

# **A Review of Transition to Community Arrangements for Life Sentence Prisoners in Northern Ireland**

March 2009



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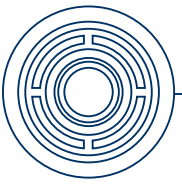
# **A Review of Transition to Community Arrangements for Life Sentence Prisoners in Northern Ireland**

March 2009

Presented to the Houses of Parliament by the  
Secretary of State for Northern Ireland under  
Section 49(2) of the Justice (NI) Act 2002.

**Criminal Justice Inspection  
Northern Ireland**  
*a better justice system for all*

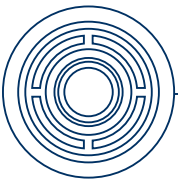






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## List of abbreviations and definitions

<b>ACE</b>	Assessment, Case Management and Evaluation
<b>CJI</b>	Criminal Justice Inspection Northern Ireland
<b>DRM</b>	Designated Risk Manager
<b>ECS</b>	Extended Custodial Sentence
<b>HBW</b>	Hydebank Wood Prison and Young Offenders Centre
<b>ICS</b>	Indeterminate Custodial Sentence
<b>IPP</b>	Imprisonment for Public Protection
<b>LAPPP</b>	Local Area Public Protection Panel
<b>LMU</b>	Lifer Management Unit
<b>LSO</b>	Life Sentences (Northern Ireland) Order 2001
<b>LSRC</b>	Life Sentence Review Commissioners (now Parole Commissioners for Northern Ireland)
<b>MASRAM</b>	Multi-Agency Sex Offender Risk Assessment and Management (now evolved into PPANI)
<b>NIO</b>	Northern Ireland Office
<b>NIPS</b>	Northern Ireland Prison Service
<b>Oasys</b>	Offender Assessment System (used in England and Wales instead of ACE)
<b>OBP</b>	Offending Behaviour Programme
<b>OLR</b>	Order for Lifelong Restriction
<b>PAU</b>	Prisoner Assessment Unit (in NIPS)
<b>PBNI</b>	Probation Board for Northern Ireland
<b>PC</b>	Parole Commissioners for Northern Ireland (formerly Life Sentence Review Commissioners)
<b>PPANI</b>	Public Protection Arrangements Northern Ireland (formerly MASRAM)
<b>PPT</b>	Public Protection Team (Inter-agency membership)
<b>PPU</b>	Public Protection Unit (of PSNI)
<b>PREPS</b>	Progressive Regimes and Earned Privileges Scheme (in NIPS)
<b>PSNI</b>	Police Service of Northern Ireland
<b>RMA</b>	Risk Management Authority
<b>SOSP</b>	Detention at the Secretary of State's Pleasure (for under 18 year olds)
<b>TED</b>	Tariff Expiry Date
<b>VCS</b>	Voluntary and Community Sector
<b>YOC</b>	Young Offenders Centre

### Definitions

<b>Mandatory Lifer</b>	Sentenced for murder, for which the only penalty is life imprisonment.
<b>Discretionary Lifer</b>	Sentenced for an offence which MAY attract a life sentence.
<b>Indeterminate Sentences</b>	Composite term for mandatory and discretionary life sentences, detention at Secretary of State's Pleasure (SOSP), Imprisonment for Public Protection (IPP) and Indeterminate Custodial Sentence (ICS) sentences.
<b>Tariff</b>	The length of time ordered to be served to meet the needs of punishment <i>before</i> a life sentence prisoner will be CONSIDERED for release.



## Chief Inspector's Foreword

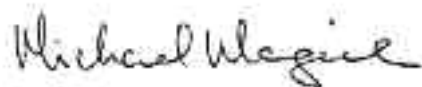
This review considers how well life sentence prisoners are risk assessed and managed in preparation for their release by the Northern Ireland Prison Service (NIPS), Probation Board for Northern Ireland (PBNI) and the Parole Commissioners for Northern Ireland (formerly the Life Sentence Review Commissioners). It also compares practice in Northern Ireland with other jurisdictions, mainly England and Wales, to identify learning opportunities for the future.

Criminal Justice Inspection Northern Ireland (CJI) was requested to undertake the review by the Prisons Minister Paul Goggins MP, in May 2008 following concerns about recent cases. The review is also timely since the Criminal Justice (Northern Ireland) Order, which commenced in May 2008, is expected to increase the number of indeterminate sentenced prisoners here.

The objective of risk assessment is to ensure, as far as possible that those whose release is directed would not cause further serious harm, and that prisoners who were required to remain in custody, did indeed present a significant risk to public safety. Overall risk assessment and risk management in Northern Ireland compared favourably with other jurisdictions, which shared the same anxieties about managing life sentence prisoners safely back into the community.

We did find a number of weaknesses in the current system. This was of particular concern as the number of cases has grown steadily in recent years, and is likely to increase even more rapidly with the introduction of new legislation, leading to further pressure on the lifer management system. My opinion, based on the findings of the review, is that the current management arrangements are not sustainable should there be a significant increase in the number of cases being considered. We have made recommendations to the Northern Ireland Prison Service and the Parole Commissioners aimed at improving the current arrangements. We hope there will be progress in implementing them before we conduct a further review of this subject. At that stage, we would also expect to consider the supervision of lifers in the community.

The review was undertaken during summer 2008. The review team was led by CJI's Tom McGonigle. I am grateful to the NIPS, the PBNI, its partner agencies and the Parole Commissioners for affording access to all requested people, documents and events.

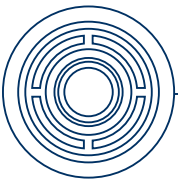


**Dr. Michael Maguire**  
Chief Inspector of Criminal Justice  
in Northern Ireland

March 2009

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## Executive Summary

The management of life sentence prisoners is essential for public protection and public confidence in the criminal justice system. While research has shown that lifers are a *relatively safe group* in comparison to other offenders, it is appropriate that they are subject to thorough assessment and testing, before they can be considered for release as they have been convicted of the most serious offences – usually murder.

Life sentence prisoners constituted in 2008 almost 12% of the overall prisoner population - 180 out of a total prisoner population of 1,548. They occupied a disproportionate deal of time and attention from prison managers and staff in relation to their numbers, but the Northern Ireland Prison Service (NIPS) input was commensurate with their risk and profile. At the time of this review, there were 55 life prisoners at or beyond the point of being considered for release. A growing number were passing their Tariff Expiry Date (TED) because of the risk they were considered to present. The number of lifers has grown steadily in recent years, and is likely to increase even more rapidly with the introduction of new legislation, leading to further pressure on the lifer management system.

Risk assessment and risk management processes were closely integrated, with assessment ongoing throughout the prisoner's time in custody and beyond. Risk management really only began once the prisoner was permitted to leave the secure custodial setting. There were several positive features in relation to the assessment and management of life sentence prisoners. They included:

- risk assessment began at the point of sentence when probation reports were prepared for the sentencing court and were annually updated thereafter;
- recent developments have included a system for life sentence prisoners to progress within the prison estate, and the introduction of NIPS standards for life sentence prisoners;
- progressive legislation provided for an independent and thorough approach to decision making about the release of life sentence prisoners. The spirit of this legislation was being fully delivered by the Parole Commissioners for Northern Ireland. The number of life sentence prisoners was sufficiently small for all prisoners to have their cases considered by the Parole Commissioners three years before their Tariff Expiry Date, and to have a full oral hearing at their Tariff Expiry Date;
- there was an improving focus on victim's needs in the management of prisoners; and
- co-ordination between agencies involved in the management of life sentence prisoners had improved. This included greater co-ordination between the management of life sentence prisoners and the management of sex offenders, the police sharing of case material after life sentence prisoners received their tariff, and good engagement with the voluntary sector in the process.



The deficiencies that Inspectors noted in the management of life sentence prisoners were more about structural and managerial arrangements than concerns about professional judgement. Several life sentence prisoners had been suspended by the NIPS during the testing phase and returned to Maghaberry Prison because of concerns about their conduct. Although these suspensions confirmed that monitoring arrangements were working, they also caused difficulties for the NIPS since the rate of suspensions outweighed the number of prisoners being licensed.

There was growing pressure to balance public protection against providing opportunities to resettle in the community. The judgement of the Prison Service in these matters inevitably entailed a degree of risk, and their decisions were subject to greater levels of legal and other scrutiny. It was apparent that staff were working hard and conscientiously.

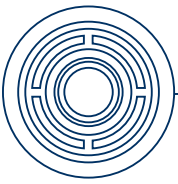
There were, however, clear pressure points in the risk assessment and management processes which have to be addressed if risks are to be minimised. Our review identified a number of areas that were causing delays and system failures in the process of risk assessment of life sentence prisoners. They included:

- administrative demands on the Lifer Management Unit (LMU) which were burdensome. In particular, dossier preparation and updating posed logistical challenges;
- NIPS psychology services were experiencing even greater difficulties than when we last inspected them and require prompt remedy if they are to fulfil expectations;
- criteria for moving to and from the Prisoner Assessment Unit (PAU) needed to be clearer, including the opportunity for graduated regress;
- Offending Behaviour Programmes (OBPs) were insufficient to meet the needs of lifers, never mind the needs of the wider prison population;
- the NIPS Lifer Standards and Prisoner Assessment Unit Standards required further refinement and detail, and staff needed to be trained in their delivery;
- NIPS lifer staff training and deployment needed to improve; and
- the NIPS needed to develop a close formal relationship with the Public Protection Team (PPT).

The increasing workload and accountability of managing high profile cases was taking its toll on some NIPS staff, and although productive working relationships had developed over time, there was an evident degree of tension when other agencies expectations were felt to be unrealistic and could not be fulfilled.

Unlike England and Wales, Northern Ireland does not have an open prison. Instead the low security Prisoner Assessment Unit (PAU) is used to test lifers as they approached their tariff expiry date. Neither the NIPS nor the Parole Commissioners were content with this





arrangement, especially as the PAU regime meant lifers could spend lengthy periods living at home while still technically serving their sentence. More imaginative use of the existing NIPS estate would obviate the need for the ideal of a new build open prison. More important is the need to revise the existing regime for lifers during the testing phase.

We found the oral hearing process was legalistic and protracted. While affirming the Parole Commissioners' judicial independence, it appears current levels of attention to detail will be untenable when the volume of cases increases and administrative arrangements will have to be considerably strengthened. The Parole Commissioners approach may come under severe pressure, and it will be necessary for them to make the necessary changes within the bounds permissible to deal with a possible increase in their workload. If numbers increase and processes for risk assessing lifers are not simplified, then the NIPS will need to revise its staffing and other arrangements such as IT facilities in order to adequately support the Parole Commissioners in fulfilment of their role.

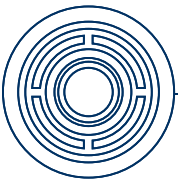
We therefore suggest that the NIPS, Parole Commissioners Secretariat and Probation Board for Northern Ireland need to plan ahead for the increased workload, and address matters of principle such as their differing views about prisoners' readiness for testing or release. Inspectors heard some strong views about a perceived imbalance in favour of risk assessment over risk management, and were told that more attention and resourcing needed to be devoted to testing and managing life prisoners' risks. It was a fundamental issue which should be a priority agenda item of forward planning by the Parole Commissioners and statutory agencies.

Finally, we suggest that every aspect of the process would have functioned better if each lifer had a proactive wing-based case manager, who was competent to take responsibility for overseeing their use of time in prison, and ensure accurate and timely reporting.



## Recommendations

- Appropriate life prisoners should be held at Magilligan Prison (paragraph 1.6).
- A wing-based case management process for life prisoners should be introduced (paragraph 2.6).
- Appropriate staff should be trained in delivery of the Lifer and PAU Standards, and the standards should be evaluated after a short pilot period and developed to incorporate greater clarity and detail (paragraph 2.8).
- The Parole Commissioners should initiate a tracking process to include reasons for adjournment and more detailed targets for case completion (paragraph 2.14).
- The Parole Commissioners should undertake a review of the procedural demands that will be created by the new rules that are presently being developed, which will apply to ICS and ECS prisoners as well as lifers. They should do so in consultation not only with NIPS and other agencies, but also with the solicitors who routinely act for prisoners coming before panels. This review could focus on: the feasibility of panel chairmen taking a more proactive role in suggesting to the parties that the attendance of particular witnesses at the hearing might be unnecessary; on how far it might be permissible for panels to become more inquisitorial in the course of hearings; and signal to the parties the issues that should be addressed (paragraph 2.20).
- The NIPS should continuously review its contribution to the lifer hearing system. This review process should take account of the adequacy of LMU staffing, application of electronic information systems, caseload forecasting, compilation of dossiers and opportunities for alternative hearing locations (paragraph 2.20).
- The NIPS should balance the need for suitably experienced staff with the need to ensure appropriate rotation of staff who work with lifers (paragraph 2.21).
- The Parole Commissioners should engage strategically with the NIPS and other statutory agencies to deal with administrative issues such as forecasting and planning work ahead (paragraph 2.27).
- The NIPS should strengthen its Offending Behaviour Programme delivery structure to manage the needs of all prisoners and develop an effective OBP database (paragraph 2.40).
- The NIPS should provide a programme to address the offending behaviour of men who have murdered their partners (paragraph 2.43).
- The NIPS should implement the findings of the psychology stocktake that apply to them (paragraph 2.50).

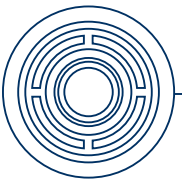


- Unless there are case-specific reasons to do otherwise, the NIPS should move life prisoners to the PAU within 15 months of tariff expiry (paragraph 3.10).
- The NIPS should establish close formal liaison with the Public Protection Team (paragraph 3.15).
- The NIPS should ensure its deployment of PAU staff provides sufficient announced and unannounced home and workplace visits to optimise supervision and public protection in every life prisoner's case (paragraph 3.18).
- The NIPS should build on current policies and standards and, in light of experience including this review, should clarify all aspects of the model for lifer testing at the PAU including criteria for suspension (paragraph 3.37).
- Training should be undertaken by sentencers, practitioners, Parole Commissioners and policy makers in implementation of the ICS element of the Criminal Justice (NI) Order 2008 (paragraph 4.7).
- The NIPS should develop a specific approach for managing ICS prisoners in order to ensure their specific risks and needs are properly addressed, while the risks and needs of ordinary lifers are not neglected (paragraph 4.13).
- The Parole Commissioners administrative functions should be strengthened by:
  - succession planning to replace retiring Commissioners;
  - more explicit terms of reference for Commissioners, to include allocation of specific roles that will assist organisational development, and consideration of a regular time commitment;
  - implementing peer review and appraisal systems; and
  - introducing a business planning process and a more detailed annual reporting system with enhanced statistical content and analysis (paragraph 4.15).

Section



# Review Report



# Introduction and background to the review



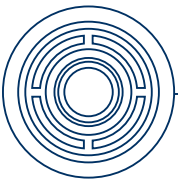
- 1.1 Careful management of life sentence prisoners is essential for public protection and confidence in the criminal justice system. While research has shown that they are a *relatively safe group* in comparison to other offenders, it is appropriate that life prisoners are subject to thorough assessment and testing before they can be considered for release as they have been convicted of the most serious offences – usually murder.
- 1.2 Life sentence prisoners in 2008 constituted, however, a relatively small proportion of the overall prisoner population with only 180 life sentence prisoners out of a total prisoner population of 1,548. At the time of this review there were only 55 life sentence prisoners approaching or at the point of being considered for release. Nonetheless they were high profile cases, and with 26 already beyond their tariff expiry date (TED) pressure was building within the system. *(For further information on the population of life sentence prisoners, please refer to Appendix 2).*

## Overview of the Management of Life Sentence Prisoners

- 1.3 There are three statutory bodies involved in the risk assessment and management of life sentence prisoners.

## Northern Ireland Prison Service

- 1.4 The Northern Ireland Prison Service (NIPS) had a team dedicated to life prisoner management – the Lifer Management Unit (LMU), based at Mourne House in Maghaberry. It comprised three governors with administrative support. There were managers with dedicated lifer responsibility at Hydebank Wood Women’s Prison (Ash House) and at the Young Offenders Centre, but no dedicated main grade lifer officers in any of the prisons. The NIPS also allocated a considerable amount of psychologists’ time to lifer risk assessment work and delivery of Offender Behaviour Programmes (OBP’s).
- 1.5 The NIPS headquarters also had a dedicated Life Sentence Unit (LSU), whose role was to provide policy advice and administrative services. The LSU was responsible for the conduct of tariff setting arrangements and administering the recall provisions of the Life Sentences (Northern Ireland) Order 2001. The NIPS Performance and Risk Management Unit had also undertaken detailed internal reviews when things went wrong during lifers’ transition to the community. This was a constructive development that had generated several learning points.



1.6 The Prison Service has had in place since 2005, a better regime for progression of life sentence prisoners through the prison system. Eighty percent of life prisoners were located in Maghaberry. Adult males spent their time in the initial years of their sentence in maximum security conditions in Erne House at Maghaberry Prison. Thereafter, they were eligible to apply for transfer to Wilson and Martin Houses which had lower levels of staff supervision and increased freedom in the prison environment. They also provided better opportunities for family visits and for prisoners to undertake their own arrangements for laundry and catering. Despite its appropriate regime and suitable location for lifers from the north-west, Magilligan Prison did not hold any life prisoners. Certain life prisoners could benefit from being held there, with unique lifer aspects of their sentence managed from Maghaberry's LMU, and we recommend that **appropriate life prisoners should be held at Magilligan Prison.**

1.7 Life sentence prisoners who were preparing for final release came under the auspices of the Prisoner Assessment Unit (PAU) in Belfast. This Unit played a vital role in the rehabilitation process and helped to determine if such prisoners were suitable for release. Prisoners could gain increased levels of liberty as part of the testing to determine their suitability for being licensed.

*Probation Board for Northern Ireland*


1.8 The Probation Board for Northern Ireland (PBNI) has had a full time

lifer manager in post since April 2006 and there were around 40 probation staff engaged in lifer risk assessment and management in custodial and community settings. Probation officers worked to a set of Lifer Standards which were implemented in 2006. There were 17 detailed standards that specified the nature and levels of engagement with lifers from remand stage through to the discharge of a life licence. The standards provided clear guidance for the main aspects of this work such as ongoing assessment of lifers risk, sentence planning, case recording, report writing, enforcement and recall.

*Parole Commissioners for Northern Ireland*

1.9 Finally, a critical component of the management of life sentence prisoners was the role of the Parole Commissioners. The 2000 Criminal Justice Review concluded that compliance with the Human Rights Act would require that, once the punitive element of a sentence had been completed, each indeterminate sentence prisoner should have their case reviewed periodically by a judicial body. To have judicial character, the body would need to be independent of the executive and of the parties concerned, impartial and able to give a legally binding direction regarding the prisoner's release.

1.10 The Life Sentence Review Commissioners (LSRC) were therefore established to take decisions on the release of all life prisoners in Northern Ireland. In May 2008, the LSRC was reconstituted as the Parole



Commissioners for Northern Ireland to reflect the requirements of the new Criminal Justice (Northern Ireland) Order 2008. This was expected to generate a significant increase in the scale of operation for the existing 25 Commissioners and their small support team, as they would become responsible for assessing suitability for release, of Extended Custodial Sentence (ECS) and Indeterminate Custodial Sentence prisoners (ICS) as well as life prisoners. Consequently, there were plans to increase the number of Commissioners, and at the time of the review new rules were being drafted to cover their extended functions.

- 1.11 The Parole Commissioners principal roles under the Life Sentences Order were considering whether to direct a prisoner's release:
- at the expiration of his/her tariff (Article 6);
  - after the prisoner has been recalled to prison (Article 9); and
  - by way of review, if the prisoner's release had not been directed under (1) or (2) (Article 6).

They also undertook three-year pre-TED reviews in performance of their advisory role on foot of a reference by the Secretary of State under Article 3 of the Order. The Commissioners were extremely careful to maintain independence of all parties to their proceedings and apply an even-handed approach in order to comply with the law. Domestic and European legislation

prescribed explicit boundaries for their interaction with others, and meant that their dominant ethos was legalistic and formal. The consequence was that proceedings could become protracted in order to ensure all possible considerations were taken into account in each case.

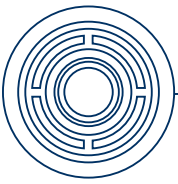
- 1.12 The volume of cases referred to the Commissioners had been very low since its inception. Between 2001 and 2008 a total of 153 cases were referred representing an average of 20 cases per year.

### Recent developments in the management of life sentence prisoners

- 1.13 Those responsible for the assessment and management of lifers had taken account of a range of feedback, including previous inspections including those by CJI and Her Majesty's Inspectorate of Prisons and case reviews since 2005. Some of the more significant developments included:

- a progressive regime had been introduced for lifers at the latter stages of sentence, and several life prisoners acknowledged benefits in the new system in that they were able to progress to more relaxed areas of the prison system, where they could achieve increased independence and a quieter lifestyle. However, the improved regime did not diminish traditional lifer traits of anxiety, difficulty in developing trust and concern that elements of the system were arbitrary; and





- Both the PBNI and the LMU engaged in an exercise to retrospectively identify all lifers who had a sexual conviction or sexual element linked to their index offence, or a previous sexual offence, in order to ensure referral to the MASRAM process. Arrangements had been made for MASRAM assessments to cross-refer with those of the Parole Commissioners. Risk management roles had been clarified in that the NIPS acted as the Designated Risk Manager (DRM) for remand prisoners and the PBNI for sentenced prisoners.
- 1.14 In addition, the findings of internal NIPS reviews of cases that had broken down during the transition phase and while on supervised licence, were shared with the NIPS partners. They had highlighted useful areas for further attention including:
- a need to address conflicting agency views about lifer release;
  - failure by contracted agencies to provide information, usually on questionable grounds of confidentiality;
  - a need to verify information accurately;
  - care in assessing families capacity to assist with risk management of their lifer relative, and
  - clarity in NIPS lifer literature to ensure consistent messages were delivered.
- 1.15 Written guidance for life sentence prisoners had been produced by the NIPS, the PBNI and the Parole Commissioners. This guidance set out the roles of each body in managing lifer cases, expectations of the prisoner and processes for case reviews. Each clearly explained that the prisoner must satisfy the authorities that there was no more than a minimal risk of serious harm if they were to be released on licence.
- 1.16 Timescales had been developed to help manage lifers' periods in custody, based on their individual tariff. These outlined key points for internal progression through the prison system, deadlines for report preparation and submission. Although reality often differed from theory and further progress was required, development of the timescales, and the fact that they were made known to prisoners, was an improvement on previous practice.

## CHAPTER 2:

# Risk assessment of life sentence prisoners

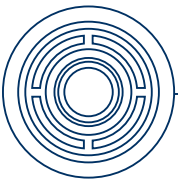


- 2.1 The objective of risk assessment was to ensure, as far as possible that those whose release was directed would not cause further serious harm, and that prisoners who were required to remain in custody, did in fact, present a significant risk to public safety.
- 2.2 Risk assessment and risk management processes were closely integrated, with risk assessment ongoing throughout the prisoner's time in custody and beyond. Risk management really only began once the prisoner was permitted to leave the secure custodial setting.
- 2.3 The process of risk assessment for most lifers commenced with preparation of a probation report for the sentencing court. Subsequently after a tariff had been imposed, detailed court documents and a police briefing were provided to the NIPS by the PSNI. This had been a useful development which ensured that relevant staff were made aware of all details in relation to the prisoner's background. Thereafter, there were annual internal reviews by the NIPS for all lifers, plus at least two major hearings by the Parole Commissioners: pre-tariff expiration references (which did not involve an oral hearing and could not result in release) and oral hearings at, or after tariff expiration which might result in release on licence. Those beyond tariff and recalled lifers were also eligible to have a further statutory review at least once every year.
- 2.4 The NIPS psychology service assisted in the risk assessment of prisoners through individual behavioural reports and the delivery of Offender Behaviour Programmes (OBPs). OBPs included anger management, sex offender treatment, thinking skills and cognitive self-change.

### Process of Risk Assessment

#### *Annual Lifer Reviews*

- 2.5 The NIPS had initiated a process of annual lifer reviews in 2006. These were multi-disciplinary meetings in which the prisoner participated. Written reports were prepared by governors, probation and psychology departments and shared among all participants. The aim was to review achievements during the previous year and set new objectives for the incoming year. Inspectors observed several reviews where the prisoners were well engaged in a relaxed but structured manner.



2.6 The annual lifer review process was still embryonic. Prisoners suggested they valued the opportunity to participate in a meeting that addressed their personal situation, though some were sceptical about the benefits during the early stages of sentence as they felt little that was meaningful could be achieved before they reached their tariff. Inspectors heard that, in the absence of personal officers, only self-motivated lifers were likely to use their time in prison productively. The lifer governors and Lifer Management Unit (LMU) staff dealt with the administrative aspects of each lifer's case, but despite being recommended in previous inspection reports, the concept of a personal officer scheme or individual case management by wing-based prison staff was still missing. CJI Inspectors have seen case management schemes work well in other prisons, especially with long-serving prisoners, and we recommend that **a wing-based case management process for life prisoners should be introduced.**

2.7 Other suggestions for improvement in the annual review process included:

- levels of attendance at, and inputs to the annual reviews needed to become more uniform across prison departments. Some departments did not attend, or did not make inputs on the basis of confidentiality or perceived lack of relevance; and
- the minuted outcomes of annual reviews needed to be more individualised and specific.

2.8 These deficiencies were already known to the NIPS, and were being addressed as part of the evolving review process. Improvements should flow when the new Lifer and Prisoner Assessment Unit (PAU) Standards are fully implemented. Preparation of these standards was a positive step by the NIPS, though Inspectors had concerns about the limited content of the standards. They should stipulate the performance required from staff in greater detail, and staff should be trained in their delivery. We recommend that **appropriate staff should be trained in delivery of the Lifer and PAU Standards, and the standards should be evaluated after a short pilot period and developed to incorporate greater clarity and detail.**

*Article 3 - pre-Tariff Expiry Date review (pre-TED)*

2.9 The most significant assessments of lifers risk were conducted by the Parole Commissioners. The Life Sentences Order stipulated that the Secretary of State had a duty to release on licence certain life prisoners, if the Parole Commissioners gave a direction on the basis of being satisfied, that it was no longer necessary for the protection of the public from serious harm, that the prisoner should be confined.

2.10 The Article 3 (3) (a) three year pre-TED review was not statutorily required, but was introduced in 2004 as a policy decision to identify steps the prisoner might usefully take in preparation for the statutory review



at the tariff expiry date. A total of 24 cases had been referred under Article 3 (3) (a).

2.11 The Lifer Management Unit (LMU) compiled a dossier for each Article 3 hearing. The dossiers included detailed reports from governors, PBNi, psychologists, plus other material such as depositions, home leave reports, tariff ruling, index offence details, OBP and education feedback. Compilation of the dossiers was a major logistical exercise, and they were frequently outdated due to delays in receiving reports from contributors. Once available however, dossier content was generally deemed to be of a good standard by the Commissioners.

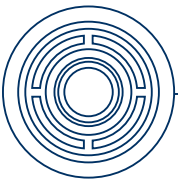
2.12 Everyone agreed that the Article 3 reviews had been a positive innovation. They consisted of a single Commissioner interviewing the prisoner and preparing a report which was shared with the prisoner for factual accuracy comment. The Commissioner's report and dossier were then considered by three other Commissioners who identified steps that the prisoner might usefully undertake in preparation for the Article 6 hearing three years hence.

#### *Article 6 Reviews – Oral Hearings*

2.13 Article 6 and subsequent hearings permitted each lifer to appear in person before the Parole Commissioners and to be legally represented. Sixty cases were referred under Article 6 to the Parole Commissioners. At this stage, their core function was to consider two questions:

- What risk to public safety would the prisoner pose if released on licence?
- If the prisoner were to be released, would it be possible to manage that risk as to reduce it to insignificance?

2.14 Although the Commissioners' Rule 10 (2) suggested an informal approach and Commissioners sought to ensure hearings were only as formal as they needed to be, the legal requirement for Article 6 oral hearings to have a quasi-judicial character, meant that some were actually very formal events. While not required by the rules, each panel was chaired by a lawyer in order to ensure conformity to human rights requirements, and minimise the risk of future litigation. Prisoners were often represented by both a solicitor and a barrister. The NIPS in turn therefore, had found it necessary to engage the services of the Crown Solicitors Office to represent the Secretary of State's position. While it is beyond the remit of this review to comment upon issues pertaining to the Parole Commissioners' independence, a significant administrative consequence of legal dominance flowed from the fact that oral hearings operated in a similar manner to court proceedings. If the information and/or witnesses required by all the parties were unavailable, then oral hearings were likely to be adjourned - e.g. for clarification of issues, report updating or witness attendance – and several contributors to this review suggested that many hearings were unduly protracted. However, there was no data to either substantiate or refute



these views. **We recommend the Parole Commissioners should initiate a tracking process, to include reasons for adjournment and more detailed targets for case completion.**

2.15 If Indeterminate Custodial Sentences (ICS) and Extended Custodial Sentences (ECS) cause a workload increase anywhere near the level experienced with Imprisonment for Public Protection (IPP) in England and Wales (see *Chapter 4 for details*), then the capacity for Northern Ireland to provide full oral hearings for all indeterminate prisoners - never mind the additional ECS prisoners who will also have to be considered – will come under considerable pressure. While there is scope to simplify and shorten hearings, the commendable independence that the present body of Commissioners have achieved must not be sacrificed. This is particularly important because the Northern Ireland criminal justice system has been so contested in the past, and positive progress should not now be sacrificed in the interests of expediency.

2.16 All contributors agreed that the Commissioners applied appropriate challenge and maintained strict impartiality in hearings. Inspectors saw Commissioners display a scrupulous level of independence and adherence to professional boundaries in their hearings. They were very careful not to be prescriptive or to raise false hopes. Some concerns were voiced about witnesses feeling pressurised because of limited control by panel chairs, particularly

as prisoners' representatives became more experienced in this specialist area of work. Witnesses need to raise complaints with panel chairs in the course of a hearing if they feel they have been bullied or treated rudely.

### Issues in Risk Assessment

#### *Delay in hearing completion*

2.17 It was encouraging that Article 3 cases were completed within the target of 22 weeks. The relatively simple process of interview, file preparation and review was seen as providing important logistical benefits in facilitating the timely implementation of Article 3 cases.

2.18 Our review identified, however, a number of areas that were causing delays and system failures in the process of risk assessment, and provoked anxiety for life prisoners. There were significant delays in the completion of Article 6 hearings. The target for Article 6 hearings was 26 weeks, yet 77% of cases were delayed beyond target, and, even excluding one exceptionally long case, the average time taken was 47 weeks (range of 11 to 191 weeks).

2.19 There were two important factors contributing to the delay. Firstly, despite the small number of cases involved, parts of the system, especially the Lifer Management Unit administration were clearly under pressure. This had a knock on effect for all agencies involved and for the Parole Commissioners administration processes.

2.20 There were several sources of pressure on the LMUs administration:

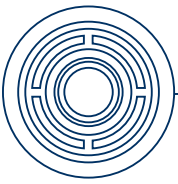
- the introduction of three year pre-TED reviews and assumption of lifer MASRAM responsibility in 2004, and introduction of annual reviews in 2006, had significantly increased the workload;
- the same LMU staff were involved in nearly all cases. When combined with the fact that Maghaberry Prison was the only appropriate venue for hearings (they had to take place where the prisoner was held and had to have audio recording equipment), it meant that only one hearing could take place at a time;
- the lifer dossiers were voluminous. It was a major logistical and co-ordinating exercise for the LMU to compile each dossier, and they were frequently out of date by the time they reached the Commissioners. Report authors were often unaware at the time of preparing their report when the case would be heard, thus contributing to reports being out of date. Psychologists' reports were particularly difficult to obtain in time; and
- there was little usage of electronic information or communication systems to ease the administrative burden.

The LMU governor had made a business case for increased staffing at the end of 2007. It was endorsed by local management, but at the time of this review had not yet had a tangible outcome. There were undoubtedly case management procedures

involving the Parole Commissioners and their Secretariat as well as the NIPS that could go significantly further towards performing lifer administrative functions efficiently and in a cost effective way. **We recommend that the Parole Commissioners should undertake a review of the procedural demands that will be created by the new rules that are presently being developed, and which will apply to ICS and ECS prisoners as well as lifers, and that they do so in consultation not only with NIPS and other agencies, but also with the solicitors who routinely act for prisoners coming before panels. This review could focus on the feasibility of panel chairmen taking a more proactive role, in suggesting to the parties that the attendance of particular witnesses at the hearing might be unnecessary, and also on how far it might be permissible for panels to become more inquisitorial in the course of hearings, and signal to the parties the issues that should be addressed.**

In light of projected population increases we recommend **the NIPS should continuously review its contribution to the lifer hearing system. This review process should take account of the adequacy of LMU staffing, application of electronic information systems, caseload forecasting, compilation of dossiers and opportunities for alternative hearing locations.**





2.21 The increasing workload and accountability of managing high profile cases was taking a toll on some NIPS staff, and although productive working relationships had developed over time, there was an evident degree of tension when other agencies expectations were felt to be unrealistic and could not be fulfilled. We recommend **the NIPS should balance the need for suitably experienced staff with the need to ensure appropriate rotation of staff who work with lifers.**

2.22 Another issue related to the work undertaken by the Parole Commissioners. Article 6 and subsequent hearings were tantamount to full court proceedings. Report authors were expected to attend routinely to provide evidence in support of their written submissions, but then could have a wasted day if the hearing did not proceed. There were also some difficulties with Commissioners' availability due to their part-time status, and the need to have balanced (legal, social and psychiatric/psychological) representation on each three-member panel.

2.23 Commissioners also suggested there was inadequate input from education and health officials at some hearings which might cause a delay in the case being heard. It was not however always clear whether they always needed to attend, whether a written report would suffice or whether their views could be summarised in another report.

2.24 The dossiers viewed by Inspectors were comprehensive. They contained


much raw data, and there was considerable overlap between the contents of probation, governors' and psychology reports, especially in relation to background information. Yet, they lacked the fundamental ingredient of a clear, up-to-date overview of the life prisoner's situation, which meant that Commissioners had to digest voluminous information to reach an understanding of significant current issues and priorities in many cases.

2.25 Delays and system failures were anxiety-provoking for life prisoners. They were well aware of the causes, and became cynical when their risks were being managed by an unwieldy system. Some prisoners were seeking relief by way of judicial review when they felt risk assessment outcomes or hearing outcomes were unfair.

2.26 Legal challenges added to the pressure felt by all participants, and there was anxiety that the system risked being discredited if judicial review outcomes found against the statutory agencies. Heightened media interest in life prisoners had led to greater risk-aversion and a desire on the Commissioners' part to be absolutely certain before ordering a prisoners release on licence.

#### *Co-operative working*

2.27 Everyone reported that confidence levels among the parties involved in assessing and managing lifers had improved. Commissioners recognised that the NIPS and its partners took their responsibilities seriously, and appreciated their reviews of cases which broke down. The



Commissioners had curtailed development of relationships with the agencies in order to maintain their independence, though it was acknowledged by critics that the degree of formality had begun to relax. At this important time when numbers are likely to increase, the process of strategic engagement between the Commissioners and the agencies who serve them should be developed further to help plan ahead. Such engagement on policy and administrative matters ought to be possible without compromising the Commissioners' independence of decision-making. **We recommend the Parole Commissioners should engage strategically with the NIPS and other statutory agencies to deal with administrative issues such as forecasting and planning work ahead.**

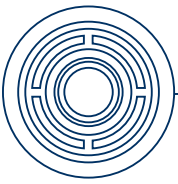
2.28 Inter-agency training on managing life sentence prisoners, incorporating report writing and expert witness skills was provided in 2006. The Parole Commissioners had also organised a symposium in December 2007 which provided an opportunity to learn about the work of offender management in the community, including offender hostels. Another symposium on risk management took place in December 2008. These events were valued by participants, and the Commissioners had also indicated a preparedness to test the effectiveness of new rules that were being drafted by engaging in mock runs through of each of their functions with NIPS staff.

2.29 The interface with the public protection process had improved since September 2006, following a meeting between the various parties. The PBNI's lifer manager chaired all MASRAM reviews of sex offender lifers, and MASRAM minutes were being shared routinely with the Commissioners. Relevant prisoners were aware of MASRAM's role in their case and the LMU would defer some decisions about temporary release pending MASRAM views.

2.30 Inter-agency understandings and communication did not function flawlessly, and there were circular arguments about matters such as Commissioners' requirement for a risk management plan when the agencies felt unable to prepare one, for example, if the lifers proposed address, work or social arrangements were still not known. The Commissioners were also unhappy about reports that indicated no positive preparation had been made for a lifer to move to the community, if the author believed they were not ready to progress - this was viewed as pre-empting their decision. Channels for dialogue worked reasonably well when these types of difficulty arose, though they could also be usefully addressed on the agenda of formal business meetings.

2.31 Risk assessment of violent offenders had been ongoing since the 1970's and had become increasingly sophisticated - the current (third) generation employed a mix of actuarial and dynamic prediction. However, it was reported to be of questionable predictive value when





assessment commenced many years before the prisoner would be tested in the community.

2.32 Northern Ireland's generic offender risk assessment processes had been led by the Probation Board over the past fifteen years. The PBNI introduced the Assessment, Case Management and Evaluation (ACE) method to the NIPS. Although criticised by some, ACE had withstood judicial reviews by prisoners who challenged their risk rating, and it had been under constant comparison with other models, notably the Oasys method. The PBNI was leading on development of risk assessment arrangements to meet the requirements of the Criminal Justice Order, and all the statutory agencies were piloting a new risk assessment model for violent offenders at the time of this review.

2.33 Life prisoners were also prioritised for a range of psychological assessments when being considered by the Parole Commissioners or for OBPs. These included the International Personality Disorder Examination, the Violence Risk Scale, and other psychology tests including the HCR 20, OGRS 2, Risk Matrix 2000 (for sex offenders) and PCLR (for psychopathy).

### Offending Behaviour Programmes (OBPs)

2.34 A range of OBPs were available to help reduce and manage the risks posed by life prisoners. These included anger management, sex offender treatment programme (SOTP), cognitive self-change (CSC),

Enhanced Thinking Skills (ETS), and Motivational Enhancement Group (MEG). These programmes were carefully developed and rigorously accredited by professional and academic bodies, and nothing had proven better in addressing offending behaviour, apart perhaps from some therapeutic communities.

2.35 While programme content and integrity were sound, availability was inadequate, even for the lifers who received priority over other prisoners. This issue had previously been identified in inspections of individual establishments and in the CJI Resettlement Strategy inspection published in June 2007. However, it had not been resolved and indeed had become more problematic at the time of this review.

2.36 The difficulty in providing OBPs centred on two issues:

- shortages of facilitators; and
- prisoner ineligibility.

Delivery of OBPs was an unattractive role for prison staff because it did not fit readily with their shift patterns, while prisoner eligibility was limited for a range of valid reasons such as denial of the index offence, appellant status, and incompatibility with other group members or illiteracy. The NIPS expected that new parole arrangements would provide prisoners with a greater incentive to elect for programme participation, and they were commensurately anxious about their ability to meet increased demand.



2.37 The CSC, ETS, MEG and SOTP were the responsibility of NIPS, while PBNI was responsible for anger management programmes. The OBP delivery structure was described as problematic in that two separate psychologists were responsible for risk assessment and OBP delivery. They were managed by two different governors, and although the NIPS professional head of psychology had responsibility for delivery of professional standards, they did not directly line manage either psychologist.

2.38 It was symptomatic of the level of difficulty that, apart from anger management and CSC programmes, it proved impossible for Inspectors to obtain useful hard data on referral, participation or completion rates for lifers on most of the other OBPs, and there was no data on outcomes.

During March 2005 – July 2008:

- 54 lifers completed the anger management programme;
- 11 lifers completed the CSC programme; six were undertaking it and four were awaiting places;
- 10 lifers were awaiting ETS places; and
- only one SOTP had been completed in the past two years. It finished in November 2007 and by June 2008 feedback reports had still not been provided for the eight participants.

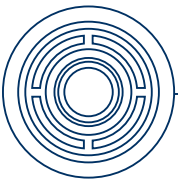
2.39 A detailed external academic evaluation of OBPs was undertaken and published in July 2008. It concluded that there were:

*“mixed findings in relation to the outcome evaluations of ETS and SOTP within the NIPS.”<sup>1</sup>*

This view was predicated upon caution as samples were small, robustness of the data was considered to be questionable, there were no comparison groups and it was not possible to check the integrity of programme delivery. The evaluation commended multi-agency arrangements, facilitator training, treatment integrity monitoring and SOTP facilitator support, while highlighting areas for improvement including communication problems, staff supervision and training, monitoring systems, annual reviews, a need for additional facilitators and a dedicated programme delivery team.

2.40 Although lifers received more opportunities than other prisoners to undertake OBPs, there were still insufficient places for those lifers who currently needed them. The exact level of under-resourcing could not however be quantified. In one case where the Commissioners had stipulated a prisoner should be reconsidered in two years or after completing ETS, whichever was sooner, the two years had elapsed and he had still not completed the ETS. Inspectors were told that the CSC programme was “ready to crash

1 NIO Research & Statistics Series: Report No 17 “An Evaluation of Offending Behaviour Programmes within the Prison and Probation Services of Northern Ireland.” Undertaken by Ruth Hatcher, Charlotte Bilby, Clare Gunby, Clive Hollin, Emma Palmer and James Maguire. Published July 2008



and burn.” Given the high level of resources dedicated to lifer risk assessment and management, we must also caution against the risk that other prisoners might lose out on important opportunities for risk reduction. We recommend **the NIPS should strengthen its OBP delivery structure to manage the needs of all prisoners and develop an effective OBP database.**

- 2.41 Life prisoners were sceptical about OBPs more because of their content than unavailability:

*“Programmes are only about jumping through hoops to satisfy the prison – 90% are useless...”*

Some prisoners who had been abused in childhood found it difficult to listen to disclosures of others in group settings; others felt coerced rather than persuaded to undertake programmes, and suggested the levels of concentration and literacy required were unduly high.


- 2.42 It was difficult for facilitators to deliver programmes when prisoners were not eligible to participate. However facilitators had shown imagination and practicality in dealing with impediments such as offence denial by having prisoners participate on the basis of other convictions, or on a “third person” basis, and modest progress towards good risk management was not uncommon in this respect.
- 2.43 Programme facilitators considered they could reduce recidivism, but not totally reverse attitudes that had

been ingrained over many years. Consequently, harm reduction rather than absolute prevention was the target in many cases. The absence of a domestic violence programme was significant given the number of life prisoners who had murdered within a domestic context, and the possibility that some of these prisoners might enter new relationships after release. At the time of this review, the NIPS was in discussions with others about a programme for domestic murderers, and we recommend **the NIPS should provide a programme to address the offending behaviour of men who have murdered their partners.**

- 2.44 Despite the difficulties with OBPs, there were several personal development opportunities and programmes that were much more easily delivered and were more attractive to prisoners. These included Barnardos parenting programmes, alcohol and drug awareness, and education. The value of these and other programmes in helping to reduce risk, albeit indirectly should not be underestimated.

### NI Prison Service psychology services

- 2.45 Risk assessment of prisoners and delivery of OBPs were the two main roles of prison psychologists, and they did not undertake any supervisory function in the risk management of life prisoners during the testing phase. Concerns about the management and deployment of psychology staff which had been previously reported in CJI’s Prisoner Resettlement Strategy (June 2007)



inspection were still evident at the time of this review. The NIPS was continuing to expend significant amounts on external psychologists to supplement their own resources which were below complement: 10 posts from a complement of 15 were filled in July 2008.

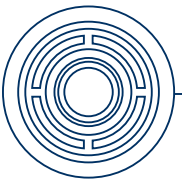
- 2.46 The CJI Resettlement inspection had reported that there were independent psychology arrangements for each prison, without clear management or co-ordination. Parole Commissioners were shocked because assessments provided to them had been defective and prisoners were cynical about engaging with psychology. The Resettlement Inspection recommended that:

*“the NIPS should maintain close oversight of its psychology services, and regularly review their functioning with all interested parties.”(par 3.9)*

- 2.47 The shortage of psychologists was not due to lack of effort on the part of the NIPS – they had advertised repeatedly, requested local universities to develop a forensic psychology course and reviewed pay scales. These efforts had so far failed to produce tangible improvement, although recent recruitment of a psychology assistant grade was showing more promise: 20 had been recruited and inducted by February 2009, and there were high hopes that they would significantly alleviate the assessment and OBP backlogs which had accumulated.
- 2.48 The Parole Commissioners reported psychology assessments were indispensable for their hearings,

though others suggested these assessments were more academic than practical, and that multi-agency risk assessment under the Public Protection Arrangements for Northern Ireland (PPANI) were more robust and useful.

- 2.49 These conflicting views highlighted a problem given the shortage of psychologists available to the NIPS, the other duties they had to undertake, and their inability to deliver assessments and OBPs on time or to the extent required. The NIPS had commissioned a consultant to record its attempts to build up its psychology service in recent years, and undertake a “stocktake” of their capacity to meet current and imminent demands, identify possible actions that could be taken to help bridge any gaps, and reflect the potential human and financial resource implications.
- 2.50 That review reported in November 2008 and made recommendations for the NIPS to prioritise its psychologist’s roles’ (risk assessment and report preparation or OBP delivery), and suggested other staff grades could be used for OBP delivery. Inspectors endorse the psychology stocktake findings and **recommend the NIPS should implement the findings of the psychology stocktake that apply to them.**
- 2.51 The review also recommended the NIPS and Parole Commissioners should hold discussions to agree the way forward in relation to provision of psychology reports for Commissioners’ hearings. The



Commissioners held a meeting with the NIPS to elaborate on their difficulties in this respect, as they felt that regular discussions could cause them to fall foul of their legal constraints, and in any event, resource issues were not relevant to what they needed to properly perform their statutory roles.

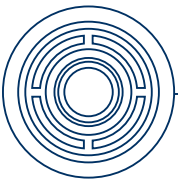
# Management of life sentence prisoners



- 3.1 The process of assessing risk was ongoing throughout a lifer's time in prison. The actual testing and management of risk, however, only commenced properly once the prisoner was permitted a degree of freedom in the community. Some testing could take place when prisoners were granted temporary release, but meaningful and prolonged assessment really only began when they moved to the Prisoner Assessment Unit (PAU). Various interventions including offender behaviour programmes contributed to risk management, and it was important to ensure lifers were able to apply the skills and self-management they had learned in prison.
- 3.2 Inspectors heard some strong views about a perceived imbalance of resourcing in favour of risk assessment over risk management, and were told that more attention needed to be devoted to testing and managing life prisoners' risks. This was a fundamental issue which should be a priority agenda item of strategic planning discussion between the NIPS, Parole Commissioners and PBNI as well as voluntary sector providers.
- 3.3 Management of lifers' during the testing phase was the responsibility of prison governors and prison officers, and they were closely supported in that role by probation officers. Intensive levels of monitoring and support were required to get prisoners to, and maintain them at low risk of re-offending and low risk of harm levels, so that they could be considered safe to license. Consequently, all life prisoners, even those who required little supervision in a closed establishment, were automatically subjected to more intensive oversight throughout their time in the PAU.

## Temporary Release of Prisoners

- 3.4 Testing usually began with temporary release and was only granted to lifers in the latter stages of sentence, or exceptionally for compassionate reasons in the earlier stages of a sentence. Temporary release only took place after an inter-agency consideration of risk. The main purpose was to re-familiarise prisoners with life outside the prison, or for specific events such as attending a funeral, seeking accommodation or employment.



- 3.5 There were two forms of temporary release: accompanied (ATR) and unaccompanied (UTR), with ATR normally being granted initially or where there were security concerns. Duration and timing were tailored to suit individual risk assessments and personal circumstances, and the vast majority of temporary releases were uneventful.
- 3.6 ATR's were undertaken by a variety of staff, including prison officers, probation officers and clergy. There were philosophical differences between the NIPS and PBNI about the purpose of ATR's in terms of whether they were to fulfil resettlement or recreational needs of prisoners. Security issues were also involved in this debate in relation to use of personal vehicles and prison officers' unwillingness to accompany life prisoners in areas where they felt unsafe. The issue had been ongoing for some time and was being openly addressed by both agencies.
- 3.7 Dilemmas arose in the cases of some sex offender lifers when NIPS risk assessments produced a different outcome from MASRAM assessments. This occasionally led to inconsistencies, such as Category 3 sex offender lifers receiving temporary release while lower risk Category 2 lifers were refused. There was no simple answer to this dilemma, but avenues existed for the NIPS and its public protection partners to seek resolution when it arose.

## The Prisoner Assessment Unit (PAU)

- 3.8 The PAU and the Foyleview Unit at Magilligan Prison were Northern Ireland's nearest equivalents to open prison conditions. However, Foyleview did not take lifers and the PAU was felt to be limited in its facilities for fully testing lifers. While the physical fabric of the PAU was perhaps not ideal, and a new open prison for Northern Ireland would be preferable, we would urge that the current priority is for energy and resources to be concentrated on developing appropriate regimes and management arrangements within the existing estate.
- 3.9 Most lifers could expect to spend time at the PAU as part of their pre-release testing. It had capacity for 25 prisoners and an average occupancy of 18, of whom an average six were lifers. The PAU operated a three phase system for lifers, gradually increasing their liberty, with the final phase entailing residence at home (more often than not, this really meant they lived in supervised hostel accommodation) and working in the community, combined with regular reporting to the PAU for progress checks and alcohol testing, and engagement with a community-based probation officer.
- 3.10 The current NIPS policy was that life prisoners should not move to the PAU until one year before their tariff expiry date, but this was reported as too restrictive: with two weeks on Phase 1 and three months on Phase 2, only 2 ½ months remained before referral to the Commissioners during Phase 3 in order to comply with





agreed timescales for report submission. This was an inadequate lead-in time to observe, assess and report on a prisoner while he was working and living in the community. Some NIPS managers were nervous about moving life prisoners any earlier to the PAU, although an internal review of the Progressive Regimes and Earned Privileges System (PREPS) undertaken in 2006, had mooted moves should take place perhaps 15-18 months pre-TED. We recommend that **unless there are case-specific reasons to do otherwise, the NIPS should move life prisoners to the PAU within 15 months of tariff expiry.**

- 3.11 At the time of this review two lifers on the PAU register had been there since 2004 and 2005. Both had been living at home and working for over two years, although they were still technically serving prisoners who had to report frequently to the PAU. The NIPS felt exposed during such prolonged periods when prisoners were largely beyond their control, yet the Commissioners were understandably not content to grant a life licence until they were assured that all testing had been comprehensively and successfully completed. This degree of caution was vindicated by the large percentage of life prisoners who had been suspended from the PAU for misconduct, yet it was also recognised that the longer prisoners remained under close scrutiny, the more likely it was that they would break down. This was a difficult conundrum which lay at the heart of the challenge for the NIPS and the Parole Commissioners. It is likely to

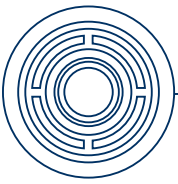
recur with increasing frequency as numbers grow. Each lifer's case will require individual judgement and balance, but the policy dilemma might be partially resolved by advancing eligibility dates to progress to the PAU.

- 3.12 It was difficult for NIPS staff to access specialist lifer training since it did not feature in the NIPS corporate training framework, and there was competition with other training priorities. Ideally, the NIPS would want volunteer staff committed to working with lifers for five years. Whereas most of the Maghaberry lifer staff moved around frequently, the PAU staff were long-established. As in other aspects of its staff deployment, the NIPS needed to weigh the advantages and disadvantages to ensure that over-familiarity and burn out risks were minimised. If the increasing numbers of indeterminate prisoners dictates greater priority for lifer management, then staff in a reconfigured PAU could reasonably be expected to fulfill the role of Designated Risk Manager (DRM). This would require significant upskilling, training and redeployment, but would be beneficial and should be seriously considered by the NIPS as part of its contribution to the public protection arrangements.

#### *Inter-agency collaboration*

- 3.13 Working relationships with police had developed during the testing phase, and the PBNi had convened a meeting with the NIPS, PSNI and Parole Commissioners in April 2008 to address inter-agency communication arrangements in respect of lifers. This





generated proposals to ensure a more robust system and better communication. However, there were limits to the coordination: the NIPS/PSNI communication protocol which provided for sharing of case material after lifers received their tariff was limited to “*effectively manage life prisoners within the prison environment...*” (Para 3.1), and was therefore of little benefit during Phase 3 when prisoners were living at home.

- 3.14 The PSNI had assisted the NIPS with monitoring some prisoners who came under the MASRAM arrangements. MASRAM was replaced by the Public Protection Arrangements Northern Ireland (PPANI) which commenced in October 2008 to meet requirements of the Criminal Justice Order. The PPANI aimed to complement rather than replace the responsibilities of statutory agencies in their case guidance management of offenders, and imposed a duty on named agencies including the NIPS to exercise “*the functions of their respective organisations which can contribute to the more effective assessment and management of the risks posed by certain sexual and violent offenders, and potentially dangerous persons.*”
- 3.15 While the NIPS had engaged with partner agencies in aspects of planning for the PPANI, such as the Management Board and Local Area Public Panels Protection (LAPPP) meetings, it was not a member of the new co-located Public Protection Team (PPT). It appeared to Inspectors that public protection would benefit significantly from close NIPS

engagement with this team. Some life prisoners at the PAU would be eligible for PPT oversight. Intelligence sharing between prison and community agencies would be enhanced, the PPT would provide a natural link with neighbourhood police Public Protection Units, (PPUs) and LAPPPs would allocate clear relevant responsibilities to other agencies which would assist the NIPS in monitoring its life prisoners. We therefore recommend **the NIPS should establish close formal liaison with the Public Protection Team.**

#### *Prisoner supervision issues*

- 3.16 Life prisoners and the bodies charged with assessing and managing them had quite different perspectives on risk management. The agencies found it challenging to get prisoners to focus on their risk management plan, and many were considered to have unrealistic expectations in matters such as developing relationships. Several wanted the agencies to impose external boundaries when they really needed to develop their own internal boundaries to effectively manage risky behaviour. Some prisoners held inappropriate beliefs e.g. that education and academic achievement were positive risk reduction factors, and it was difficult for prison staff to address the risks of life prisoners who had completed OBP's but continued to display deficits in their conduct.
- 3.17 For their part, life prisoners reported varying levels of stress in coping with OBP's, the intensive and prolonged monitoring that the lifer system

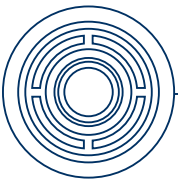


entailed, and especially the move to the PAU. They were quick to spot inconsistent approaches by officials, and knew that the agencies involved in their management were communicating closely with each other. They identified probation officers as the main drivers of their risk management plans, and the agency most likely to challenge them about their conduct. The PBNI had a clear set of arrangements for engaging lifers during their stay in the PAU. A prison-based probation officer was allocated at point of committal and/or sentence. A field-based probation officer was appointed when the lifer transferred to the PAU or in the case of a female lifer, entered the pre-release phase. By the time the prisoner reached the PAU, a working tripartite relationship had been established between the prisoner, his prison probation officer and his community probation officer. Inspectors noted good working arrangements between these probation staff and the PAU, with a clear focus on minimising risk.

- 3.18 The agencies recognised that lifers' families and friends could also enhance the risk management process, providing a protective factor to assist with and verify their compliance with pre-release conditions. In some instances this worked well, while in other cases families were unrealistic about the prisoner's capacity to cope with life outside, especially when they had to help enforce stringent requirements. The benign intentions of prisoners' relatives should always be reinforced through independent oversight and close scrutiny by prison officers.

Creative deployment of staff beyond Monday-Friday office hours, and close engagement with public protection partners will undoubtedly be required to fulfil this role in respect of Phase 3 life prisoners in the future. **We recommend the NIPS should ensure its deployment of PAU staff provides sufficient announced and unannounced home and workplace visits to optimise supervision and public protection in every life prisoner's case.**

- 3.19 Inspectors saw good practice in disclosure meetings with new acquaintances – a sensitive area of work when people had formed relationships with lifers during their time in prison and needed to be informed about the reality of the index offence in order to reduce or help manage risks.
- 3.20 Work opportunities at the PAU were limited, especially for prisoners with health problems. Placements were generally provided by the voluntary and community sector (VCS), and several lifers were also required to reside in hostels provided by the VCS. The NIPS had facilitated alcohol testing for some of the hostels. This worked well and consideration was being given to drug testing also. Projections about increasing numbers of indeterminate sentences were however, a matter of concern for the VCS, as they did not want hostels to become dominated by lifer residents.
- 3.21 Very few lifers were released directly to their own accommodation – they were more likely to be required to live with relatives or in the specialist




hostels as part of their risk management plan. Phase 3 lifers could be allocated points and a house by the Northern Ireland Housing Executive (NIHE), but were ineligible for housing benefit as they were still serving prisoners. The NIPS had been constructive in their approach to this problem and were working to resolve it with the NIHE.

- 3.22 There were several positive aspects of practice at the PAU. Procedures were in place to monitor mail, content of mobile phones and computers, and there was regular testing for non-prescription drugs and alcohol. Staff made periodic unannounced checks on prisoners in the community when on temporary release. Recording had become more detailed in relation to matters such as job visits and alcohol test outcomes, and PAU staff had begun to phone employers every morning to ensure prisoners had arrived for work. Life prisoners had to keep personal diaries which provided a basis for checking progress.
- 3.23 Uptake of the NIPS victim information scheme had reached 20% for all prisoners, and this was slowly increasing with awareness-raising. There is undoubtedly scope to further increase the uptake of this scheme through vigorous promotion, and perhaps through target setting, especially in the cases of murder victims' relatives. Victims' contributions to dossiers were reported to help community acceptance of lifer releases. They also helped victims to manage their feelings about traumatic incidents, and to receive accurate factual

information, as well as to have their needs properly considered when a lifer was being considered for licensing.

#### *Management of specialist needs groups*

- 3.24 There were a range of sub-groups within the lifer population who had particular needs, including women lifers, Secretary of State's Pleasure (SOSPs), separated lifers, recalled lifers, prisoners subject to mental health orders, foreign nationals and lifers who were considered unlikely to ever be released.
- 3.25 Women lifers and SOSP's did not experience any additional difficulties from mainstream prison populations, and in some respects fared better because of their small numbers. A woman lifer had just begun her pre-release programme from Hydebank Wood Prison (Ash House) at the time of this review. She had a good plan in place, including voluntary work and A/UTR's which replicated the PAU systems. She continued to live in Ash House and benefited from maintaining the same peer group, unlike male lifers who moved from Maghaberry to the PAU. SOSP's could remain at Hydebank Wood YOC up to the age of 24, when they would transfer to Maghaberry Prison.
- 3.26 The three foreign national lifers had to address language problems as a priority, and although few in number, they were part of a growing foreign national population whose needs were being addressed within the context of the NIPS foreign nationals' strategy.



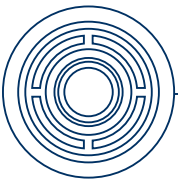
3.27 There were 11 separated lifers (nine Loyalists and two Republicans) in custody at the time of this review. The separated prisoners applied to be held apart from other prisoners at Maghaberry Prison, on a paramilitary affiliation basis on safety grounds. Separated lifers posed unique issues. The OBP's were not designed to address their motivation for offending, and reports could not be provided if they declined to co-operate on the basis that their motivation was not personal but driven by group membership and discipline, and therefore not amenable to conventional assessment or management. Nor could a Parole Commissioner interview them if they did not agree, making it impossible for Commissioners to make recommendations at the three year pre-TED review, or to give a direction at tariff expiry stage.

3.28 The same issues applied to a growing number of lifers – around 20 at the time of this review - who had received their liberty under the terms of the early release scheme, and were then recalled on the basis of fresh concerns about their conduct. Risk assessments could be undertaken in respect of the fresh concerns as long as they were not scheduled offences, and assessment of “needs” rather than of “risk” could provide a partial response to this situation. The difficulties with separated and recalled early release lifers were more potential than real at the time of this review, but could become significant in the future. Longer term progress in this matter really depends on the political landscape in Northern Ireland.

3.29 Northern Ireland had no prisoners with a natural life tariff, but a small number were considered unlikely by the NIPS to ever be able to prove they could safely be licensed. This view caused tension with the Parole Commissioners who were the ultimate arbiters of lifer releases, and there was pressure on NIPS managers to provide opportunities for testing lifers about whom they felt a sense of hopelessness, usually due to past, and often recurrent failures.

3.30 As these prisoners became older the NIPS felt a moral concern to motivate them, it was suggested that if they could not have a progressive regime, then they should be afforded the more relaxed environment of Martin and Wilson Houses. The NIPS had also retained befrienders to accompany some of these prisoners on ATR's for socialisation purposes. This was a commendable development that had a quality of life focus and also involved the befriender in preparing future needs assessments for the prisoners.

3.31 There were about six Northern Ireland lifers who had been diagnosed with a mental health disorder that meant they were held in secure psychiatric facilities. Assessment and management of their risks was especially complex - it crossed professional boundaries between health and criminal justice, and required close liaison with health professionals and bodies such as the Mental Health Commission and Review Tribunals.



### *Suspensions from the PAU*

3.32 During the period January 2005 – June 2008, a total of 24 lifers moved from Maghaberry Prison to the PAU. Of these:

- 13 were suspended and returned to Maghaberry Prison;
- four were currently in the PAU in September 2008; and
- seven were granted their life licence.

The suspension rate in England and Wales was lower than Northern Ireland's: while 404 lifers were approved for open conditions (the PAU equivalent in England and Wales) following Parole Board recommendations during 2005-06, 113 lifers were removed from open conditions during the same period. During January – May 2008, 125 lifers were moved to open conditions, and 25 were removed back to the closed estate. This represents an average suspension rate of 24%, compared to Northern Ireland's rate (albeit based on a very small sample) of 54%.


3.33 Suspensions from the PAU were imposed for breach of conditions such as abusing alcohol or drugs, domestic altercations, keeping inappropriate company and threatening behaviour - precisely the types of risky indicators for which the pre-release phase aimed to test.

3.34 Suspensions usually resulted from staff vigilance, and even though some intelligence that led to suspensions was gained by accident rather than

design, NIPS actions may be considered to have enhanced public safety. However, they were being called upon with increasing frequency to review suspension decisions by solicitors or other interested parties, and were sometimes pressurised to return suspended life prisoners to the PAU. This was a difficult role for the NIPS and they struggled on occasions to fulfill their twin responsibilities of balancing risk management with providing opportunities for prisoners to resettle safely.

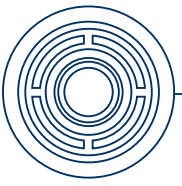
3.35 Poor behaviour in prison did not always have a bearing on risk of reoffending, and it may have been too much to expect lifers to move seamlessly through the PAU process, especially prisoners who had limited social skills, difficulty abiding by conditions or an alcohol dependency. Inspectors heard concerns about the apparently arbitrary nature of some suspensions from the PAU.

3.36 Criteria for progress to, and regress from the PAU were being refined by the NIPS, mainly via the new PAU and Lifer Standards. Development and application of such criteria, under close scrutiny from Parole Commissioners, staff associations, prisoners' representatives and other lifers was challenging for prison managers. They recognised that a prisoner being awkward and assertive was not a reason for limiting progress, and that their decisions had to be evidence-based and rational. Apparently inconsistent application of criteria e.g. the duration of suspensions or which part of Maghaberry (Erne, Wilson or Martin



House) suspended lifers were returned to - evoked unfavourable comparisons, which could not always be defended by the existing policy.

- 3.37 If the system was meant to be progressive, then the suspension process should also reflect this in a graduated manner, and should do so transparently. This might mean that some lifers whose conduct gave cause for concern, could be retained in the PAU without needing to return to Maghaberry Prison. We recommend **the NIPS should build on current policies and standards, and in light of experience including this review, should clarify all aspects of the model for lifer testing at the PAU including criteria for suspension.**





# Lessons for the future



4.1 In comparing with other jurisdictions, Inspectors noted three particular features that provided useful learning for Northern Ireland:

- the systems for lifer and Imprisonment for Public Protection (IPP) management in England and Wales;
- the characteristics of IPP prisoners; and
- design and operation of the Parole Commissioners office.

## The systems for lifer and IPP management in England and Wales

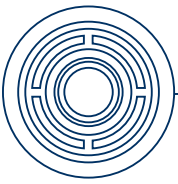
4.2 Table 1 sets out some useful context and comparisons that could be drawn between the lifer population in Northern Ireland and lifer populations elsewhere.

4.3 The most striking comparison was with the very large number of indeterminate sentenced prisoners in England and Wales. Their population had escalated since the commencement of the Criminal

**Table 1- Comparisons on Prisoner Population**

	Northern Ireland	England & Wales	Scotland	Republic of Ireland
<b>Prison population</b>	1,541	83,445	7,960	3,325
<b>Imprisonment rate/100k population</b>	87	153	154	76
<b>No. of indeterminate prisoners in custody</b>	180	11,563	666	239
<b>% mandatory lifers</b>	93%	80%	NK	NK
<b>Indeterminate prisoners as % of total prison population</b>	12%	13%	9%	7%
<b>Average length of time served before licence granted</b>	15 years	14 years	13 years	14 years
<b>No. of prisons holding lifers</b>	2	80	14	12





Justice Act 2003, and the addition of 120 new IPP sentences per month was putting enormous strain on the prison system and on the Parole Board for England and Wales. Consequently, the Parole Board was dealing with a huge volume of cases (31,172 in 2007-08, a 22% increase on the previous year), and the system was under considerable pressure. Inspectors found:

- release rates for indeterminate prisoners fell from 23% in 2005-06 to 15% in 2006-07 without any change in policy or procedure. This was the lowest release rate since 2001-02. Only 8% of IPPs were granted their license, reflecting short IPP tariffs and the insufficiency of time to assess them. One possible cause for the falling release rate in 2006-07 was apprehension among all parties about publicity surrounding two high profile cases where offenders released on parole had gone on to commit serious further offences. An increased level of caution was understandable but, the reduction in release rates had raised concerns about the consistency of the Parole Board's decisions. Consequently, the Parole Board had introduced monitoring and review systems to enable them to evaluate the quality and consistency of decision-making;
- only 7% of dossiers were completed on time. The Prison Service dropped its timeliness target in 2007-08 because it considered it did not control enough of the process to justify continuing with the measure;
- only 32% of oral hearings for indeterminate sentences were being held on time in 2006-07. The most common reasons were that the Board had not received the information required to make a decision, or could not arrange the required panel of three members;
- in 2006-07, the Board also failed to meet its target to review decisions to recall offenders to custody within six days, in part because the large rise in the number of recall cases had been underestimated. It then had to re-appoint former Board members on a temporary basis to assist with this work, but was still often unable to reach a conclusion at these hearings, primarily because it did not have all the information it requested;
- recall cases (all prisoners, not just lifers) rose by 58%, probably due to a more proactive recall policy being exercised by the Probation Service for reasons other than further offences; and
- 84 applications for judicial review of Parole Board decisions were initiated during 2006-07, up from 61 in 2005-06. The main reasons were delay (40%), procedural error and challenge to the Board's reasoning. Although compensation paid to prisoners has been small (£6,000 in 2006-07), it was considered likely to increase. The Board had only lost four judicial reviews, but the high number of judicial reviews meant increased legal costs for the taxpayer and deflected staff from their primary roles.



4.4 Although there was a major difference in scale, some of these problems resonated with the Northern Ireland experience, while others highlighted situations which Northern Ireland should aim to avoid in the future. Other operational difficulties with life risk assessment and management in England and Wales that were also familiar in Northern Ireland included:

- the Parole Board and the multi-agency public protection agencies (MAPPA) could engage in circular arguments about whose risk assessment should take priority, or which would be first to take the risk of allowing the prisoner their liberty; and
- the Parole Board could not approach witnesses such as probation officers directly, and had to do so via prisoner governors. Consequently they often lost hearings as communication broke down and witnesses did not turn up. These and other potential difficulties can be minimised in Northern Ireland with good communication, accurate caseload forecasting, smarter working arrangements and adequate resourcing.

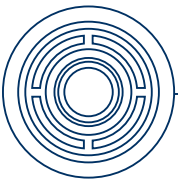
4.5 A July 2008 report on sentencing from the House of Commons Justice Committee suggested that IPPs had to be a rare exception, noting a “*lack of practical success*” and a previous “*damning Home Office review*” of preventive detention sentences. They found that risk assessment and management had “*become an industry, with two major associated difficulties* –

*uncertainty of the science, and accelerating movement to punishing people for what they might do in the future rather than for what they have already done.*”

4.6 A review of IPP system failures concluded that the structure of the sentences was flawed and their implementation had not been adequately planned or resourced. Following the review, Government laid down amendments to the IPP sentence including:

- a minimum tariff of two years before an offender could receive a public protection sentence;
- increased discretion for judges about assessing the dangerousness of offenders and in passing IPP sentences; and
- a change of sponsoring department for the Parole Board because of perceived lack of structural independence from Government.

4.7 Legislators in Northern Ireland had recognised the basis of England and Wales’ difficult experience and therefore incorporated a two year minimum tariff and judicial discretion for ICS sentences here, as well as implementing the new Criminal Justice Order on a phased basis. There have been varying predictions of the size of increase in the prison population here, and it remains to be seen how successful these steps will be. Nonetheless, the process could be enhanced by training for sentencers, practitioners and policy makers to maximise understanding and approach. We recommend



**training should be undertaken by sentencers, practitioners, Parole Commissioners and policy makers in implementation of the ICS element of the Criminal Justice (NI) Order 2008.**

- 4.8 Despite the problems of volume, incomplete or late information, and cautious approach, figures suggested that patterns of lifer reconvictions in England and Wales remained broadly constant from 2002- 03 to 2006-07, suggesting that standards of risk assessment by the Parole Board were being maintained. There were also examples of innovative practice, such as appointment of 10 Public Protection Advocates (seconded probation officers) in 2008. The advocates could present cases on behalf of the Secretary of State and seek victim views to represent at the hearing.
- 4.9 There were just a few learning points available from the Scottish and Republic of Ireland's systems for risk assessing and managing life sentence prisoners. Scotland had 519 places in its open prison estate. However, prison population pressures had distorted the proper function of the open estate, and many of these places were used to address overcrowding across the estate rather than preparing lifers and long term prisoners for release.
- 4.10 The Scottish Risk Management Authority (RMA) was set up in 2003 as an independent body to advise and assist agencies in risk assessment and management. Its initial focus was to facilitate the introduction of the Order for Lifelong Restriction (OLR)

in June 2006. The OLR was equivalent to a discretionary life sentence, though very few had been made by Scottish courts by July 2008. The RMA had also developed a rigorous process for accrediting risk assessors, and it approved risk assessment and management methods. It seems unnecessary for Northern Ireland to establish a RMA-type body, but aspects of the methodology and accreditation practice could usefully be considered in the design of any new arrangements here.

- 4.11 The Republic of Ireland held life sentence prisoners in all its establishments. Like the UK jurisdictions, officials there shared concerns about the risk assessment and management processes, and faced similar issues in terms of legal challenges and increasing media attention. Perhaps the main difference was that its Parole Board had an advisory function, rather than statutory powers, so decisions about licensing life prisoners were ultimately taken by the Minister for Justice, Equality and Law Reform. The Parole Board's Annual Report for 2006-07 showed that he accepted 89% of Parole Board recommendations in full, partially accepted 5% and rejected 5%.

### **The characteristics of IPP prisoners**

- 4.12 Quite apart from the structural problems associated with managing a large number of indeterminate prisoners, HM Inspectorate of Prisons in an October 2008 thematic inspection report, identified important characteristics that distinguished IPP's



from the “ordinary” lifer population, and suggested that they needed to be treated quite differently:

- the criminogenic needs (especially thinking and behaviour, attitudes, relationships, lifestyle and associates) of IPPs were higher in all 10 Oasys categories than the needs of the entire prison population, including lifers;
- IPP’s likelihood of reconviction was higher: 45% of them presented a high risk of reconviction, compared to 20% of lifers and 27% of the total prison population;
- the average IPP tariff was 38 months, whereas the average lifer tariff was 17 years;
- 30% of IPPs had a tariff of less than two years; and
- 30% of male IPPs were sentenced for robbery, while most female IPPs were sentenced for arson.

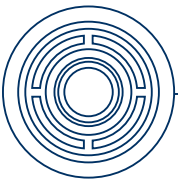
4.13 The data was significant because Northern Ireland’s ICS population characteristics are unlikely to be different from those of IPPs: both sentences are imposed for offences, other than murder, as a preventive measure against further offending. This means that attempts to modify the existing lifer system - which is geared towards lower risk offenders with lengthy tariffs, to suit short-tariff IPP’s who display high risk behaviour, and different offence profiles - would be a flawed approach that should be avoided in Northern Ireland. Instead, a unique approach will be required for ICS prisoners, in order to ensure

their specific risks and needs are properly addressed, while the risks and needs of ordinary lifers are not neglected. We recommend **the NIPS should develop a specific approach for managing ICS prisoners in order to ensure their specific risks and needs are properly addressed, while the risks and needs of ordinary lifers are not neglected.**

### Design and operational features of the Parole Commissioners office

4.14 When originally established as the Life Sentence Review Commissioners, the Parole Commissioners office had been modelled on the Parole Board for England and Wales and the Northern Ireland Sentence Review Commissioners. Table 2 sets out some comparative details. It shows that Northern Ireland was proportionately broadly similar in the extent of its operation to the Republic of Ireland and Scotland, but as already shown in Table 1, the situation for Parole Board members in England and Wales was much more burdensome.

4.15 The Parole Commissioners expected it was inevitable that the Criminal Justice Order (NI) 2008 would substantially increase their workload, and Inspectors noted some personnel and administrative features, particularly by reference to practice and design of the Parole Board for England and Wales, that could usefully be amended or introduced to sustain their office in the future. All the Commissioners were appointed simultaneously when the LSRC was established, which meant their



**Table 2 - Parole bodies comparisons**

	Parole Commissioners for Northern Ireland	Parole Board for England & Wales	Parole Board for Scotland	Irish Parole Board
<b>Status</b>	Statutory	Statutory	Statutory	Advisory
<b>Year established</b>	2001*	1968	1989	2001
<b>New lifer cases referred per annum</b>	24	1,423	178	16
<b>Current caseload</b>	26	25,436 (mostly determinate sentences)	212	227

\* Initially established as LSRC

tenures would all expire at the same time. This problem was exacerbated as some had also passed the age limit of 70. Scheduling difficulties and imbalances between Commissioners workloads were perhaps inevitable, but needed attention; and apart from the chair, no Commissioners had specific responsibilities for corporate matters such as training or policy development. Other possible areas for development included the introduction of peer review and appraisal systems, a training programme, perhaps shared with other quasi-judicial bodies such as Social Security and Mental Health Tribunals, a business planning process, and provision of greater detail in Annual Reports. These should all generate benefits including capacity to deal with an increased workload, stronger corporate functioning and identity, and an increased awareness of the Commissioners' office and

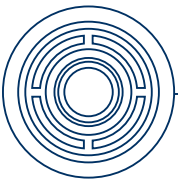
remit. We recommend **the Parole Commissioners administrative functions should be strengthened by:**

- **succession planning to replace retiring Commissioners;**
- **more explicit terms of reference for Commissioners, to include allocation of specific roles that will assist organisational development, and consideration of a regular time commitment;**
- **implementing peer review and appraisal systems; and**
- **introducing a business planning process and a more detailed annual reporting system with enhanced statistical content and analysis.**

Section



# Appendices



## Appendix 1: Terms of reference

In May 2008 Minister Paul Goggins MP, requested Criminal Justice Inspection Northern Ireland undertake a review of the current Prison Service arrangements for assessing and 'testing' life sentence prisoners prior to their release. The areas which the review was asked to explore in relation to life sentence prisoners included:

- (a) the current arrangements for the assessment of risk by the Prison Service and other organisations;
- (b) the assessment by the Prison Service of the considerations applying in individual cases, including where appropriate, arrangements on a multi-disciplinary/multi-agency basis;
- (c) the input of the Service (and other organisations) to the Parole Commissioners in relation to these issues;
- (d) the constraints imposed by managing lifers within a small prison system and in a small community;
- (e) the Service's policies and practices in relation to pre-release home leave and temporary release for external activities, including testing in the community;
- (f) the balance that is required between public protection on the one hand, and preparing an offender for resettlement in the community on the other;
- (g) how the Service may better prepare for those judged unable or those who prove very hard to return to the community;
- (h) although the NIPS manage the processes in relation to life sentence prisoners, the contribution by the PBNI to the successful management of such prisoners, attending multi-disciplinary meetings, carrying out risk assessments and assisting with monitoring in the community;
- (i) the role of the PSNI and voluntary agencies who provide services and assist the NIPS with the process of reintegrating prisoners into the community, particularly providing accommodation or employment to life sentenced prisoners;
- (j) the longer term arrangements for those released on licence; and
- (k) the arrangements for those life sentenced prisoners recalled to custody.



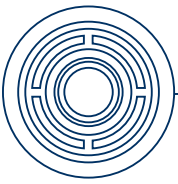


## Appendix 2: Life prisoners - key data

The number of prisoners involved in this review was small. However they were increasing steadily and many had a prominent profile in this small jurisdiction. Northern Ireland's life prisoner population had more than doubled from 89 in November 2000, to 180 in July 2008. Key population characteristics at the time of review included:


- 167 were serving mandatory life sentences imposed for murder;
- the average annual number of life sentenced receptions to prison between 1996 – 2006 was 19 (range: 7 – 24);
- 163 were sentenced in Northern Ireland and 17 were transferred here from other jurisdictions;
- it was a predominantly male adult, indigenous population:
  - female lifers: 6;
  - juveniles/SOSP's: 6; and
  - foreign nationals: 3.
- the length of time served in custody ranged from 1 - 34 years (19 had served more than 20 years, and a further 19 had served between 15 - 19 years);
- 61 lifers had been recalled to prison since 1976 because of re-offending or concerns about their conduct; 33 of these, mainly unsupervised lifers who had been liberated under the early release scheme, were recalled since 2000; 28 recalled lifers were still detained in custody at the time of this review. The average period at liberty before being recalled had been five years (range: 1 month – 13 years);
- 141 lifers had received their tariff. The average tariff was 13 years 7 months (range: 1 day – 35 years); 9 (mainly discretionary lifers or SOSP's) had a tariff of less than 10 years; 6 lifers were within 3 years of their tariff expiry; 26 were still in custody beyond their TED:
  - average: 5 years 2 months beyond TED; and
  - range beyond TED: 4 months - 18 years;
- in July 2008 there were 33 “potential lifers” on remand for murder. Approximately 70 additional prisoners were on remand in custody for other charges which could attract a discretionary life sentence;
- 22 lifers were involved in the Multi-Agency Sex Offender Risk Assessment and Management (MASRAM) process because there was a sexual component to their offending; and
- this data was significant in showing a steadily increasing pressure and complexity as the lifer population grew and greater numbers approached or exceeded their TED, the phase of a life sentence when the Prison Service had to test lifers to help assess their suitability for release.

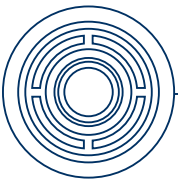




## Appendix 3: Idealised lifer management model

1. While each life prisoner had a unique set of circumstances there was a standard model for their progression through the criminal justice system. That is not to say the model was always applied, but it provided the framework within which lifers could expect to progress while in custody.
2. Most would initially have spent time on remand in custody prior to being sentenced, though some may have been admitted to bail and were therefore living at home immediately before commencing their life sentence.
3. Shortly after receiving the life sentence the judge determined the appropriate tariff (the minimum amount of time the prisoner must serve before being considered for release) for the case. The length of tariff was based upon a range of factors including the nature and impact of the offence(s), previous convictions, risk to the public, offender's attitude and punishment element required to meet the needs of justice. The judge's determination was assisted by reports from a probation officer and possibly other expert witnesses.
4. Most adult male lifers spent their initial time in Erne House at Maghaberry, with a few being held elsewhere for individual reasons. Females and young male lifers were held at Hydebank Wood Womens Prison (Ash House) and Young Offenders Centre. Female lifers remained at Hydebank Wood for the duration of their sentence, while young adult males transferred to Maghaberry Prison at some stage between their 21st – 24th birthdays.
5. Each lifer's progress within the system was overseen by the NIPS Lifer Management Unit at Maghaberry, irrespective of the prisoner's location. The Life Sentence Unit at NIPS HQ could also have a role; and each lifer was allocated to a lifer governor whose role was to ensure overall case management. Annual reviews took place to review progress during the previous year and set objectives for the incoming year. Otherwise, lifers were subject to the PREPS regime in exactly the same way as other prisoners in terms of matters such as discipline, work, education, offending behaviour programmes, family contact and temporary release.
6. In the latter stages of sentence, life prisoners could apply to be transferred to Martin or Wilson Houses. These were more relaxed environments on the Maghaberry Prison site, where smaller numbers of prisoners could assume greater personal responsibility within the confines of the maximum security establishment.

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7. The first external review of a lifer's situation was conducted by the Parole Commissioners. It took place three years before tariff expiry, and was designed to indicate steps the life prisoner might usefully take to prepare for tariff expiry stage.
  8. Life prisoners were eligible to apply for a move to the Prisoner Assessment Unit (PAU) in Belfast 12 months before tariff expiry. As with all aspects of progression, such moves were subject to meeting certain criteria regarding risk and conduct, and prisoners could be moved backwards as well as progressing.
  9. Lifers at the PAU were subject to a three-phase regime - Phase 1 was a two-week induction and settling-in period, during which they could not leave the premises. Phase 2 was a three-month period of working in the community and returning to the PAU each evening and at weekends. Phase 3 entailed living and working at home, reporting to the PAU once per week for alcohol and drug testing and progress reporting.
  10. Throughout lifers time on all three PAU stages they were subject to detailed monitoring by NIPS staff. Employers were phoned daily to ensure attendance and conduct were acceptable; unannounced home visits were made; regular drug and alcohol tests were undertaken; mail and phone calls were monitored; and prisoners were required to keep diaries which were analysed and challenged if deviations appeared.
  11. Probation officers assisted the NIPS with supervision when life prisoners moved to the PAU. A community-based probation officer co-worked the case with a prison-based probation officer to ensure continuity of case management and smooth handover. Life prisoners who were subject to public protection arrangements were overseen on an inter-agency basis, although the NIPS remained responsible for them if and until a life licence was granted.
  12. Whether or not the prisoner was based at the PAU, the Parole Commissioners undertook a full oral hearing six months before tariff expiry. The purpose of this hearing was to review the prisoner's progress throughout sentence and determine suitability for release on life licence. If the prisoner was not licensed at tariff expiry, then subsequent reviews were undertaken at a minimum of every two years post-tariff expiry.
  13. Once life licence was granted, the prisoner was subject to supervision in the community by the PBNI. The level of supervision was determined by risk assessments which were continuously revised and updated. Life licensees whose conduct in the community gave cause for concern, could be recalled to prison at any time.



## Appendix 4: The review process

This review was based on:

*Interviews with:*

- NIPS – Lifer governors, LMU, LSU and PAU staff, lifer psychologists, HQ senior managers, a consultant undertaking a psychology stocktake;
- PBNI – Lifer Manager, Assistant Chief Officer and Deputy Chief Officer, prison and community lifer specialist probation officers;
- Parole Commissioners – Chairman, a Commissioner, secretariat chief officer and staff;
- Life prisoners at Erne, Wilson and Martin Houses, Maghaberry Prison, and at the PAU;
- PPANI Co-ordinator;
- HMI Prisons and HMI Probation Inspectors;
- National Offender Management Service, Parole Board and Home Office personnel;
- Extern personnel involved in lifer management; and
- Scottish Risk Management Authority members and staff.

*Documentary and data analysis:*

- NIPS lifer databases (LMU, PAU and LSU), files, dossiers, standards, policies and case reviews;
- PBNI lifer database, files, standards and policies;
- Parole Commissioners' dossiers and tabulated statistics;
- Annual Reports and websites: NIPS, PBNI, Parole Commissioners for Northern Ireland, Parole Board for England and Wales, Scottish Risk Management Authority, Parole Board for Scotland, Republic of Ireland Prison Service, Republic of Ireland Parole Board; and
- Written guidance for life prisoners - NIPS, Parole Commissioners and PBNI.

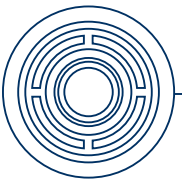


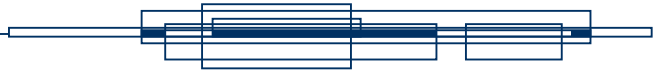
*Observation:*

- Five lifer annual reviews at Maghaberry Prison; and
- two Article 6 oral hearings at Maghaberry Prison.

*Publications:*

- “The Indeterminate Sentence for Public Protection, a thematic review” HM Inspectorate of Prisons and HM Inspectorate of Probation, London, September 2008;
- “Fifth Report – Imprisonment for Public Protection sentences and the pressure on the Parole Board” House of Commons Select Committee on Justice, London, July 2008;
- “Protecting the Public: The work of the Parole Board” National Audit Office, London March 2008;
- “Case No C/2007/1959 between the Secretary of State for Justice and David Walker and Brett James” Court of Appeal, Royal Courts of Justice, London, February 2008;
- “An Evaluation of Offending Behaviour Programmes within the Prison and Probation Services of Northern Ireland” NIO Research & Statistical Series Report No 17, Belfast, July 2008;
- “Offender Management Caseload Statistics 2005 – Criminal Justice Act 2003 Indeterminate Sentence for Public Protection” Home Office Statistical Bulletin 18/06, London 2006; and
- “Life Licensees – Reconvictions and Recalls” Kershaw, Dowdeswell and Goodman, the Home Office, 1997.





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