

# Indeterminate Sentences

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## Does an indeterminate sentence always mean that someone will spend the rest of their life in prison?

Some prisoners will stay in prison for the rest of their lives because of the nature of their crimes, although few prisoners receive a whole life tariff (the tariff is the minimum amount of time a person must serve in prison before they can be considered for release). Most receive a set tariff, and the length of time they spend in prison depends on this and whether, at the end of this time, they pose a risk to the community.

## Who sets the tariff?

The judge sets the tariff in court.

## What types of indeterminate sentence are there?

- ◆ **Mandatory Life Sentence** Passed on people over 21 who have been convicted of murder. Life imprisonment is the only sentence a court can pass for this offence. There are strict guidelines which the court must follow when determining the tariff, which can be 15 years, 30 years or whole life. The defendant has the right to appeal against the tariff set; the Attorney General can also intervene if the tariff is considered to be too lenient.
- ◆ **Discretionary Life Sentence** A life sentence given as the maximum penalty for a serious offence other than murder. Due to a change in the law, this sentence is no longer passed.
- ◆ **Indeterminate Sentence of Imprisonment for Public Protection (IPP)** Given to people convicted of a serious violent or sexual offence which carries a maximum sentence of 10 years or more, and who, in the opinion of the court, pose a significant risk of harm to the public.

## What about young offenders?

For people under 21 there are several different categories of indeterminate sentence:

- ◆ **Detention during Her Majesty's Pleasure, or HMP.** This is the mandatory sentence for someone who commits murder before they are 18.
- ◆ **Custody for life,** the mandatory sentence if someone commits murder between 18 and 20.
- ◆ **Detention for life,** the juvenile equivalent of a discretionary life sentence.

## Who decides where the prisoner will serve their sentence?

The prison in which they are held will decide if, when and where a prisoner will be transferred. The decision will depend upon the progress the prisoner has made, availability of offending behaviour courses or work/education opportunities, and risk factors. The need to maintain family contact is taken into account if at all possible, but the needs of security and the prisoner's sentence plan come first, and it may not always be possible for them to be transferred to a prison convenient for family visits.

## How is it decided whether an indeterminate sentenced prisoner can be released?

About 3 years before the tariff ends, the Parole Board will consider whether the prisoner is suitable for re-categorisation and transfer to an open prison. The prison prepares a dossier of reports for the Board, from professionals who have had contact with the prisoner, which s/he will get to see and comment on beforehand. The Board will then decide whether the prisoner can be moved to an open prison to prepare for release. A recommendation is submitted to the Secretary of State, who makes the final decision. A second review, to consider suitability for release, takes place shortly before the tariff ends. If the prisoner is not released at the end of their tariff, their case must be reviewed every two years thereafter.

### **What happens after release?**

The person remains on a **life license** for the rest of their life. For the first few years, they will be expected to keep in regular contact with a probation officer, and to inform probation if they wish to move or start a job. There may be other conditions such as not contacting certain people or complying with medical or other treatment. After a few years the Parole Board may recommend that the conditions be cancelled. The person would no longer have to keep in touch with the probation officer, but would remain on license- meaning that if they commit an imprisonable offence or behave in a way that indicates they may still pose a risk, they can be sent back to prison.

### **What happens while the person is in prison?**

They have a life sentence plan, setting out details of any problems they need to work on, such as drug addiction or anger management. Their progress is reviewed each year and an action plan made for the coming year. Whether the prisoner complies with the sentence plan, and their behaviour in prison, will play an important part in decisions about whether they can be released after the tariff is served.

### **What about victims?**

The Victim's Charter states that the prisoner's probation officer must contact the victim or their family within two months of sentence. The victim or their family can ask to be informed when the prisoner is to be moved, released or to go on an **escorted absence** or **release on temporary license**. They can express any worries they have concerning their release and these will be taken into account when license conditions are set.

### **What is an escorted absence?**

Lifers in Category C prisons, who have four years or less left on their tariff and are due for Parole Board review within 12 months, may be considered for trips to a local town, accompanied by a prison officer. As well as allowing the prisoner contact with the local community, it allows prison staff to assess their behaviour and trustworthiness.

### **What is release on temporary license?**

When a lifer has spent some time in an open prison they become eligible to apply for

release on temporary license (ROTL). Initially this will take the form of unescorted day release for work or educational purposes or simply to get re-acquainted with the outside world. ROTL can progress to longer leaves to the place the prisoner is to be released to. It can also be granted on compassionate grounds, such as if a relative is terminally ill.

### **What other preparation is made for release?**

The home probation officer will stay in contact with the prisoner and work with them and the prison to help sort out a release plan. This will cover things like accommodation, employment and training.

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