

# Influencing policy

Clinks member – Prison Reform Trust



Part of the Stronger Voice project

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# Introduction

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The voluntary sector working in criminal justice has extensive knowledge and experience that is a vital tool for effectively advocating and bringing about tangible changes in the criminal justice system.

Clinks has been funded by the Lloyds Bank Foundation for England and Wales to deliver the Stronger Voice Project – a three-year project with the aim of strengthening the voice and influence of the voluntary sector working in criminal justice through a programme of information, collaboration, training and capacity building.

As part of this project, we are running a series of expert seminars; the first of which seek to highlight the different approaches and strategies voluntary organisations working in the criminal justice system take to influence policy. We hope that through sharing these varied examples organisations can develop a greater understanding of policy influencing work and gain new knowledge about different approaches that can then inform their activity.

We would like to express our thanks to Prison Reform Trust for delivering a seminar on its policy influencing and advocacy work. The following provides a written case study of Prison Reform Trust's strategy for influencing policy with a particular focus on Indeterminate Public Protection (IPP) sentences, as an example of how it has advocated for change. You can find an online recording of Prison Reform Trust's seminar on this topic [here](#).

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## About Prison Reform Trust (PRT)

PRT is a national charity whose main aim is to create a just, humane and effective penal system. It works to influence decision makers, opinion formers and the public to reduce the unnecessary use of prison, improve conditions for prisoners and promote equality and human rights in the criminal justice system.

PRT is part of the Secretariat to All Party Parliamentary Group on Penal Affairs, of which Paul Maynard MP and Lord Ramsbotham are Co-Chairs. PRT undertakes in-house and commissioned research as part of its work, as well as running funded programmes, such as Building Futures, which is a National Lottery funded programme to investigate the quality of prison regimes for long sentenced prisoners.

It also runs a 'Prisoner Policy Network' so that people with lived experience can contribute directly to the process of policy making. Regular consultations are held, and members of the group meet with Ministers and officials, giving a voice to people who have experienced the criminal justice system.

As well as its campaigning and advocacy work, PRT also supports prisoners through its advice and information service, providing information about prison rules and prisoner entitlements. It receives approximately 6,000 contacts per year. This is crucial to PRT's work as it is a way to hear about the impact of policy on the ground.

# PRT's approach to policy influencing and advocacy

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PRT acknowledges that there are significant political and policy challenges to influencing within the criminal justice system, and that there are still significant issues to be tackled. For example, in addition to stubbornly high prison populations, nearly three out of ten (29%) prisons are rated of 'concern' or 'serious concern' by HM Prison and Probation Service. Therefore, treatment and conditions for prisoners, such as a marked decline in purposeful activities and overcrowding, also remain at the forefront of PRT's work.

PRT's approach consists of the following guiding principles:

- Critical friend relationship with the government
- Independence – PRT does not accept government money
- Importance of research and evidence
- Listening to and providing a voice for prisoners
- Principled opportunism – remaining responsive to the wider context.

PRT has a number of key campaigns that include:

## **Reduce the use of prisons**

- Indeterminate Public Protection (IPP) – associated issues of long sentences
- Women – issues of the use of short sentences.

## **Improve conditions for prisoners**

- Release on Temporary Licence
- Information and communication technology.

## **Promote equality and human rights**

- PAVA spray, use of force (including the disproportionate impact this has on prisoners from a black, Asian and minority ethnic background)
- Knife Crime Prevention Orders
- Liaison and Diversion Services.

## **The role of influencing in PRT's work**

The above information highlights that this is a complicated policy area and requires complicated policy recommendations. This case study will take a closer look at PRT's strategy and approach specifically in relation to IPP sentences.

# Policy influencing example: IPP sentences

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## The issue

Following the Criminal Justice Act 2003 (and its enactment in 2005) and the introduction of IPP sentences, several issues started to emerge:

- It is too broad and caught up people who had committed less serious offences alongside those who have committed serious offences
- Sudden growth in IPPs put a severe strain on prisons and the parole system
- Administrative delays led to uncertainty and perceived injustice
- IPP numbers led to overcrowding.

## Reform

In response to the above issues, a new 'seriousness' threshold was introduced (2008) and meant that an IPP sentence could only be imposed if:

- A person had previously been convicted of a second listed offence
- Minimum tariff length of two years had to be given.

In 2010, PRT published a research report called *Unjust Desserts: Imprisonment for public protection* which investigated the overall impact of IPP sentences on the criminal justice system from courts, to prison through to resettlement. This report was one of the streams of evidence used to abolish the sentence in 2012.

## Abolition

Whilst the Legal Aid, Sentencing and Punishment of Offenders Act in 2012 sought to abolish the IPP sentence, the abolition was not retrospective. This means that there is still a population in prison that is subject to IPP sentences.

## Outstanding issues

The *Bromley Briefings*<sup>1</sup> find that the legacy of the IPP sentence means:

- Despite its abolition in 2012, there are 1,895 people in prison serving an IPP sentence who have never been released
- More than nine in 10 people serving an IPP are still in prison despite having already served their tariff—the minimum period they must spend in custody and considered necessary to serve as punishment for the offence

- One in six (17%) people who have yet to be released have a tariff of less than two years, and two in five (42%) have a tariff of between two and four years
- 300 people have yet to be released from prison despite being given a tariff of less than two years— almost two-thirds of these (199 people) have served ten years or more beyond their original tariff
- There are a further 1,357 people serving an IPP sentence who are back in prison having previously been released — a 13% rise in the last year.

## Advocating for change

### PRT's strategy

**Convert**

**Protect**

**Rehabilitate**

In 2012, PRT embarked on a strategy to influence and convert all IPP sentences into their equivalent determinate sentences, protect the public by ensuring there was a minimum period of licence for all IPPs which can be worked through, and also to ensure there are sufficient resources for people serving IPPs to rehabilitate successfully both whilst in prison and through to resettlement back into the community.

### How did PRT identify this strategy was the most appropriate?

The assumptions behind this strategy are that:

- It is a complex problem, requiring change at the legislative and operational levels
- Progress requires buy-in from senior officials
- A campaigning approach is unlikely to be effective
- Progress is most likely on the basis of cross-party consensus and support.

For example, IPP sentences were introduced by a Labour government and abolished by a coalition government, therefore it was vital to ensure that the issue did not become party political.

### What is PRT's approach for influencing change?

PRT has four main strands to this work, outlined as follows.

#### 1. Research-led, to build an evidence base for reform

PRT has commissioned two pieces of research, firstly on the reasons why IPP prisoners were recalled and how they could be supported to make a success of their release on licence in the community, and secondly research on the contribution families could make to the successful resettlement of IPP prisoners on release.

The research involved interviews with people who had been recalled, as well as access to new data from the prison service. This granular information highlighted people's experience of recall and, at its worst, the research found that the system:

- Recalled people to indefinite custody for behaviour that appeared to fall well short of the tests set in official guidance
- Defined needs (e.g. mental health) as risk factors
- Ignored the impact of the unfairness of the sentence on wellbeing and behaviour
- Could not provide the necessary support
- Provided no plans for re-release.

Not all IPP prisoners experienced all of these, but they were common enough to reveal a system in need of radical improvement.

### **What happened as a result of the research?**

It enabled PRT to devise detailed recommendations:

- A reduction in the length of time before which people are entitled to have their licence reviewed from 10 to five years, with a yearly review after that period.
- Changes to the recall test and process so that individuals on IPP licence are not at risk of far more severe punishment than their behaviour would otherwise justify.
- A process of judge-led reviews of individual IPP cases; a phased programme of releases, with properly resourced preparation, and post release support plans for all those affected. All IPP prisoners should have a fixed date on which their liability to recall ends.

Additionally, another outcome of the research was that the Parole Board devised guidance for families in response to the lack of knowledge and understanding by families about IPP sentences and the levels of distress this caused.

## **2. Working closely with senior officials and practitioners**

PRT made a Freedom of Information request to the Parole Board in November 2016 and resulted in the disclosure of the Board's advice to the Justice Secretary on policy options for expediting the release of IPP prisoners.

This advice informed how PRT thinks about its recommendations and how it reframes its messages.

## **3. Careful work with the media to highlight the ongoing impact of the IPP on prisoners and their families**

Whilst PRT had made the decision that a campaigning approach was unlikely to be successful, the research helped highlight the injustices with these types of sentences and that could build a platform to seek greater public awareness and understanding.

The importance of stories in trying to develop public sympathy and understanding of the issue is crucial in bringing about a greater awareness of the issues.

#### **4. Developing cross-party support**

PRT holds regular meetings with ministers, shadow ministers, officials and Parliamentarians. PRT drafted and secured the tabling of an amendment to the Prisons and Courts Bill 2016 to require a government review of the arrangements for the release of IPP prisoners.

#### **What are the next steps?**

Working closely with the Howard League for Penal Reform and representatives of IPP prisoners and their families, PRT will use the opportunity of the forthcoming Police, Crime, Sentencing and Courts Bill 2021 to table amendments building on the recommendations made through its IPP research.

#### **Are there any reflections or learnings from taking this approach?**

PRT outlines that the most important thing is to be really clear about the problem and identify the solutions. In the online expert seminar run by Mark Day, Head of Policy and Communications, it was highlighted that it is a complicated policy area that PRT was trying to influence and therefore required complex policy recommendations.

The main takeaway from undertaking this work is the importance of it being evidence-based. It was only through research and gathering evidence to back up its claims that PRT was able to represent the issue in the most compelling and effective way possible.

1 Prison Reform Trust. (2021). *Bromley Briefings Prison Factfile*. Online: <http://www.prisonreformtrust.org.uk/publications/factfile>

## Our vision

Our vision is of a vibrant, independent and resilient voluntary sector that enables people to transform their lives.

## Our mission

To support, represent and advocate for the voluntary sector in criminal justice, enabling it to provide the best possible opportunities for individuals and their families.

## Join Clinks

### Are you a voluntary organisation supporting people in the criminal justice system?

Join our network of over 600 members.

Clinks membership offers you:

- A voice to influence change
- Practical assistance to be effective and resilient
- Support from a community of like-minded professionals.

[www.clinks.org/membership](http://www.clinks.org/membership)

### Clinks

Block C, 5<sup>th</sup> Floor, Tavistock House, Tavistock Square, London WC1H 9JJ

☎ 020 7383 0966 ✉ info@clinks.org 🐦 @Clinks\_Tweets 🌐 www.clinks.org