relation to sex (men), age (those between 30-49) or white offenders. The available data suggests that some groups are overrepresented in the population affected by the policy (IPP offenders in prison or released on licence). This proposal does not cause particular disadvantage to any person due to their protected characteristics, subject to the over representation of certain protected characteristics in the IPP sentenced cohort as set out above.

However, we believe such an impact is justified in the context of the overall changes. It should also be noted that this policy will have a positive impact as the change itself will facilitate the end of the IPP licence for more eligible offenders sooner and will therefore reduce the burden on individuals in terms of compliance with restrictions on liberty. We do not propose any mitigating action because the proposed changes to IPP licence termination benefit all IPP offenders equally, whether they are in overrepresented or underrepresented groups.

### **Advancing equality of opportunity**

Consideration has also been given to how these provisions impact on the duty to advance equality of opportunity.

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<sup>4</sup> Annual prison population: 2023: [Offender Management statistics quarterly: January to March 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2023)

### **Discrimination arising from disability and duty to make reasonable adjustments**

We do not consider that the provisions are likely to result in any unlawful discrimination on any grounds, including in relation to disability. In so far as these changes extend to disabled offenders, we believe that the policies are proportionate, having regard to their aims. We do not consider that any policy adjustments are required for IPP offenders with a disability over and above the ones already in place in prisons.

### **Fostering good relations**

Consideration has been given to fostering good relations in drafting this Bill. It is our assessment that there will be no adverse impact on relations between those who share protected characteristics and those who do not.

### **Continuing Analysis**

The equality duty is an ongoing duty, and we will continue to monitor and review these measures for any potential impacts on persons with protected characteristics to help ensure that access to justice is maintained.

### **Welsh language Impact**

We do not consider that the provisions are likely to result in any impacts on the Welsh language.

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