

Review of Indeterminate Sentences for Public Protection (IPPs) – Equality Impact Assessment

Introduction

The Ministry of Justice tabled Government amendments at the Commons Report stage of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Bill to abolish IPPs and to take forward provisions to reform how the criminal justice system punishes, sentences and rehabilitates serious sexual and violent offenders. This equality impact assessment accompanies these Government amendments.

Equality duties

Under the Equality Act 2010 section 149, when exercising its functions, Ministers and the Department are under a legal duty to have ‘due regard’ to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
- Advance equality of opportunity between different groups (those who share a protected characteristic and those who do not); and
- Foster good relations between different groups.

Paying ‘due regard’ needs to be considered against the nine “protected characteristics” under the Equality Act – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity.

MoJ has a legal duty to investigate how policy proposals are likely to impact on the protected characteristics and where a potential disadvantageous effect is identified how that is either mitigated or justified by reference to the objectives of the policy. MoJ records its fulfilment of its duties by completing an Equality Impact Assessment (EIA).

Summary

This EIA relates to amendments at the Commons Report stage of the LASPO Bill to abolish IPPs and to take forward provisions to reform how the criminal justice system punishes, sentences and rehabilitates serious sexual and violent offenders.

IPPs and the youth equivalent - the Detention for Public Protection sentence - were introduced through the Criminal Justice Act 2003 in April 2005, with the purpose of detaining in prison, the ‘most dangerous, violent and sexual offenders’ who pose a significant risk to the public of causing serious harm until they no longer pose such a risk. The offender can only be considered for release once they have completed their ‘tariff’ or minimum custodial term, which reflects the appropriate punishment for their crime. Subsequently they are only released when the Parole Board is satisfied that it is safe to do so.

By 2006, the sentence had been used much more widely than had been intended and a considerable proportion of those sentenced to IPPs had relatively short tariffs or two years or less. Changes in the Criminal Justice and Immigration Act (CJIA) 2008 restricted the use of IPPs and DPPs to those who would merit a minimum four

year determinate sentence (i.e. a minimum two year tariff) and gave increased discretion to the courts over its use. However, the issues around the lack of clarity and inconsistency around the current system still remain.

This makes the sentencing framework unclear and difficult to explain, as well as defend to the public. A return to a definite, more balanced principle of punishment for crime committed which will restore clarity, coherence and common sense to sentencing, is therefore desirable. It is therefore proposed to replace both the current IPP and Extended sentence for Public Protection (EPP) sentence. So the new sentencing hierarchy for sexual and violent offenders will be:

- Mandatory life
- Discretionary life
- Extended Determinate Sentence
- Standard Determinate Sentence

We have considered the impact of the proposals against the statutory obligations under the Equality Act 2010. These are outlined below.

Direct discrimination

All offenders who would previously have received an IPP or EPP will be eligible for a new extended determinate sentence.. There is therefore no direct discrimination within the meaning of the 2010 Act.

Indirect discrimination

We cannot determine with certainty what sentences the courts will give in the future which. This, along with the lack of certainty about how long those given IPPs spend in custody, means it is difficult to identify whether there may potentially be negative impacts for offenders. Although the sentences will apply equally to those who share a protected characteristic and those who do not, we have in this analysis identified how those who share a certain characteristic may be more likely to be given an IPP or EPP, and therefore more likely to be given sentences under the new sentencing framework. Although clear conclusions are difficult to draw from the available data, we have identified in the potential for differential effects in respect of age, disability, race, religion and sex. Further monitoring will be required to determine the nature of any effects.

However, even if it were established that these effects constituted a particular disadvantage, we believe that the new sentencing framework for serious sexual and violent offences represents a proportionate response to the problems of the current sentencing framework and the aim of protecting the public.

Discrimination arising from disability and duty to make reasonable adjustments

In so far as the new sentencing framework extends to disabled offenders, we believe that the policy is proportionate, having regard to its aim. The proposals also include increased access to rehabilitation interventions, ensuring programmes in prison are more tailored which can be delivered in a number of different ways to increase flexibility and inclusion of offenders with more complex needs such as learning difficulties.

Harassment and victimisation

We do not consider there to be a risk of harassment or victimisation within the meaning of the Equality Act as a result of these proposals.

Advancing equality of opportunity

The proposed future clarity in sentencing through a new, more determinate sentencing framework, and the proposals to make rehabilitative interventions in prison more tailored to individual needs and circumstances, may also potentially be a positive impact on offenders. We have identified in the potential for these differential effects in respect of age, disability, race, religion and sex.

Fostering good relations

We have considered this objective but do not think it is of particular relevance to the proposals.

Having paid due regard to the potential differential impacts identified below, the Government is satisfied that it is right to reform how the criminal justice system punishes, sentences and rehabilitates serious sexual and violent offenders. The benefits include future clarity over determinate sentence lengths, whereby both victims and offenders will know what punishment the offender will receive and how long the offender is likely to spend in custody has the potential for positive impact for victims. In this analysis we have identified how victims of violence are more likely to come from certain groups with protected characteristics, and therefore potentially may be more likely to benefit from the positive impact. We have identified the potential for these differential effects in respect of age, race and sex.

Aims and outcomes for the policy

The Ministry of Justice Green Paper *Breaking the Cycle* published in December 2010 consulted upon proposals to limit IPPs to a smaller category of offences. The consultation made clear that there are many problems with the IPP sentence, in particular with issues surrounding inconsistency and uncertainty. IPPs have proved difficult to understand and leave victims and their families uncertain about how and when an offender will be released. IPPs have also led to inconsistent sentencing - they have been given to some offenders, while others who have committed similar crimes have served fixed sentences.

This makes the sentencing framework unclear and difficult to explain, as well as defend to the public. A return to a definite, more balanced principle of punishment for crime committed which will restore clarity, coherence and common sense to sentencing, is therefore desirable.

The large range of potential options is constrained by a number of important policy aims. The requirement of proposals are to abolish IPPs and create a new sentencing framework for serious sexual and violent offences, which:

- Replace IPPs with a coherent sentencing framework which is not over-complex and more easily understood by victims and the public.
- Will be justifiably tough and can be seen to effectively punish offenders.
- Must continue to protect the public from sexual and violent offenders.
- Makes the period of incarceration more certain and establish clear delineations between sentences depending upon the severity of the offence and associated risk factors.
- Will ensure that offenders undertake work to address their offending behaviour with the purpose to rehabilitate as part of their sentence.
- Will ensure that we manage resource pressures into the next Spending Review Period and beyond by keeping the prison population at roughly current levels.

In order to meet the criteria set out above we need a balanced sentencing framework incorporating elements from each of the options we have considered. The following proposals effectively address the criteria set out above.

Under a new sentencing framework we will introduce a “two strikes” policy so that a mandatory life sentence will be given to anyone convicted of a second serious sexual or violent offence where both offences merit sentences of ten years or more. We estimate that approximately 20 offenders per year will be given this new mandatory life sentence.

Discretionary life sentences will continue to be available as currently for other serious and violent offenders. We expect wider use of these sentences following abolition of the IPP.

We will create a new “extended determinate sentence” for offenders convicted of serious sexual or violent offences who would have previously been eligible for either an IPP or an EPP. They will serve at least two-thirds of their sentence in custody and, in more serious cases, will only be released at the two-thirds point if the Parole Board assesses them as suitable; these offenders will only be subject to automatic release at the full term of their sentence.

The new sentence will be coupled this with extended licence periods following release: up to five years for violent offenders; eight years for sexual offenders. Any breach of their licence conditions during this extended period can result in an immediate return to custody for these offenders, so that when they are released from prison they will be monitored for long periods and returned to prison if necessary.

All offenders under this sentence will be required to follow a sentence plan including undertaking a range of targeted rehabilitative interventions, aimed at reducing their risk. Work will be undertaken to make interventions in prison more tailored to individual need which can be delivered in a number of different ways, including for offenders with complex needs such as learning disabilities. This will ensure that all offenders undergo rigorous assessments of need; that all methods of effective rehabilitation are considered and used and that there is an enhanced focus upon sentence plan progression; offenders taking responsibility and action to reform, and reduce public protection risks.

The extended sentence will be available in addition to standard determinate sentences, and life sentences. It will replace both the current IPP and EPP sentence. So the new sentencing hierarchy for sexual and violent offenders will be:

- Mandatory life
- Discretionary life
- Extended Determinate Sentence
- Standard Determinate Sentence

This overall approach will also help simplify the sentencing framework, and make it easier to explain whilst ensuring that the courts continue have sufficient powers in place to continue to protect the public from sexual and violent offenders.

For the existing IPP population, the system in the past has struggled to put in place adequate steps to help reduce their risks, or for them to demonstrate that to the Parole Board for assessment of possible release. It is clear that for offenders whom the courts have determined pose a risk, sufficient interventions must be available to assist the offender in reducing those risks.

We therefore propose to undertake work in a number of areas to improve the management of the existing population and the processes which lead to a reduction in risk such as expanding the capacity of rehabilitative interventions for this group focusing priority interventions based upon risk. These measures will help us ensure more IPP offenders make progress and can demonstrate to the Parole Board that they can be safely released.

Scope, Methodology and evidence sources

The scope of this equality impact assessment is the introduction of a new sentencing framework for sexual and violent offenders, and the proposals to make rehabilitative interventions in prison more tailored to individual need and circumstance.

In analysing the potential equalities impacts of these proposals, we have considered:

- The impact on **victims**, by considering the ways in which victims might benefit from the proposals; and how the characteristics of victims of sexual and violent offences. The future clarity over release dates whereby both victims and offenders will know what punishment the offender will receive and how long the offender is likely to spend in custody has the potential for positive impact for victims. To assess the potential impact we have used data on the risk of becoming a victim of violent crime by demographic characteristics, from the British Crime Survey (BCS). The BCS asks people aged 16 and over living in households in England and Wales about their experiences of crime in the last 12 months. These experiences are used to estimate levels of crime in England and Wales. The survey includes data on race, disability, gender, age and marital status for victims of crime. There is limited information on religion and sexual orientation. However the BCS does not include data on gender reassignment, civil partnership or pregnancy and maternity. Therefore we do not have data relating to these characteristics for victims of crime;
- The impact on **offenders**, by considering the ways in which offenders will be affected by these proposals in terms of expected impact on their sentence length, and access to offender management programmes. The future clarity in sentencing, and the proposals to make rehabilitative interventions in prison more tailored to individual need and circumstance, may also potentially be a positive impact on offenders. We cannot determine with certainty what sentences the courts will give in the future, which, along with the lack of certainty about how long those given IPPs spend in custody, mean it is difficult to identify whether there may potentially be negative impacts for offenders. In assessing the potential impact we have undertaken the following comparisons:

For those who would previously have been given IPPs

- Characteristics of those who received IPPs who have been subject to release in 2010 have been compared with those sentenced to IPPs in 2010 to understand whether currently particular types of offenders are less likely to be released. Note that this is based on low volumes, given the low release rate of IPPs;
- Examination of research evidence on IPPs and access to offender management programmes;
- Whether or not the expected distribution of future sentences affects offenders with certain protected characteristics. We cannot determine with certainty what sentences the courts will give in the future, which, along with the lack of certainty about how long those given IPPs spend in custody, mean it is difficult to identify whether there may potentially be negative impacts for offenders. However, we do consider that for future sentences the minimum time served will be on average **longer** than the tariffs currently given for IPP sentences.

For those who would previously have been given EPPs

- Whether or not the expected distribution of future sentences (which on average we expect the minimum time served to be **longer** than the time currently served for EPP sentences) affects offenders with certain protected characteristics.

For the existing IPP population

- Characteristics of the IPP population in 2011 compared to the sentenced prison population in 2011.

The data we have used to make these comparisons are described below.

- Data on those sentenced in 2010 to IPPs, EPPs or custody for indictable offences, are from the Court Proceedings Database. This holds information on defendants proceeded against, found guilty and sentenced for criminal offences in England and Wales. It includes information on the age of the defendant, their gender, ethnicity, the police force area and court where proceedings took place as well as the offence and statute for the offence. Information on gender reassignment, disability, pregnancy and maternity, sexual orientation, religion or belief or marriage and civil partnership for criminal offences may be held by the courts on individual case files. However it has not been possible to collate these data for this Equality Impact Assessment because of practical difficulties.
- Data on the sentenced prison population and the sentenced IPP population at 31st March 2011 are based on further analysis of Offender Management Caseload Statistics and data held by the Public Protection and Mental Health Group, NOMS in the Public Protection Database. Data are held centrally for ethnicity, gender, age and religion. Information is not held centrally on gender reassignment, sexual orientation, pregnancy and maternity or marriage and civil partnership. Disability data is held centrally but is not sufficiently reliable to use.
- Data on IPP releases in 2010 are based on data held by the Public Protection and Mental Health Group, NOMS in the Public Protection Database. Data are held centrally for gender and age. Information is not

The following assessment only explores potential equality impacts arising from the policy proposals in relation to the groups affected by the proposals. It is not intended to provide an assessment of the wider factors at play which may explain observed differentials in the distribution of protected characteristics at each stage of the criminal justice system. Such an analysis would consider the extent to which factors other than equality characteristics (such as offence type and offending history) might contribute to the over- or under-representation of particular groups. Two MoJ statistics publications provide this analysis: *Statistics on Race and the Criminal Justice System* and *Statistics on Women and the Criminal Justice System*.

Stakeholder consultation and engagement

The consultation process included:

- Ministry of Justice Green Paper *Breaking the Cycle: effective punishment, rehabilitation and sentencing of offenders* (Dec 2011) and analysis of consultation responses;
- Consultation with voluntary sector organisations including the Prison Reform Trust; Criminal Justice Alliance and with senior judiciary as well as consideration of relevant reports produced by voluntary sector and independent organisations on IPPs;
- Consideration of health implications for those on IPPs, including personality disorders, and impacts upon policy in these areas;
- Research on international and UK practice of indeterminate sentences.

Analysis - Future sentences

We believe a number of these proposals will have a positive impact upon equalities. Namely:

- Replacing IPPs with a new determinate sentence will result in a clearer and more consistent system whereby both victims and offenders will know with more certainty what punishment the offender will receive and how long the offender is likely to spend in custody;
- Proposals to make rehabilitative interventions in prison - for existing IPP prisoners and future prisoners under the current sentencing regime - more tailored to individual need and circumstance e.g. increasing range of ways in which interventions can be delivered - oral, written, visual - including to those with learning disabilities.

The proposals aim to ensure that all offenders undertake rehabilitative activity as part of their sentence plan; this is an enhanced proposal than previously and we believe will result in better assessment of offender needs and better access to necessary interventions.

Impact on victims

The future clarity over how long the offender is likely to spend in custody and when they will be released has the potential for positive impact for victims. Information is not available on the characteristics of victims of those sentenced to IPPs. Using the British Crime Survey, we have considered wider information on the risk of becoming a victim of violent crime by demographic characteristics to further understand the

potential positive equality impacts of these proposals. The results are presented in Table 1¹.

We have identified the potential for these positive differential effects in respect of age, race and sex.

Potential Age Impacts

Table 1 (Annex A) shows younger people were at greatest risk of being a victim of violent crime, and are therefore more likely to benefit than other types of victim. Adults aged 16 to 24 had a higher risk than older age groups of being a victim of violent crime. Risks for adults aged 65 and over were less than one per cent.

Our current assessment, based on this evidence, is that there is the potential for differential impact in relation to age.

Potential Disability Impacts

Table 1 (Annex A) shows that there is little difference in the risk of being a victim of violent crime by whether the victim is disabled or not.

Our current assessment is that there is no evidence for the potential for the new sentences to have a differential impact in relation to disability.

Potential Gender Reassignment Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Marriage and Civil Partnership Impacts

Table 1 (Annex A) shows that single people had the highest risk by marital status (7.2 per cent), and are therefore more likely to benefit than other types of victim. This is likely to reflect the younger age profile of this group.

Our current assessment is that there is no evidence for the potential for the new sentences to have a differential impact in relation to marriage and civil partnership.

Potential Pregnancy and Maternity Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Race Impacts

Table 1 (Annex A) shows that are differences in the risk of being a victim of violent crime by ethnic group, with 3.6 per cent of the Mixed ethnic group victims of violence, compared to 3.1 per cent of White people and 2.1 per cent of Asian people. This suggests therefore that some groups are more likely to benefit.

Our current assessment, based on this evidence, is that there is the potential for differential impact in relation to race.

¹ Many demographic characteristics will be closely associated (for example marital status and age) so caution is needed in the interpretation of the effects of these different characteristics when viewed in isolation.

Potential Religion or Belief Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Sex Impacts

Table 1 (Annex A) shows that overall, men were more than twice as likely as women (4.2 per cent compared with 1.8 per cent) to have experienced one or more violent crimes, and are therefore more likely to benefit than women.

Approximately two per cent of women aged 16 to 59 and less than one per cent of men (of the same age) had experienced a sexual assault (including attempts) in the previous 12 months. The majority of these are accounted for by less serious sexual assaults. Less than one per cent of both women and men reported having experienced a serious sexual assault.

Our current assessment, based on this evidence, is that there is the potential for differential impact in relation to sex.

Potential Sexual Orientation Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Impact on those who would have previously been given IPPs

The future clarity over sentencing in regards to how long the offender is likely to spend in custody, and the proposals to make rehabilitative interventions in prison more tailored to individual need and circumstance, may also potentially be a positive impact on offenders. We cannot determine with certainty what sentences the courts will give in the future which, along with the lack of certainty about how long those given IPPs spend in custody, mean it is difficult to identify whether there may potentially be negative impacts for offenders..

Although the sentences will apply equally to those who share a protected characteristic and those who do not, we have in this analysis identified how those who share a certain characteristic may be more likely to be given an IPP, in comparison to those sentenced to custody for indictable offences, and therefore more likely to be given the new sentences. We have also identified where those with a certain characteristic may be more likely to be released from an IPP in comparison to those given an IPP sentence.

Although clear conclusions are difficult to draw from the available data, we have identified in the potential for these differential effects in respect of age, disability, race and sex.

Potential Age Impacts

Table 2 (Annex A) suggests that those aged under 21 are less likely than other age groups to be released from an IPP in comparison to those given IPP sentences, although this may be partially due to their age band increasing by the end of their tariff. Those aged 25-29 are more likely to be released from an IPP.

Table 2 (Annex A) suggests that those sentenced to IPPs are more likely to be aged 40 and over than those sentenced to custody for indictable offences.

Our current assessment, based on this evidence, is that there is the potential for the new sentences to have a differential impact in relation to age.

Potential Disability Impacts

Research suggests that in many cases IPP prisoners' mental disorders may be pre-existing conditions, but at the same time, it seems very likely that the stress created by the uncertainties of indeterminate imprisonment lead directly to poor emotional and mental health².

Research also suggests "that access to offending behaviour programmes is particularly difficult for IPP prisoners who have mental health problems - and it should be remembered that IPP prisoners appear to suffer from significantly higher rates of mental health problems than other prisoners - although adapted programmes have recently been introduced in some high and medium secure hospitals for IPP offenders subject to hospital transfers."³

In addition, offenders who present a high risk of serious harm linked to severe forms of personality disorder (PD) present particularly difficult challenges and it is estimated that this affects approximately half of all IPP offenders^[1].

The proposals include work to make rehabilitative interventions in prison more tailored which can be delivered in a number of different ways to increase flexibility, access, and inclusion of offenders with more complex needs such as learning difficulties.

A new offender PD pathway will start to be jointly commissioned by the NHS and NOMS from April 2012 for those who present a high and very high risk of harm to others and where their offending is linked to severe forms of PD. It will include reinvesting in new PD pathway services across the prison estate.

Our current assessment, based on this evidence, is that there is the potential for differential impact in relation to disability.

Potential Gender Reassignment Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Marriage and Civil Partnership Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Pregnancy and Maternity Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Race Impacts

Table 2 (Annex A) suggests that those sentenced to IPPs are slightly more likely to be from the Black ethnic group than those sentenced to custody for indictable offences.

² 'In the dark: The mental health implications of Imprisonment for Public Protection' by Sainsbury Centre for Mental Health

³ 'Unjust Deserts: imprisonment for public protection' by Jessica Jacobson and Mike Hough, Prison Reform Trust, 2010

Our current assessment, based on this evidence, is that there is the potential for the new sentences to have a differential impact in relation to race.

Potential Religion or Belief Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Sex Impacts

Table 2 (Annex A) suggests that women are more likely than men to be released from an IPP in comparison to those given IPP sentences.

Table 2 (Annex A) suggests that those sentenced to IPPs are more likely to be male than those sentenced to custody for indictable offences.

Our current assessment, based on this evidence, is that there is the potential for the new sentences to have a differential impact in relation to sex.

Potential Sexual Orientation Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Impact on those who would have previously been given EPPs

The future clarity over sentencing in regards to how long the offender is likely to spend in custody, and the proposals to make rehabilitative interventions in prison more tailored to individual need and circumstance, may also potentially be a positive impact on offenders. We cannot determine with certainty what sentences the courts will give in the future which mean it is difficult to identify whether there may potentially be negative impacts for offenders.

Although the sentences will apply equally to those who share a protected characteristic and those who do not, we have in this analysis identified how those who share a certain characteristic may be more likely to be given an EPP in comparison to those sentenced to custody for indictable offences, and therefore more likely to be given the new sentences. Although clear conclusions are difficult to draw from the available data, we have identified in the potential for these differential effects in respect of age, disability, race and sex.

Potential Age Impacts

Table 2 (Annex A) suggests that those sentenced to EPPs are more likely to be aged 40 and over than those sentenced to custody for indictable offences.

Our current assessment, based on this evidence, is that there is the potential for the new sentences to have a differential impact in relation to age.

Potential Disability Impacts

The proposals include work to make rehabilitative interventions in prison more tailored which can be delivered in a number of different ways to increase flexibility, access, and inclusion of offenders with more complex needs such as learning difficulties.

Potential Gender Reassignment Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Marriage and Civil Partnership Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Pregnancy and Maternity Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Race Impacts

Table 2 (Annex A) suggests that those sentenced to EPPs are more slightly likely to be from the White ethnic group than those sentenced to custody for indictable offences, although the level of unknowns may account for these small differences.

Our current assessment, based on this evidence, is that there is the potential for the new sentences to have a differential impact in relation to race.

Potential Religion or Belief Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Sex Impacts

Table 2 (Annex A) suggests that those sentenced to EPPs are more likely to be male than those sentenced to custody for indictable offences.

Our current assessment, based on this evidence, is that there is the potential for the new sentences to have a differential impact in relation to sex.

Potential Sexual Orientation Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Analysis - Existing IPP population

We believe a number of these proposals will have a positive impact upon equalities. Namely proposals to undertake work in a number of areas to improve the management of the existing population and the processes with lead to an effective Parole Board hearing, such as expanding the capacity of rehabilitative interventions for this group focusing priority interventions based upon risk. These measures will help us ensure more IPP offenders make progress and can demonstrate to the Parole Board that they can be safely released.

Although the proposals to improve the management of the existing population will apply equally to those who share a protected characteristic and those who do not, we have in this analysis identified how those who share a certain characteristic may be more likely to be in custody under an IPP sentence, in comparison to the general sentenced prison population, and therefore more likely to be affected by the proposals. We have identified in the potential for these differential effects in respect of age, disability, race, religion and sex.

Potential Age Impacts

Table 2 (Annex A) shows that the IPP population are more likely to be aged 21-49 compared to the sentenced prison population.

Our current assessment, based on this evidence, is that there is the potential for differential impact in relation to age.

Potential Disability Impacts

Research suggests that in many cases IPP prisoners' mental disorders may be pre-existing conditions, but at the same time, it seems very likely that the stress created by the uncertainties of indeterminate imprisonment lead directly to poor emotional and mental health⁴.

Research also suggests "that access to offending behaviour interventions is particularly difficult for IPP prisoners who have mental health problems - and it should be remembered that IPP prisoners appear to suffer from significantly higher rates of mental health problems than other prisoners - although adapted programmes have recently been introduced in some high and medium secure hospitals for IPP offenders subject to hospital transfers."⁵

In addition, offenders who present a high risk of serious harm linked to severe forms of personality disorder (PD) present particularly difficult challenges and it is estimated that this affects approximately half of all IPP offenders^[1].

The proposals include work to make rehabilitative interventions - including those addressing mental health problems - in prison more tailored which can be delivered in a number of different ways to increase flexibility, access, and inclusion of offenders with more complex needs such as learning difficulties.

A new offender PD pathway will start to be jointly commissioned by the NHS and NOMS from April 2012 for those who present a high and very high risk of harm to others and where their offending is linked to severe forms of PD. It will include reinvesting in new PD pathway services across the prison estate.

Our current assessment, based on this evidence, is that there is the potential for differential impact in relation to disability.

Potential Gender Reassignment Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Marriage and Civil Partnership Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Pregnancy and Maternity Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Potential Race Impacts

Table 2 (Annex A) shows that the IPP population are more likely to be from the White or Black ethnic groups compared to the sentenced prison population.

Our current assessment, based on this evidence, is that there is the potential for differential impact in relation to race.

⁴ 'In the dark: The mental health implications of Imprisonment for Public Protection' by Sainsbury Centre for Mental Health

⁵ 'Unjust Deserts: imprisonment for public protection' by Jessica Jacobson and Mike Hough, Prison Reform Trust, 2010

Potential Religion or Belief Impacts

Table 3 (Annex A) shows that there are small differences in the religious make-up of the IPP population compared to the sentenced population.

Our current assessment, based on this evidence, is that there is the potential for differential impact in relation to religion.

Potential Sex Impacts

Table 2 (Annex A) shows that the IPP population are more likely to be male compared to the sentenced population.

Our current assessment, based on this evidence, is that there is the potential for differential impact in relation to sex.

Potential Sexual Orientation Impacts

Due to limitations in the available evidence we are unable to rule out the potential for any differential impact.

Mitigation

We will monitor implementation of these reforms to help mitigate any negative impacts, which may occur. However, as previously mentioned we believe these reforms will reduce negative impacts of the existing IPP regime.

Monitoring

We will be monitoring the implementation of these reforms for positive, negative and mixed equality impacts. We anticipate that the earliest these changes will be implemented is towards the end of 2012. Subject to passage of the Bill through Parliament and commencement, we would anticipate therefore to have a first full year's data for a number of protected characteristics on which to base a review commencing in Spring 2014.

Annex A – Evidence

Table 1: Proportion of adults who were victims of violence by offence type and personal characteristics

Percentages						
	All violence ¹	Wounding	Assault with minor injury	Assault without injury	Robbery	Unweighted base
% victims once or more						
ALL ADULTS	3.0	0.8	0.7	1.2	0.6	44,559
16-24	8.9	2.5	2.3	3.1	1.9	3,666
25-34	4.0	0.8	0.9	1.8	0.7	5,998
35-44	2.5	0.7	0.6	0.9	0.4	8,007
45-54	1.9	0.5	0.4	0.9	0.2	7,312
55-64	1.3	0.2	0.2	0.7	0.2	7,627
65-74	0.6	0.1	0.1	0.3	0.2	6,321
75+	0.2	0.0	0.0	0.0	0.1	5,628
Men	4.2	1.1	0.9	1.8	0.8	20,079
16-24	13.3	3.7	3.2	4.8	3.2	1,708
25-34	5.6	1.2	1.1	2.8	0.8	2,572
35-44	2.9	1.0	0.6	1.1	0.5	3,539
45-54	2.2	0.4	0.4	1.1	0.3	3,468
55-64	1.7	0.4	0.3	0.9	0.2	3,654
65-74	0.7	0.0	0.1	0.3	0.2	2,921
75+	0.2	0.0	0.0	0.1	0.2	2,217
Women	1.8	0.4	0.5	0.6	0.3	24,480
16-24	4.3	1.3	1.4	1.3	0.7	1,958
25-34	2.3	0.4	0.7	0.7	0.6	3,426
35-44	2.0	0.4	0.6	0.8	0.4	4,468
45-54	1.5	0.5	0.3	0.7	0.2	3,844
55-64	0.9	0.1	0.1	0.6	0.2	3,973
65-74	0.6	0.1	0.1	0.2	0.2	3,400
75+	0.1	0.0	0.0	0.0	0.1	3,411
Ethnic group						
White	3.1	0.8	0.7	1.3	0.5	41,226
Non-White	2.4	0.4	0.4	0.7	1.0	3,255
Mixed	3.6	0.4	0.4	1.7	1.0	316
Asian or Asian British	2.1	0.4	0.4	0.5	1.0	1,482
Black or Black British	2.5	0.7	0.2	0.5	1.0	877
Chinese or other	2.6	0.3	0.5	1.3	0.8	580
Marital status						
Married	1.3	0.3	0.3	0.6	0.2	20,956
Cohabiting	3.0	0.8	0.7	1.3	0.5	3,957
Single	7.2	1.9	1.7	2.6	1.5	9,072
Separated	4.7	1.6	1.3	1.9	0.3	1,415
Divorced	2.9	0.8	0.8	1.1	0.5	4,061
Widowed	0.7	0.1	0.2	0.3	0.2	5,087
Long-standing illness or disability						
Long-standing illness or disability	2.8	0.7	0.6	1.1	0.6	12,715
Limits activities	2.6	0.7	0.5	1.1	0.6	9,052
Does not limit activities	3.0	0.8	0.7	1.3	0.5	3,657
No long-standing illness or disability	3.1	0.8	0.7	1.2	0.6	31,761

1. 'All violence' includes wounding, assault with minor injury, assault without injury and robbery. See Section 5.1 of User Guide for more information.

Source

Crime in England and Wales 2009/10

Table 2: IPPs and EPP sentences in 2010, England and Wales

	Offenders sentenced to custodial sentences for indictable offences 2010	Offenders sentenced to IPPs in 2010	Offenders sentenced to EPPs in 2010	Sentenced prison population (excluding recalls) at 31st March 2011	IPP population at 31st March 2011	IPP releases in 2010
Age						
Under 21	17%	15%	15%	10%	4%	4%
21-24	18%	18%	16%	16%	17%	15%
25-29	20%	16%	18%	18%	22%	32%
30-39	27%	24%	24%	26%	27%	22%
40-49	13%	19%	17%	18%	20%	15%
50+	6%	8%	10%	11%	10%	11%
Total	100%	100%	100%	100%	100%	100%
Gender						
M	91%	97%	97%	95%	98%	93%
F	9%	3%	3%	5%	2%	7%
Unknown	0%	n/a	n/a	n/a	n/a	n/a
Total	100%	100%	100%	100%	100%	100%
Ethnicity						
White	72%	72%	74%	73%	76%	n/a
Mixed	n/a	n/a	n/a	4%	4%	n/a
Black	10%	13%	11%	13%	15%	n/a
Asian	6%	4%	6%	7%	4%	n/a
Other	3%	2%	3%	1%	1%	n/a
Unknown	9%	9%	6%	2%	1%	n/a
Total	100%	100%	100%	100%	100%	n/a

Note:

Figures by age for the IPP population are for males only.

Source:

Offenders sentenced to custodial sentences, IPPs and EPPs - Court Proceedings Data
 Sentenced prison population - Offender Management Caseload Statistics
 IPP population - Offender Management Caseload Statistics and Public Protection Database
 IPP releases - Public Protection Database

**Table 3: IPP prison population by religion 31 March 2011
England and Wales**

Religion	IPP	Sentenced (excluding recalls)
Anglican	28%	25%
Free Church	1%	1%
Roman Catholic	18%	17%
Other Christian	3%	6%
Muslim	13%	12%
Hindu	0%	1%
Sikh	0%	1%
Buddhist	3%	2%
Jewish	0%	0%
Mormons	2%	1%
Pagan	1%	1%
Rastafarians	0%	0%
Other non-recognised	0%	0%
No religion	28%	30%
All Others	0%	2%
<i>Total</i>	100%	100%

Source:

Offender Management Caseload Statistics