

**INQUEST submission to the Justice Select Committee Inquiry into IPP sentences**

November 2021

***Introduction***

1. INQUEST is the only charity providing expertise on state related deaths and their investigation. For four decades, INQUEST has provided expertise to bereaved people, lawyers, advice and support agencies, the media and parliamentarians. Our specialist casework includes deaths in prison and police custody, immigration detention, mental health settings and deaths involving multi-agency failings or where wider issues of state and corporate accountability are in question. INQUEST's Executive Director, Deborah Coles, sits on the cross-government Ministerial Board on Deaths in Custody and is a member of the Independent Advisory Panel on Deaths in Custody.
2. INQUEST welcomes the Justice Committee's new inquiry into Imprisonment for Public Protection (IPP) sentences in prison. In this submission, we provide an overview of the detrimental consequences of IPP sentences for prisoners informed by our casework and expertise on investigations and inquests into deaths.
3. Prisons, by their very nature, are dehumanising places which create and intensify vulnerability. This is further heightened for the 1,661 people who remain on indeterminate sentences, not knowing when they will be released. INQUEST has worked on a number of deaths in prison which have been linked to the harms of IPP sentences. In this submission, we draw attention to the way in which the IPP sentence has a severely harmful impact on the mental and physical health of prisoners. We highlight the deaths of three men, one woman and two anonymous people whose experiences reflect the damaging and fatal effects of the IPP sentence. We make recommendations to bring an end to the harm caused to prisoners and their families by IPP sentences.

***Overview***

4. According to the most current statistics<sup>1</sup> released by the Ministry of Justice, there were a total of 1,661 people imprisoned under IPP sentences as of 30 September 2021. The percentage of post-tariff IPP prisoners continues to rise: 96% of IPP prisoners were post-tariff in June 2021 compared to 94% in June 2020<sup>2</sup> and 91% in March 2019<sup>3</sup>. As of 30 September 2021, the majority of unreleased IPP prisoners had

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<sup>1</sup> Ministry of Justice "Offender management statistics quarterly: April to June 2021"

<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2021/offender-management-statistics-quarterly-april-to-june-2021>

<sup>2</sup> Ministry of Justice "Offender management statistics quarterly: January to March 2021"

<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-january-to-march-2021/offender-management-statistics-quarterly-january-to-march-2021>

<sup>3</sup> Ministry of Justice "Offender Management Statistics Bulletin, England and Wales: Quarterly: October to December 2019"

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/882163/Offender\\_Management\\_Statistics\\_Quarterly\\_Q4\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/882163/Offender_Management_Statistics_Quarterly_Q4_2019.pdf)

been held for more than eight years beyond the end of their tariff<sup>4</sup>. Furthermore, the number of recalled IPP prisoners grew by 184% from 477 to 1,357 from 30 September 2015 to 30 September 2020<sup>5</sup>. As of 30 September 2021, 1,357 IPP prisoners had been recalled to custody<sup>6</sup> <sup>7</sup>. Bereaved families that INQUEST has worked with have also said that IPP prisoners often struggle to gain placement on rehabilitation courses that are required by the Parole Board for release<sup>8</sup>.

5. The Independent Advisory Panel on Deaths in Custody stated in their 2019 briefing paper<sup>9</sup> that, “the close links between hopelessness, self-harm and suicide ... suggests that IPP prisoners are a particularly vulnerable group in custody and – as the number over-tariff grows – the risk is thought to be increasing”. IPP prisoners have been shown<sup>10</sup> to suffer disproportionately high rates of self-harm, with a self-harm rate of 550 per 1000 prisoners compared to 324 per 1000 prisoners for determinate-sentenced prisoners. The self-harm rate of IPP prisoners is more than twice as much as that of prisoners serving life sentences. Since the IPP sentence was introduced in 2005, UNGRIPP state that 70 people serving IPP sentences have taken their own lives<sup>11</sup>.

### **Case Studies**

6. INQUEST has supported 27 bereaved families of IPP prisoners who died between 2008 to 2021. In what follows, we outline the circumstances of the deaths of six IPP prisoners. Their deaths highlight key issues in the IPP sentence.

#### **Tommy Nicol<sup>12</sup> <sup>13</sup>**

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<sup>4</sup> Ministry of Justice “Offender management statistics quarterly: April to June 2021”

<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2021/offender-management-statistics-quarterly-april-to-june-2021>

<sup>5</sup> Prison Reform Trust’s report “No life, no freedom, no future: The experiences of prisoners recalled under the sentence of Imprisonment for Public Protection” (2020)

<http://www.prisonreformtrust.org.uk/PressPolicy/News/vw/1/ItemID/954>

<sup>6</sup> Ministry of Justice “Offender management statistics quarterly: April to June 2021”

<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2021/offender-management-statistics-quarterly-april-to-june-2021>

<sup>7</sup> Ministry of Justice “Offender management statistics quarterly: April to June 2020”

<https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2020/offender-management-statistics-quarterly-april-to-june-2020>

<sup>8</sup> See the Guardian article (2021) with Donna Mooney’s comments about IPP prisoners struggling to access rehabilitation courses <https://www.theguardian.com/society/2021/may/17/england-and-wales-prisoners-taking-fewer-rehabilitation-courses>

<sup>9</sup> The Independent Advisory Panel on Deaths in Custody briefing paper “Indeterminate sentences for public protection (IPPs): preventing self-harm and deaths in custody”

<https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/5f59bfe535e751014cbeb04f/1599717352035/IPP+briefing+paper+for+Ministers+FINAL.pdf>

<sup>10</sup> Prison Reform Trust press release for their report “Prison: the facts 2016”

<http://www.prisonreformtrust.org.uk/PressPolicy/News/vw/1/ItemID/335>

<sup>11</sup> UNGRIPP <https://www.ungripp.com/statistics>

<sup>12</sup> See INQUEST’s press release on the opening of the inquest into the death of Tommy Nicol

<https://www.inquest.org.uk/tommy-nicol-opening>

<sup>13</sup> See INQUEST’s press release on the conclusion of the inquest into the death of Tommy Nicol

<https://www.inquest.org.uk/tommy-nicol-conclusion>

7. Tommy Nicol was a 37-year-old mixed-race White and Middle Eastern man who died at Watford General Hospital on 25 September 2015 after being found with a ligature around his neck in his cell at HMP The Mount three days earlier. In November 2009, Tommy received an IPP sentence with a minimum term of four years, but at the time of his death he had served six years with no immediate hope of being released. In January 2015, Tommy made a complaint to the prison in which he described his inability to progress in his IPP sentence towards release as “psychological torture of a person who is doing 99 years”. In June 2015, the Parole Board’s review of Tommy’s sentence concluded that Tommy should do further “motivational and psychological” work before release, recommending that he complete a course of therapy, but Tommy was unable to secure a place. Tommy expressed frustration about not being able to do the required therapy course ahead of the review, with his next Parole Board review not due until February 2017. After the Parole Board review, Tommy’s mental health deteriorated until the time of his death, as he seriously self-harmed and when moved to segregation, began displaying psychotic symptoms. Tommy received no mental health support in the four days he spent in segregation, despite spending over 24 hours in an unfurnished cell.
  
8. The inquest heard evidence from consultant forensic psychiatrist Dr Dinesh Maganty, who said that the IPP sentence had contributed to Tommy’s death “more than anything else” as it made him “lose hope”. Dr Dinesh Maganty described Tommy’s risk level on the day of his death as the highest it could have been, referring to the “perfect storm of risk factors” including his IPP sentence. Tommy’s sister, Donna Mooney, said *“My brother was jailed for a minimum term of four years, yet two years after he had completed his tariff, he was still in jail. Tommy became more and more desperate, but nobody would listen to him. The prison authorities didn’t even carry out a mental health assessment despite his very high risk of self-harm and suicide.”*

**Charlotte Nokes<sup>14</sup>**

9. Charlotte Nokes was a 38-year-old woman who was found dead in her cell at HMP Peterborough on the morning of 23 July 2016. The inquest jury concluded the medical cause of Charlotte’s death was Sudden Arrhythmic Death Syndrome. In 2008, Charlotte was sentenced to an IPP sentence with a minimum term of 15 months, but at the time of her death, Charlotte had been in prison for over eight and a half years. Charlotte had mental and physical health diagnoses including borderline personality disorder and premenstrual dysphoric disorder. In the months leading up to her death, Charlotte was prescribed heavy doses of medication to treat her mental and physical health that left her appearing heavily sedated. At the time of her death, she was placed on an ACCT (Assessment, Care in Custody and Teamwork - the care planning process for prisoners identified as being at risk of suicide or self-harm) after she had attempted to take her life.

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<sup>14</sup> See INQUEST’s press release on the conclusion of the inquest into the death of Charlotte Nokes <https://www.inquest.org.uk/charlotte-nokes-conclusion>

10. The inquest jury heard that despite being seven years over tariff, Charlotte was only at the early stages of being ready to engage with the therapeutic help she needed to begin the path to release. Furthermore, the inquest heard that the indefinite nature of Charlotte's sentence, and her fear that she would never be released from prison, contributed to a sense of extreme hopelessness. Charlotte described the IPP sentence as a death sentence to her family. Nicky Asplin, the principal counselling psychologist who worked with Charlotte in the months before she died, told the inquest jury that during a therapy session shortly before her death, Charlotte expressed "a lot of frustration at the never-ending sentence of an IPP prison sentence"<sup>15</sup>. Tara Mulclair of Birnberg Peirce who represented Charlotte's family at the inquest, said that Charlotte's indefinite incarceration "created a strong sense of hopelessness and exacerbated her poor mental health".
11. Charlotte's father, Steven Nokes, said, *"She had many struggles in life, was beaten up for being 'different' and experienced mental ill health. Prison was never the best place for her. The indefinite sentence only made this worse."*

**Shane Stroughton<sup>16</sup>**

12. Shane was a 29-year-old man who died shortly after he was found hanging at HMP Nottingham on 13 September 2017. Shane had a well-documented history of depression and anxiety. At the age of 19, Shane received an IPP sentence with a minimum tariff of two and a half years. However, he remained in prison for close to ten years, and was released on 13 June 2017 having served in excess of six years over his original tariff. In July 2017, Shane was recalled to prison and placed at HMP Nottingham, where he was immediately identified as a high risk of suicide having used a ligature in police custody. A few days after arriving at HMP Nottingham, Shane set fire to his cell and used another ligature, making himself unconscious. In August 2017, Shane was placed on an ACCT. Despite this measure and the fact that his family had called the prison to say that he appeared to have lost two stone in weight, records suggest that the prison interacted little with Shane after that.
13. The jury at Shane's inquest heard evidence that Shane had lost 20% of his body weight in six weeks and that by the time of his death, he had a Body Mass Index that meant he was underweight and malnourished – but the prison did not pick this up. On 11 September, Shane was told he was to be re-released, but his probation officer was working with four or five times the appropriate caseload and could not spend any time with him. Following the inquest, Shane's mother, Deborah, said, *"So much went wrong in Shane's case. The IPP was vicious. He had a two-and-a-half-year term but did ten, and it made his mental health problems worse and also institutionalised him. He could not cope with freedom and so was recalled quickly."*

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<sup>15</sup> See the Guardian article (2020) into the inquest of Charlotte Nokes <https://www.theguardian.com/uk-news/2020/feb/25/artists-never-ending-jail-term-led-to-sense-of-hopelessness-inquest-told>

<sup>16</sup> See INQUEST's press release on the conclusion of the inquest into the death of Shane Stroughton <https://www.inquest.org.uk/shane-stroughton-inquest-closed>

**Kelvin Speakman<sup>17</sup>**

14. Kelvin was a 30-year-old man who died after being found with a ligature at HMP Hewell on 9 May 2016. In 2007, Kelvin received an IPP sentence with a minimum term of two years, but at the time of his death, he had been in prison for nine years. Despite repeated self-harm incidents and suicide attempts, Kelvin was never transferred to a secure mental health unit, even though consultant psychiatrists had twice recommended it. The inquest found multiple failings, especially in the assessment and care of prisoners at risk of self-harm and suicide. The PPO report<sup>18</sup> into Kelvin's death echoed these findings, stating that Kelvin did not have the required mental health assessments to safeguard against his continued segregation. Kelvin's older brother, Lee Dobson, told the Guardian *"We knew he was frustrated at his lack of progress, but he always put on a brave face for us., If we had known, we could have at least tried to talk him through his hard times. Instead, he died without help from us, or the system."*

**Two other INQUEST cases: Case A and Case B<sup>19</sup>**

15. Case A concerns the self-inflicted death of an IPP prisoner. The Prisons and Probation Ombudsman found that the indeterminate nature of the IPP sentence caused great anxiety for the prisoner, and that it was not difficult to come to the conclusion that the IPP sentence and its associated uncertainty played a significant role in the prisoners' decision to take their own life.

16. Case B concerns the self-inflicted death of an IPP prisoner. The coroner informed the Prison's Minister that they must act to prevent other IPP prisoners dying in a similar way. The coroner also stressed that the prison system is inadequate to meet the needs of IPP prisoners who have a heightened risk of self-harm compared to other prisoners. In particular, the coroner cited the infrequent nature of Parole Board hearings and the lack of support for complex mental health issues.

**Key issues**

17. The circumstances of the six deaths outlined above highlight the following key issues:
- The indeterminate nature of IPP sentences creates a sense of hopelessness and despair for prisoners. This is worsened by the high probability that such prisoners will remain in prison well beyond completion of their minimum tariff and that many will be recalled owing to the indefinite nature of the license. Consequently, IPP

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<sup>17</sup> See the Guardian article (2020) on the death of Kelvin Speakman

[https://www.theguardian.com/society/2020/jan/22/prison-deaths-kelvin-speakman-hmp-hewell-worcestershire?CMP=Share\\_iOSApp\\_Other](https://www.theguardian.com/society/2020/jan/22/prison-deaths-kelvin-speakman-hmp-hewell-worcestershire?CMP=Share_iOSApp_Other)

<sup>18</sup> See the Prisons and Probation Ombudsman independent investigation into the death of Kelvin Speakman <https://s3-eu-west-2.amazonaws.com/ppo-prod-storage-1g9rkjhkhjmgw/uploads/2018/12/M042-16-Death-of-Mr-Kelvin-Speakman-in-hospital-Hewell-09-05-2016-SI-22-30-30.pdf>

<sup>19</sup> We have anonymised these cases as the prisoners' families have not consented to INQUEST referencing their names

sentences often exacerbate pre-existing mental ill health and induce mental ill health for those who did not previously have it.

- The sense of hopelessness and despair experienced by IPP prisoners combined with the adverse mental health consequences of the IPP sentence mean that IPP prisoners are especially vulnerable and are at a disproportionately high risk of self-harm and self-inflicted death.<sup>20</sup> For example, in all four of the non-anonymous cases listed above, the individuals had self-harmed and/or previously attempted to take their own life before their death. In five out of six of the cases, the individuals died self-inflicted deaths.
- Despite their vulnerability, IPP prisoners are not always accurately assessed as needing mental health support and sometimes receive inadequate care or none whatsoever.<sup>21</sup>
- IPP prisoners sometimes struggle to gain a place on rehabilitation courses which are a requirement by the Parole Board for release, which prolongs their stay in prison. This, coupled with irregular Parole Board hearings, exacerbates their sense of hopelessness and despair which has an adverse impact on their mental health.
- The sense of hopelessness and despair experienced by IPP prisoners combined with the adverse mental health consequences of the IPP sentence can worsen pre-existing physical health issues and result in new physical health issues, which can go unnoticed.

### ***Recommendations***

18. The Justice Committee must:

- Take full account of the inherent risk posed by the IPP sentence to prisoners mental and physical health and the evidence of increased self-harm and suicide in its identification of “possible legislative and policy solutions” to the IPP sentence.
- Recommend concrete steps to prevent future harm and deaths of IPP prisoners, including consideration of abolishing the IPP sentence retroactively.

19. HMPPS must:

- Prioritise IPP prisoners for engagement in programmes that assist their case at Parole Board hearings. Given their lack of confidence in the system, consideration should be given to the provision of independent advocacy to support their appropriate engagement.
- Convey clear information regularly to IPP prisoners about their sentences, including upcoming Parole Board hearings.

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<sup>20</sup> See the IAP on Deaths in Custody report on “Indeterminate sentences for Public Protection (IPPs): preventing self-harm and deaths in custody (2019)”

<https://static1.squarespace.com/static/5c5ae65ed86cc93b6c1e19a3/t/5f59bfe535e751014cbeb04f/1599717352035/IPP+briefing+paper+for+Ministers+FINAL.pdf>

<sup>21</sup> See the 2008 Sainsbury Centre for Mental Health report “[In the Dark: the mental health implications of Imprisonment for Public Protection](#)”

- Allocate a substantial budget for enhanced mental health screening and support, substance abuse, housing, employment, and community reintegration to holistically support all IPP prisoners.
20. INQUEST is aware of some inquest hearings where the IPP sentence itself was not regarded as relevant to the death and was not allowed to be discussed. Therefore, we believe that investigatory bodies and the coroner service must:
- Ensure that the nature and impact of the IPP sentence are fully examined in any investigation or inquest into the death of an IPP prisoner. Independent investigation and scrutiny of deaths can play an important role in drawing attention to failing systems and processes as well as to actions needed to prevent future deaths.