



THE ASSOCIATION OF PRISON LAWYERS
THE APL IS THE PROFESSIONAL ASSOCIATION OF PRISON LAWYERS IN ENGLAND & WALES

UNGRIPP

25 August 2023

Alex Chalk KC MP
Secretary of State for Justice
By email

Dear Alex Chalk

Re Enhancing the IPP termination process through non-means tested legal representation

We are writing as two organisations that are acutely aware of the difficulties faced by those people serving IPPs who are eligible to have their licences terminated. We note your announcement earlier this week that you are considering reducing the qualifying period from ten years to five years. **We are writing to ask that you remove the requirement for legal aid in IPP termination applications to be means tested, which in turn will make any reduction in the qualifying period more effective.**

This is a simple and constructive proposal that fits in with your promise to see what can be done in addition to the current action plan. It is, of course, not a solution to the on-going “stain” of the IPP sentence on our criminal justice system. However, we are conscious of your desire to do things on top of the current Action Plan and this is one modest change you can make that may make an important difference in reducing the overall numbers.

Removing the means test for legal aid for IPP termination applications will help to ensure the termination of IPP sentences in all appropriate cases. At present not enough is being done to ensure that all those whose licences should be cancelled are achieving that. Every year hundreds of people become eligible for termination. Yet many people either do not have their applications considered or go through the process without appropriate legal support.

Between 2005 and 2012, a total of 8,711 individuals received IPP sentences. The single thing that distinguishes IPPs from life sentences is that they can be terminated. Termination is by far the most simple and permanent solution to the IPP problem. It is therefore essential that everyone who meets the criteria for termination should get it. The process is complicated. Referrals are now made automatically.

Without legal representation, the information before the Board is often limited and the Parole Board tends to deal with these cases by way of a paper review. Recent data from the Parole Board obtained by a Freedom of Information Act request shows that since the automated process came in the rate of terminations has reduced considerably.

According to data taken from Parole Board Annual Reports, by the year 2012/2013, 1133 people serving IPPs had been released on licence, although the Ministry of Justice has stated that just 771 people were eligible as of December 2022. Therefore, at least 771 individuals should have been considered by now for termination. However, according to data received under Freedom of Information Act requests, as of May 2023, only 379 had been determined. Around 40% of these have been granted. It appears that hundreds are overdue for consideration. The Parole Board has confirmed that of 141 applications for termination considered between March and May this year, only 22 were represented – that is just 16%.

Legal representation can make a real difference and it is right people should be guaranteed representation on an issue as important as this. Ironically, those who would benefit most and who are doing really well on licence and may be in work but cannot afford to pay privately, are least likely to qualify as, at present, eligibility is restricted to those with income of less than £99 a week and savings of under £1000. Although these thresholds are set to rise in due course, the difficulties of obtaining proof and the proposed exclusion of those on Universal Credit in future will mean that many people remain unrepresented. Even where people are eligible, obtaining the evidence required can be extremely difficult. Mental health tribunal work is not means tested. It is tried and tested as an appropriate way forward to support vulnerable clients.

UNGRIPP, a grassroots movement led by families of those serving an IPP sentence, and supported by a wide range of individuals and organisations that wish to see change, is aware of many instances where people on IPP licences have struggled to obtain representation due to the low eligibility threshold and the difficulties in providing all the evidence of income and capital.

The fee is a fixed fee of £200.75 (unless it passes an escape threshold of £602.25), in which case every item of work is scrutinised by the Legal Aid Agency before payment is authorised. The fee is modest and the total cost limited by the number of people eligible each year. The fee for this work is invariably loss-making for lawyers. Despite this, the Association of Prison Lawyers, a membership group that represents legal aid prison law providers and practitioners, considers that it is important work and many of our members are prepared to do it.

For example, one of our members was recently approached by a client who did not get his termination because a false allegation left some lurking doubt in the eyes of probation and he was not eligible for legal aid but could not afford legal representation to help to make representations to counter that. In another example where one of our members did represent an applicant, additional evidence was sourced by the lawyer from a family member which was taken into account by the Parole Board in directing the licence be revoked.

Removing the bureaucratic barriers to obtaining evidence for those who are eligible and opening it up to those who are on modest means but cannot afford to pay would assist in helping to reduce the overall number of people under the shadow of the IPP sentence. According to the latest data released by the Ministry of Justice, 161 people serving IPPs were recalled in the last quarter but less than 30% of these were charged with a further offence. Since September of last year there have been more people serving IPPs in prison who have been recalled than people who are yet to

be released on the sentence. Appropriate termination of the licences of people who no longer need to be subject to it will go a long way to closing this revolving door.

We would be happy to meet with you to discuss this simple, small change that could assist in reducing the number of people under the IPP regime as efficiently as possible.

Given the importance of this issue, we are writing this letter as an open letter and will publish it on our respective websites.

Yours,

Rikki Garg
APL

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