

BRITISH JOURNAL OF COMMUNITY JUSTICE

Volume 11 Number 2/3 Winter 2013

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EDITORIAL

PROBATION: PEERING THROUGH THE UNCERTAINTY

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"Uncertainty is the worst of all evils until the moment when reality makes us regret uncertainty" (Karr)

During the five hour, often high-quality, debate in Parliament on 12th November it was hard to see disagreement on the key features of Transforming Rehabilitation (TR) - reducing re-offending, supervision and support for under 12 month offenders, peer mentoring, specific services to women, prisoners resettled in prisons near to their homes, involvement of the private and voluntary sector, and the potential for innovative solutions to the problems of crime in communities. Most of the prescriptions for change, probation commentators and the Trusts themselves would support - and have in the past endorsed - and they are backed by persuasive and rich research evidence, some of which is presented in this timely double issue of the journal. However, nearly all the specific mechanisms and organisational arrangements proposed by government in its TR proposals, are not backed by evidence and moreover fly in the face of that evidence. The cacophony of noise now being heard across the country surely cannot be ignored. A pause, a rethink, even an abandonment of the current TR competition must be put in place to avoid a potential disaster, given the threat to public safety predicted by the rushed application of the current plans. To dismantle a century-old, high performing, probation service is policy-based evidence not evidence-based policy.

There appear to be three ostensible motivators to change: reducing re-offending, saving money and process innovation. But clearly, given the climate of austerity and the public sector cuts elsewhere, this is most obviously about saving money amidst a rush to marketise public services treating offenders as commodities. The other two goals are relatively uncontroversial and are already provided by current service delivery. This is something that we must pause and reflect upon. The threats attendant on these changes are well documented - fragmentation, loss of expertise, conflicts of interest, inconsistent practices and the danger to public safety that would result from confusion on risk categorisation. Many of the gains of the last decade will all be negated by this rush to change. Clearly forgotten in this unseemly rush to change was the golden thread inherent in the 2007 Offender Management Act which was the public sector management of all offenders. The attempt to use this legislation for different purposes by the Coalition government should rightly be subject to public and political scrutiny as it alters the

balance and unravels the historical continuity in the delivery of services for those in trouble with the law.

The rush in itself flies in the face of a rational and planned approach to policy implementation and the management of organisational change. Historical evidence provides us with case studies demonstrating that speed of change can undermine and derail even well-meaning implementation plans. Indeed we only have to go back to 2001 when the National Probation Service (NPS) was first created and the rushed introduction of accredited programmes contributed to some of the failures in delivery subsequently experienced. We know from the leaked, though still unreleased, risk assessment document that MoJ's own calculations suggest an 80% risk of an unacceptable drop in operational performance. In moving to wholesale new delivery patterns there is the high risk of throwing out the champagne with the cork. What will happen to practices developed carefully and painstakingly in partnership with other organisations such as integrated offender management, restorative justice initiatives, women's centres, desistance applications and the offender engagement programme to name just five potential areas at risk? The sheer organisational complexity and confusion that will result from the pace at which this is being implemented will jeopardize operational efficacy and put at risk the entire change project. It has been repeatedly questioned as to why this approach has not been trialled in the first instance. Not only could particular aspects of the changes have been trialled, such as Payment by Results, but also the organisational transformation could have been attempted in one area only to test its practicability as well as desirability.

This wholesale organisational upheaval will spawn inexperienced organisations and individuals. This can of course stimulate innovative solutions but it also can lead to dangerous and costly mistakes which in a people business like probation puts communities and individuals at risk. The new partnerships created will be ones of convenience, not choice, driven by the commercial framework within which new relationships are being established. Of course many currently working in community justice will not become partners at all, as there is a real danger that smaller local VCS organisations will simply lose out. Recent commentary suggests that it will simply not be possible to transfer all cases into the new arrangements in a safe way by the deadline and some will be misplaced in either the CRC or the NPS and this will require a lot of juggling before correct allocations will be achieved. Chaotic clients do not deal with chaotic arrangements very easily. Even if we suspended disbelief about the efficacy of the TR changes is it realistic to go at this pace if we want to achieve successful implementation? Should change not be staggered in a reasoned, planned and considered way and a timetable for change be professionally driven, not politically motivated by the arbitrary timing of an election?

The legitimacy of the current probation arrangements suggests fundamentally that there remains a strong argument for the retention of the institution of probation. There is no example worldwide of a probation organisation being shaped in the manner being suggested for England and Wales. Moreover the evidence is overwhelming that the probation trusts are highly successful by any number of markers: external kitemarks; significant reductions in re-offending and in the satisfaction of workers who work for the

Trusts. The evidence base which supports practice capability with regard to rehabilitation has never been so extensive and convincing, some of which will be rehearsed in the papers in this volume. The probation trusts act as the social glue for local commissioning, avoiding an arbitrary patchwork of provision, reducing the risks of fragmentation, and loss of continuity of care all of which must ultimately heighten risk and threaten public safety. Trusts are accountable, integrated already with private and voluntary providers, are locally sensitive and connected and have comprehensive coverage and high reputations. Why abandon something which is not broken?

The rump of the old probation service is being recreated in the second attempt to create a National Probation Service. Various estimates as to the size of this organisation have brought conflicting responses from the Ministry. In terms of caseloads it will be about 12% of the 300,000 clients under statutory supervision. But the role of the NPS will be limited to high level responsibilities. Its concerns will be the management of risk, public protection, compliance and enforcement issues, court reports and liaising over the supervision of high-risk offenders. Interventions however will be purchased from the contract providers. This will be a tiny organisation with little scope for progression. There will be a distinct lack of local presence with the NPS been divided into six huge areas with little co-terminosity to any other regional structures, including Wales. Significantly, probation staff will become civil servants and now, with the resignation of the originally appointed director of NPS, will be led by a non-practitioner, a career bureaucrat, working under the aegis of the National Offender Management Service (NOMS). The corporate silencing experienced by senior staff in the last few months will become the norm for workers in the NPS. This will paradoxically suit the style of management within NOMS. The command and control structures created by this prison-led organisation will transform the nature of the service delivery which will struggle to exert any substantive degree of professional independence. The new NPS does not create an infrastructure to resurrect public probation in the event of a disaster. There is no real sense that the NPS will offer leadership or innovation to the probation world. We have been here before in 2001 when the last attempt at a national service was an abysmal failure of leadership. The key skills developed will be those of allocation and brokerage - risk assess, write reports and manage high-risk clients - not intervention and engagement. Its supra-regional structure will make it remote from local decision making and the distribution of staff resources uncertain. This could well lead to staff having to move to work in areas a long way away from where they currently reside.

There has been a constant querying of why the probation trusts were not allowed to mount competitive bids for the contract package areas. This would have aligned to the way in which the public sector prisons were allowed to bid for contracts for new or re shaped prisons. It has somewhat misleadingly been asserted by government that the development of Probation Mutuals is the avenue for public sector engagement with this competition. This runs the risk of turning the clock back to the 1930s and 1940s when there were many providers - mutuals, cooperatives and voluntary provision - but the system failed to provide a comprehensive universal service hence the original motivation to develop public services. Whilst there is some attraction in the notion of employee-led mutuals their ability to be in place and influence this competition is rather more fanciful. They are a weak alternative to Trusts being allowed to bid directly themselves, a sop to

the lack of transparency and openness in the market. How feasible will it be for mutuals to set themselves up and be in a position, with sustainable financial backing, to ride the risks? Having a single customer raises questions about their future stability in the medium term.

Given a level playing field and time to be organised effectively mutuals may have had a place in this new transformative world. However, as new emergent institutions they are extremely vulnerable, they have no track record of performance and they would need time to bed in effectively and influence the competition in any meaningful way. Clearly in a competitive environment mutuals could go bust with further risk to jobs and continuity of provision. Are they desirable to prime contractors either? Why would the primes wish to take on the risks associated with mutuals such as pensions, redundancy, servicing arrangements when the CRCs will be presented by government intervention in a way that takes care of those difficult issues? It is likely that a single mutual, in partnership, will become a prime to allow the government to show how open its competition has really been. But at present the only chance appears to be one where the mutual has a limited stake in the contract which it would share with a private contractor and a VCS as the Kent Probation Mutual and Delta Mutual in North Yorkshire appears at the time of writing to be currently negotiating. Without doubt there is a place for targeted small-scale mutuals delivering specialist services such as accredited programmes, training or dedicated interventions but the chances of influencing this competition more fundamentally, rather than merely creating the illusion that government has allowed the public sector to take part, seems unlikely.

There is no doubt that the Community Rehabilitation Companies (CRCs) will be a difficult place for probation staff to find a home. Eventually to be run by private outsourcing companies with little sympathy or understanding of the traditions of probation it is unsurprising many probation staff are currently questioning whether they want to continue to work in this area at all. The loss to the vocation of probation of staff exiting completely is one of the most serious, avoidable but damaging outcomes of this change. However the best opportunity that probation staff have to maintain their professional role intact through the transfer process would be in the CRCs, not the NPS. In the CRCs the importance of the appointed leadership in transition cannot be underestimated. If the leaders can organise the delivery of services in the brief space they have before takeover and can act as a buffer against the new contractors this may help staff maintain a professional role. Crucial here will be who will win the 21 CPAs. Will it be the private for profit justice sector - Serco, G4S, GEO or Sodexo? Or will the majority of contracts go to private business process outsourcing agencies such as Capita, Interserve or Amey? If the latter outsourcing private sector model predominates they do not know the business of probation and they will need the professional expertise provided by the CRCs.

Certainly this will not be an easy time for any ex-probation staff. Back office functions are at severe risk and likely to be the first casualties of the changes. There are no guarantees over time that the codes and conditions of service will not be threatened and dramatically worsened as evidenced in similar outsourcing projects in other fields and that staff working without the opportunity to work with the same range of clients will suffer loss of expertise in risk assessment, report writing and the management of high risk cases. The

protection of training and staff development and the ability to move between organisations for professional updating and career progression will be crucial. Of course working in an organisation where justice for profit is the key motivator may simply be, for some, a moral prospect which cannot be entertained. We have to understand that reluctance given the traditional vocationalism of so many in probation work.

On the other hand there may be opportunities as well within these structures. Without the bureaucratic restrictions of being in a public sector agency, there may be improved technology support, opportunities to think outside the box, to innovate, to create and use resources differently. More job opportunities may arise in bigger companies and through some protection of service with the MoJ, who have the capacity to step back in if this experiment fails to deliver, there could just be a chance for probation to flourish again in the future.

If ownership of public services is distributed amongst a constellation of private sector companies, third sector, mutuals and the residual public sector questions about the responsibility for the maintenance and quality of services urgently arise. Contracting is a threadbare model of accountability and quality assurance. There will be an urgent need to create a competency framework which supports a range of career opportunities in this new mixed economy of provision. It is clear that government do not want a statutory probation registration system in the short-term but a voluntary register developed under a potential Probation Institute will be a key way to bind new providers to a recognisable kitemark. Although it may be seen that the loosening of national standards might be advantageous to innovation in offender-centred practices without regulation how is good practice identified and maintained? Such an Institute is in development through the PCA, PA, Napo, Unison, Skills to Justice, higher education and with the voluntary sector and eventually the contract providers which will hopefully create an independent, credible organisation charged with maintaining the occupational culture, the value-driven institution of probation.

The growing political and public disenchantment with these changes maintains a small sanctuary of hope that a pause or abandonment of this unnecessary and wrong-headed competition will eventually transpire. It is no surprise that probation staff are feeling confused, angry, hurt and demoralised. Some will fight, some will leave and some, driven by protecting the needs of their families, will simply be resigned to the changes but without commitment. The cacophony of noise created in rallies, in the social media, through Napo strike action and the resistance provoked by attempts by the ministry to bulldoze changes through when they are not yet fully thought out or agreed produces some hope that the government will be forced to think again.

There is a growing political resistance on both sides of the Houses of Parliament to these changes. The tyranny of the PQQ process may well make some private companies think again about the desirability of engaging in this new market. The final resolution of what the Minister called 'corporate renewal' by key private sector companies will determine whether those alleged misdemeanours amount to fraud and force their withdrawal from the competition or those concerned take their ball home anyway fed up with the threats to their commercial interests elsewhere. This does raise question marks about whether

there remains a sufficient market for such a competition to take place anyway. For now, the probation trusts still exist and it is hoped that they will be given a stay of execution. The media becomes more aware day by day to the folly of what is unfolding.

The Editorial Board of the British Journal of Community Justice hope in this issue to provide a significant snapshot of some of the considered thoughts of academics, probation practitioners, ex-offenders and other commentators about the recklessness at the heart of these unwarranted, untried and risky changes.

The response to the call for papers illustrates the concerns of the wider community. There has been an unprecedented eagerness to contribute, though no submissions were received expressing unqualified support for the TR changes. So much has been received that this has been designated a double issue, though even then we have published well in excess of our norm. Rather than split the contributions we have maintained it as a single publication, we hope timely enough to influence the debate. Though we did not request papers in themes we have divided the issue into five broad themes which have emerged from the contributions. In addition we offered the opportunity for some to write an open letter to the Minister and four have taken up this opportunity. I hope the minister takes time to read and respond to the issues raised. The five themes are summarised as overview of TR; measuring outcomes; occupational cultures; women, race and TR and practitioner views.

Overview of TR

Two contributions in this segment kick off the issue. Bowen and Donaghue go to the heart of the concepts of local and community justice as a counterweight to the marketization imperatives of government policy. Is the former compromised by the focus on the latter ideology which is at the heart of TR development? Marples explores the role of the voluntary sector under the TR plans. Analysing what the official literature says about their role the article asks important questions about how these changes fit with the original mission of the VCS and the consequences for them of responding to the changes.

There are two thought pieces in this section. Webster tries some future gazing by re-framing the timetable for TR to see if a more evidence-informed approach could test out the ideas over a longer period without the damaging consequences associated with the current rush to change. Harper looks at the marketisation of justice services and suggests that the focus on building prisons, in itself, contributes to a flawed approach which diverts resources away from community provision.

Measuring Outcomes

One key idea at the centre of government rhetoric is the importance given to rewarding success in reducing re-offending, so-called 'payments by results'. Hedderman analyses the underlying themes at the heart of this idea suggesting eight ways in which the fundamental precepts may be problematic and demand some re-think. Wong focuses on a case study of Integrated Offender Management. Drawing on extensive experience of researching this area he highlights how difficult it is to attribute additionality to IOM as an intervention when looking for reductions in re-offending. He goes on to point out some of the difficulties of operationalizing IOM in the current TR plans.

In the Thought Pieces we have a characteristically innovative contribution from McNeill highlighting some fears at the heart of the TR agenda. Fitzgibbon focuses cogently on issues of risk and the consequences attendant upon the fragmentation to services.

Occupational Cultures

Robinson explores the nature of the occupational culture underpinning probation over a long period. The nature of this culture is assessed and links made to organisational changes in youth justice. Robinson argues that even when systems and structures change adaptation is often slower, with resistance and re-working, rather than producing a radical overhaul of occupational and professional identities.

McGarry's thought piece pursues the theme of occupational culture suggesting that the culture of public service values may not re-work easily under the new more commercial world of TR. Clarke also is concerned that one key aspect of probation culture, the presence of reflective practice, may well flounder under the new arrangements. Mawby and Worrall highlight aspects of their recent book which Robinson also draws on to suggest that the risk to the institution of probation is very real and disturbing in the TR world. Finally Dominey, drawing on recent empirical research with service users, suggests that working with involuntary clients demands a distinctive ability to work effectively with people who are ambivalent about change and not always easy to engage. She wonders whether the more impoverished environment of TR will enable such supportive supervision to survive the organisational changes.

Women, race and TR

Given the relative neglect of women and race under TR proposals there is rightly a deep concern for how some of the more innovative developments of recent years can be sustained. Gilbert focuses in her article on the fate of domestic violence work given the projected pattern of organisational change. She argues persuasively that such offences mean a high risk of harm if not of re-offending and therefore could be designated as medium risk in terms of TR and be assigned to the CRCs. Some of the dangers in this approach are then explored. Gavrielides draws on recent empirical research in London Probation Trust relating to implementing race equality policies. Using the template for good practice developed by this work the author examines how such an approach can be sustained under TR arrangements and the risks associated with an approach which does not engage communities upfront in equality solutions.

Birkett's thought piece is constructed as a conversation with a magistrate. It explores issues for court practices which the changes attendant upon TR will engender and the consequences for women in trouble with the law. Gomm draws on on-going research into the complex needs which women present in the justice system. The impact of good quality service provision on women with complex and diverse needs must be considered within a more sophisticated framework than TR allows. This raises a number of pertinent and difficult issues for practice. Finally in this section, McMahon, herself serving a suspended sentence, reflects on how the justice system has felt from her perspective suggesting the need for the system to understand more about the issues of housing, employment and substance misuse in planning and delivering services.

Practitioner Skills

The final section features two articles highlighting the impacts upon practitioners. Hylton draws on work undertaken to develop a training programme to support engagement with service users. It shows how long it takes to develop exercises which have empirical validity and which can improve practice. He doubts that TR will foster this kind of innovation. Calder and Goodman range across some of the broader issues of practice which the TR changes will threaten. Drawing on the consequences for practice the authors highlight how supervision risks becoming more idiosyncratic, possibly more rule-bound and will be less sensitive to issues of race and gender.

Norton's thought piece is driven by the uncertainties created in returning to probation after an absence of some years at a time of such change and disruption and questions whether the traditions of practice have already been vitally compromised. Guilfoyle, having recently retired, reflects on what he considers a lifetime of innovative and transformative practice and simply he asks whether TR really can provide that level of creative potential. Finally Evans focuses on another neglected group in these changes, those at the transition from youth care to adult provision. This provokes questions concerning what will happen to this particularly vulnerable group of care leavers.

Concluding thoughts

Reading through these contributions and also adding the passion and sheer exasperation which emerges from the Letters to Grayling it is tempting, if not impossible, not to conclude that the TR changes are simply wrong-headed and do not appreciate the complex web of reciprocity that probation functions within. It is often stated in debates that probation is little understood and there is little doubt in a sound-bite world probation is not a sound-bite organisation. But what these papers suggest is that this is as it should be. Probation deals with complex, difficult and intangible problems in a quietly authoritative, caring and committed way. Moreover even in the language of government it works. Probation on the Justice Ministry's own figures reduces re-offending and moreover offers service users real opportunities to reintegrate into society. Rather than throw this away in the rush to appeal to an ideological dogma hardly demonstrably successful in any other field of welfare reform surely now is the time to stop and think again. These contributions suggest that is self-evidently the case. We invite the government and the Ministers to take note.

DIGGING UP THE GRASSROOTS? THE IMPACT OF MARKETISATION AND MANAGERIALISM ON LOCAL JUSTICE, 1997 TO 2013

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Abstract

Since 1997, successive governments have undertaken fundamental reforms to the criminal justice system in England and Wales. Many of the policy reforms enacted during this period have had principles of managerialism and marketisation of criminal justice services at their core, which have at times appeared counter-intuitive to parallel objectives which emphasise 'localism' and efforts to promote community justice. This article identifies the core concepts of local and community justice and examines their inter-relationship and (ir)reconcilability with competing trends of managerialism and marketisation since the election of the Labour Government in 1997. The prospects for local and community justice since the election of the Coalition government in 2010 are considered. The article concludes by arguing that the justice marketisation trend, of which *Transforming Rehabilitation* (MoJ, 2013b) is a prime example, is the continuation of a specific operating model, of which advocates of local justice should undoubtedly be skeptical.

Keywords

local justice; community justice; marketisation; managerialism

Introduction

There are two separate concepts that we address in this paper: local justice and community justice. Local justice suggests that the decision making power and authority in the justice system should be invested in bodies as close as feasible to local communities. A form of subsidiarity, local justice is associated with the transference of power from central government to more localised structures. Community justice, on the other hand, looks at the application of power locally. In response to claims that the criminal justice system pays insufficient attention to the everyday consequences of crime and disorder, community justice practices and innovations have developed to explicitly include the community in decision making and co-production of services and set the enhancement of local community 'quality of life' as a goal (Karp and Clear 2000). While there has been growing national and international interest in the concept of community justice over the last decade in particular (Berman and Feinblatt, 2005), it is nonetheless a concept which has a long historical tradition in England and Wales, embodied primarily in the existence of the lay magistracy (Darbyshire, 2011).

Evidence suggests that local and community justice ideas are important because, when effectively implemented, substantive forms of local and community justice may, for example, serve to highlight 'the special contribution that can be made by local voluntary agencies in respect of community involvement, innovative practice, skills in "engaging" offenders and care taken to involve service users closely in the design of plans to change their lives' (Maguire, 2012: 490). We contend that, despite objections raised about both concepts (see for example, Newton, 1982; Geddes, 2006), local and community justice can enable an innovative and responsive framework (Stuntz, 2011), *provided that they reside within a broad and stable set of national legal and policy frameworks*. Through a local justice framework, criminal justice practitioners regain discretion and are able to design more balanced, creative, and potentially more effective solutions.

Since 1997, successive governments have undertaken ambitious reforms which have placed an emphasis on 'local justice' and 'community justice' (see for example, Home Office, 2010; Home Office, 2009; Cabinet Office, 2008; 2009; DCLG, 2006; ODPM, 2003). These developments have often been undertaken in parallel with reforms that stress the need for more professional management of public services and ways of introducing quasi-market approaches to justice delivery (Ministry of Justice, 2011; 2010; Cabinet Office, 2010; Corner, 2006). These competing impulses have interacted from the late 1990s and continue to be evident today. We will discuss the inter-relationship of these reform programmes, and the impact of that inter-relationship on both local and community justice. In particular, where local and community justice are undermined (explicitly or implicitly), this has broader implications for the legitimacy of criminal justice interventions and practices, and may impact upon efforts to leverage 'felt' justice into neighbourhoods, as well as in engaging citizens in partnership with police and other agencies to enforce social norms and laws (Lanni, 2005; Lynch, 2011). Analysing whether managerialism and marketisation undermine local and community justice in England and Wales is thus worthy of scrutiny for advocates of local and community justice

THE LABOUR YEARS, 1997-2010

Local and community justice under Labour, 1997-2010

John Raine has described pre-1997 notions of what a local justice system might resemble as a 'quaint quill pen image of local justice' (Raine, 2000: 19). Yet, after 1997, the concept of local justice was made anew in the Labour administration's approach to criminal justice. This was perhaps most strongly expressed in the passing of the Crime and Disorder Act 1998. The Act, one of the first of the Labour administration, placed legally binding duties on partners to collaborate in Crime and Disorder Reduction Partnerships (CDRPs). The same Act also mandated the co-location of youth workers, probation officers and police officers into multi-agency teams to tackle youth crime through the creation of Youth Offending Teams (YOTs). That trend continued throughout Labour's time in office, with the creation of strategic partnership bodies such as Local Criminal Justice Boards (LCJBs), marking a significant shift move from voluntarism to statutory duty (Sullivan and Skelcher, 2002).

At the same time, Labour emphasised a 'communitarian' response to crime and justice issues (Etzioni, 2001). Community involvement in the delivery of crime control and 'community safety' was viewed as important for increasing public confidence in the criminal justice system and reducing fear of crime (Home Office, 2003; 2006), but it was also seen as a fundamental element in unburdening an overextended criminal justice system and bringing about more effective delivery of crime prevention and control (Hughes and Rowe, 2007). Hence, Labour had sought to embed a crime control discourse in which the citizen was active in the co-production of security (Gilling, 2010). This 'communitarian' commitment was most obviously expressed in its commitment to neighbourhood policing, its creation of a range of interventions aimed at addressing anti-social behaviour (ASB) and a wide range of justice system changes including specialist and community courts, and referral orders for young people. The emphasis on 'neighbourhood policing' in particular was implemented to reassure communities that they were 'safe'. In addition, the emphasis on ASB stemmed directly from Labour's desire to be seen to be on the side of 'hard pressed' communities: the 'debilitating' effects of ASB were identified as likely to be compounded for those residents living in 'high-risk' communities which were already experiencing concentrated multiple deprivation (ODPM, 2003). Within that framework, the administration repeatedly emphasised the fundamental importance of community engagement in both neighbourhood regeneration and crime control (Flint, 2006). The intrinsic value of community participation and involvement in creating sustainable, cohesive and 'safe' neighbourhoods was reiterated in numerous policy documents and guidance which argued that failure to engage communities would make sustainable regeneration and community safety much more difficult to deliver and less likely to produce favourable outcomes (see, e.g., DCLG 2008; DCLG, 2006, ODPM, 2003).

Competing reform trends, 1997-2010

Prime Minister Blair, on his re-election in 2001, told the British people that he understood his re-election to be as 'a mandate for reform...an instruction to deliver' (Barber, 2007: 43). There was renewed emphasis on improving the connection between increases in

investment with changes in the quality of the services provided and the choices available to service users (Mulgan and Albury, 2003). Behind this renewed impulse to deliver was a move toward instituting 'new public management' into public services (Hough, 2007). New public management called for more market-based management techniques, using 'management by objectives, contracting out, competition within government and consumer orientation' (OECD, 2003: 135). This management philosophy positioned 'public sector executives...as leaders of businesses' whose role was to maintain and enhance 'the reputation of their organization as judged by performance indicators set by government' (Moore and Hartley, 2008: 18-19).

The introduction of new public management in criminal justice had a number of important effects. Firstly, there were a set of reforms that aimed to move from what appeared to Whitehall to be fragmented locally based services to coherent, nationally designed ones, which would better 'manage' justice delivery. In 2001, local probation areas were rationalized into 42 areas which were run by nationally appointed and employed Chief Probation Officers (who had previously been employees of local Probation Authorities). The Courts Act 2003 abolished Magistrates' Courts Committees and replaced it with a new agency to manage all courts centrally (Her Majesty's Courts Service). The introduction of the National Offender Management Agency in 2004 placed a regional command and control structure over local prison and probation organizations to drive central reforms. The Government also introduced centrally set targets, with performance frameworks for each agency as well as Public Service Agreements (PSA) which explicitly tied departmental budgets to performance targets. Senior and middle managers in public services were incentivised to focus on achieving quantified, data driven goals. For example, the police were set targets in the National Policing Plan and the new Police Performance Assessment Framework. In addition, there was a desire to ensure consistency and professionalism in criminal justice practice, through the introduction of national standards and increased inspection and quality assurance processes.

Furthermore, the Government ring-fenced funds to ensure that its priorities were reflected locally. For example, the Department of Health and the Home Office pooled money for drug treatment and delivered it to local commissioning groups (Drug Action Teams) which were co-terminus with CDRPs. The funding was exclusively reserved to achieve certain outputs such as the creation of the Drug Intervention Programme (DIP). DIP sought to ensure that offenders with associated Class A drug habits received treatment and testing swiftly following arrest. The money itself was handed down to local commissioning groups via the DIP Main Grant, with clear performance goals attached. Finally, Labour's public reform agenda increasingly sought to introduce elements of marketisation (sometimes described as 'contestability'). In 1999, the electronic tagging of offenders was contracted out to 3 private providers. In Lord Carter's review of prisons and probation, he explicitly called for, and the Government endorsed, the idea that one way to drive performance improvement was diversifying the number of providers of services and requiring them to compete for contracts to run services (Carter, 2003).

How did local and community justice fare under Labour?

Due to the at times contradictory impulses of the new public management and marketisation, Labour's support for, and impact on, local and community justice was

mixed. The local nature of the youth justice was bolstered by the creation of a dedicated, local authority based youth justice system. Reforms such as CDRPs and LCJBs brought together existing local partners in their structure while broadly leaving the geographic reach of each local organization the same. In the area of policing and community safety, the shift toward a local policing model recognized that 'policing by consent' could be strengthened by a more community based and locally responsive model of policing. However, in adopting new public management, there was a trend toward centralization to improve professionalisation. The courts and probation service underwent significant centralisation. At the local level, discretion was narrowed, as criminal justice organizations were held accountable to the centre, and the scope for meaningful local justice was constrained by ring-fencing and national performance frameworks. Taken together, the main impact of Labour's reforms was to significantly centralize power at the expense of local decision making. This reduction in the amount of power and discretion placed in local hands had an immediate impact on the ability of the administration to implement its community justice programme. For example, attempts to develop a community justice rationale within the magistrates' courts (both through the introduction of community and problem-solving courts and through attempts to encourage greater community engagement between the courts and local neighbourhoods) were undermined by the centralised formal justice system. This process of centralised administration made it all but impossible for magistrates to introduce new and effective practices into their own courts. As a result, top down central government bureaucracy stifled innovation and experimentation at a local level, making it more difficult for courts to implement community justice oriented practices.

The impact of the Government's community justice initiatives was not only limited by the impact of managerialism, however. Research also found significant concern amongst some magistrates about what impact increased levels of engagement with the community would have upon judicial independence. These concerns from magistrates, coupled with a lack of formal judicial training on community engagement, meant that there were very few, if any, substantive links between magistrates/district judges and some communities (Donoghue, 2012). Empirical findings also suggested that the creation of partnerships with the community through informal mechanisms (individual relationships, communication with residents) were also extremely limited (Donoghue, 2012). The impact of managerialism and the skepticism that the judiciary and other professionals had about the value of a community-based justice system meant that Labour's attempts were heavily circumscribed. Consequently, it has been suggested that some community justice initiatives were more akin to a tokenistic, 'tick-box' approach to community justice, whereby the introduction of 'tools' to involve local residents in the justice process was used to provide legitimacy to new supposedly community justice-oriented initiatives (Jarvis *et al.*, 2011). To be clear, there was not a committed attempt (by politicians, practitioners or court professionals) to undermine community justice efforts: Labour policy on justice was a set of mixed messages.

THE COALITION YEARS, 2010 to present

Local and community justice under the Coalition

In 2008, Sir Michael Lyons concluded in his inquiry into local government, ‘...the Government’s approach has involved taking a number of directive and interventionist steps towards local government. There has been more detailed engagement in local policy decisions...the use of inspections and targets has been expanded substantially’ (Lyons, 2007: 41). That critique of the Labour years resonated with both Conservatives and Liberals. Indeed, one clear point of agreement between Liberal and Conservative coalition negotiators following the General Election in May 2010 was a similar attitude to public services reform. Following their election in 2010, the commitment of the Coalition to re-introduce localism in a criminal justice setting has been marked. Following commitments in both the Conservative and Liberal Democrat manifestos to make the police more accountable, the Government passed the Police Reform and Social Responsibility Act 2011. This Act introduced, for the first time, a structure for local policing that included an element of democratic accountability, with the introduction of Police and Crime Commissioners. Their subsequent election, albeit on a turnout that was low (Electoral Commission, 2012) in November 2012 demonstrated the Coalition’s intention to decentralize power locally.

Moreover, the Government acted to remove performance targets and ring-fencing of funds. Public Service Agreements were replaced by more limited departmental business plans. The previous performance system for local authorities, Local Area Agreements, was scrapped in 2010 (DCLG, 2010). The police, previously judged on their ability to increase public confidence in policing, now broker performance agreements locally with their Police and Crime Commissioner. In the area of ring fencing, the Pooled Treatment Budget, specific funding for the Drugs Intervention Programme and other local authority ring fencing, has been removed.

While these changes have indicated an interest in localising justice, the Coalition has committed little energy to bolstering community justice. While its Public Service Reform paper of 2011 (Cabinet Office, 2011: 3) outlined a commitment to public services that gave ‘citizens greater choice and control; genuine information on outcomes; and a stronger role for their communities’ in the justice space, this has primarily revolved around perfunctory measures, such the opening up of data to the public and the requirement for the police to hold regular ‘beat’ meetings.

Competing reform trends, 2010-current

The Coalition trend toward enhancing local justice (as a reaction to managerialism) nonetheless competes with their emphasis on encouraging marketisation in justice services, widening and deepening a trend set by the Labour Government. In their paper, *Transforming Rehabilitation - A Strategy for Reform*, the Government committed itself to ensuring that ‘The majority of community-based offender services will be subject to competition’ (MoJ, 2013a: 10). At the time of writing, new providers are discussing bids for probation contract package areas. Prime providers will secure contracts for these packages and receive payment based on both a service fee and a performance payment

based on the results they deliver in reducing re-offending. The contract is or will be set at a national level, and the contract periods proposed are seven years long. A total of 21 contract package areas are proposed, contrasting with the 35 probation trusts currently in existence. In addition, there has been high level discussion that the administration of the courts could be moved outside direct public service provision (though the Justice Secretary has written that 'No replacement organisation for HMCTS would be contemplated unless it was a body operated solely in the public interest' (MoJ, 2013b)). In the provision of prison, Ministers have outlined plans to contract out all but core custodial functions at all public sector prisons with the aim of saving £450m over 6 years (MoJ, 2012).

How has local and community justice fared under the Coalition?

It is clear that the Coalition, in some of its local justice reforms, has sought to undo elements of Labour's managerial tendencies. While the election, and certain practices, of Police and Crime Commissioners has been met with considerable ridicule and hostility in the media, it has marked a substantial shift in how the police are held accountable, replacing local police authorities, long criticized for being undemocratic and hidden from public view, with elected politicians. Police and Crime Commissioners, one year into the job, have shown a degree of power in changing the way their local forces operate. Two Chief Constables either resigned or did not re-apply for their jobs and one was only reinstated after redress to the courts. At the same time, they have become increasingly vocal about the development of national policy with regard to their own local plans, with 27 signing a letter of objection to the Ministry of Justice regarding the contracting of electronic monitoring at national level (Daily Express, 2013). Similarly, the Merseyside PCC made pointed criticism of the Court Service's decision to close the North Liverpool Community Justice Centre (Kennedy, 2013).

The impacts of its decisions to reduce Labour's performance monitoring and ring-fencing culture are harder to judge. It is certainly true that, in some areas, the removal of ring fenced crime and justice funds and the concentration of them in local authority and PCC hands has already shown that local decision makers can make more creative efforts to reduce demand, as is being attempted in Manchester's Transforming Justice initiative (AGMA, 2013). However, the removal of *central* performance targets, for example, has not meant that new public management has gone— local commissioners continue to set quantitative goals for services and the Government's Departmental Business Plans are not dissimilar to the previous performance regimes. Courts remain centralised, which a recent report suggests has allowed 'unnecessary court closures, the disempowerment of magistrates, the disappearance of the justices' clerk as a powerful local figure, courts become distanced from local government, reduced local accountability and low morale among court staff' (Gibbs, 2013: 4).

The impact of marketisation is even less clear, in part, because those reforms are still a work in progress. However, the particular model of marketisation suggested in the *Transforming Rehabilitation* proposals does, as previously noted, place decision making firmly at the national level, even if Police and Crime Commissioners are being given more of a consultative role than previously envisaged. The move to 21 contract package areas is a significant centralization. Moreover, marketisation of probation and prison is likely to

reduce the prospects that a single crime and justice budget can be pooled locally, restricting the scope for locally-driven decision making. There is also disquiet, expressed in responses to the consultation on the proposals, that, once contracts are signed, the flexibility in the contract period will be minimal, with local justice actors having little direct ways of influencing changes in service design or delivery. These worries are founded upon the experience of one area of justice which is wholly privatized— electronic monitoring contracts— and which bears similarities to the new reforms being proposed. Studies of that model have suggested it has been a ‘sclerotic, centrally controlled, top down system that has enriched two or three large suppliers, that lacks the innovation and flexibility of international comparators and that fails to demonstrate either that it is value for money or that it does anything to reduce offending’ (Geoghegan, 2012: 7).

CONCLUSION

It is clear that, over the course of the last 16 years, local and community justice have wrestled for space with, and sometimes against, the competing trends of new public management and marketisation. Administrations’ attitudes to local and community justice have been complicated by competing desires to drive performance improvement either from the centre or through ‘open’ market-incentivised public services. While real gains were made by Labour in emphasizing multi-agency collaboration, a number of institutions, especially the court service, underwent significant processes of centralization. These moves meant that Labour’s community justice efforts were undermined.

With regard to the prospects for local and community justice under the Coalition, it is clear that the introduction of Police and Crime Commissioners has made a fundamental shift in the way the police are held accountable and, for those with an interest in local justice, has ensured that decision making for policing not only stays local but has, for the first time, a significant community input via the ballot box. However, their market-based reforms in the justice space are worthy of scrutiny because they appear to be the continuation of a specific operating model of which localists should be skeptical. Sidestepping whether there are savings or greater impacts on outcomes accrued from the introduction of these proposed market-like reforms, local and community justice advocates must ask whether the trade-offs posed by them are ones that citizens should be willing to accept. With no explicit commitment to local or community justice, the evidence to date does not suggest that marketisation is likely to inspire engagement and user-centred service design. Local justice advocates in particular should be cautious about how the nationally set, market model will ‘lock in’ service designs for multi-year contract periods. Without substantial amendment, the prospects for greater local discretion and decision making power within a more marketised justice system look mixed.

Despite these trends at a Government level, there are a number of reports which seek to argue for a justice system orientated around local and community justice. In their publication *Power Down*, Policy Exchange highlight a number of ways in which Police and Crime Commissioners could be strengthened to ‘increasingly assume a role similar to that of a “Minister for the local criminal justice system” – with the political power to set the agenda, hold agencies within his/her purview to account for performance and enact

reforms to ensure a more efficient and effective system at the local level' (Chambers, 2013: 4). The report by Transform Justice on the future of magistrates' courts proposes a number of new, re-localised models for court administration (Gibbs, 2013). The Magistrates Association also sets out a number of practical steps it believes the magistracy and the government can take to make them 'the foundation of the community-focused justice system' (MA, 2011: 6).

But there are also interesting comparative models of justice which suggest other ways in which justice can evolve. The authors are due to embark upon an examination of comparative international models of local justice, which will be the subject of a paper in 2014. By developing fresh and comparative perspectives on local justice, we aim to demonstrate that there are substantive alternatives to the recent developments in the criminal justice domain, where local and community justice were often set in opposition to other competing trends. There appears to us a gap within UK policy making in the investigation, understanding and analysis of comparative and alternative models of local and community justice, many of which may hold more sustainable, innovative and democratic visions of our justice system. We tentatively hypothesize that such an understanding may provide a richer set of local justice models which can inform reform in England and Wales.

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TRANSFORMING REHABILITATION – THE RISKS FOR THE VOLUNTARY, COMMUNITY AND SOCIAL ENTERPRISE SECTOR IN ENGAGING IN COMMERCIAL CONTRACTS WITH TIER 1 PROVIDERS

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Abstract

The Minister for Justice has outlined his aspiration for the Voluntary, Community and Social Enterprise Sector to be involved in the supply chain for the services offered in the Transforming Rehabilitation programme and as a result the sector will enter into commercial contracts with Tier 1 providers. Involvement in commercial contracts will raise many questions for the voluntary sector and may involve risks on a number of levels. These include the financial risk of having to deal with contracts in a commercial environment, where payment may include a Payment by Results element, the outcome of which could be a shortfall in payment if targets are not met. There are also issues relating to how moving into the commercial sector and working with ‘for-profits’ companies could impact on the values and status of ‘not for profit’ organisations. Organisations can take steps to help mitigate some of the risk and the Ministry of Justice is proposing a number of safeguards to help smaller organisations, but how reliable these will be requires examination. By examining other Payment by Results schemes with particular reference to the Work programme, the impact on the voluntary sector can be shown.

Keywords

Transforming Rehabilitation; Voluntary, Community and Social Enterprise Sector (VCSE); risk

Current Position

The Offender Rehabilitation Bill was announced in the Queens Speech 2013 and is intended to set in statute the Government's Transforming Rehabilitation (TR) strategy. The Bill has completed its passage through the House of Lords and is awaiting a date for its second reading in Parliament. One of the main aims of this policy is to deliver annual savings amounting to almost £2bn by 2014/15 (Comprehensive Spending Review Settlement, 2010).

At the time of writing the following information is correct, but due to the fact that this is an evolving process, it is constantly subject to update and change. There are a number of information workshops being conducted by ACEVO and briefings from the Ministry of Justice (MoJ) that attempt to keep those with interest, up to date. One thing that is apparent is that this is a massive undertaking, which is due to be achieved within an exceptionally tight timeframe, a timeframe which with the current rate of slippage, may be difficult to accomplish.

The MoJ states that localism is an important part of this reform, with the Secretary of State Chris Grayling in his speech to the Centre for Social Justice (2013) outlining his desire for the expertise from the VCSE to be utilised in the delivery of services under TR, stating:

There is no question of us paying only lip-service to the voluntary and community sector as we transform rehabilitation. I am determined to ensure these organisations are right at the heart of our approach, delivering it on the ground – working at every level, and forming genuine partnerships with other providers. I genuinely mean that (Grayling 2013: 9 min 44)

This is reiterated by the MoJ in the Strategy for Reform document (2013(c)) where the value of local services are recognised, particularly the fact that local providers are best placed to identify and deliver services for local service users.

Examination of the VCSE sector in providing rehabilitation services shows that it is a diverse sector with organisations of various sizes offering a range of services. The Centre for Social Justice (2013) estimates there are 1,475 VCSE organisations whose service users are offenders, ex-offenders and their families. Of these 3% have an income greater than £5m (e.g. Turning Point (£80m) and Nacro (£71m)), 23% have an income greater than £500,000, 51% have an annual turnover or income of £150,000 or less and 4.8% had no income at all.

This has implications for Tier 1 providers when building their supply chain. Although it is suggested that Tier 1 will need to have some diversity in their supply chain, ACEVO (Information Workshops, 2013) suggest that complex supply chains are more expensive to manage and Tier 1 will have to compete on price, so this will be a consideration. As a result ACEVO suggest that because of the scale and pace of transition it could be a 'couple of years' before smaller VCSE can be introduced into the supply chain. If this proves to be correct it has wide implications for VCSE, in that they would need funding in order to maintain service provision until contracts were awarded.

Risks for VCSE

Financial

Traditionally the primary income stream for VCSE has been through grants provided by a variety of funders. This resulted in VCSE having the monies in place before service delivery and it also meant that organisations were not reliant on money coming from one source, which allowed for independence (which will be discussed later in the paper). Many funders are now moving away from voluntary income in the form of grants, to earned income in the form of contracts. This can clearly be seen in Government spending, where grant income between 2003/4 and 2010/11 declined from £5.6bn to £3bn whilst Government spending on contracts between 2003/4 and 2010/11 rose from £10.9bn to £14.2bn (NCVO, 2013).

There are a number of dangers involved in VCSE moving to contracts from grant funding. Many of these were seen in the implementation of the Work Programme and were outlined in a report by Maddock (2012). The sub-contractors in the supply chain for these services identified the problems as being:

- Cash flow problems and even bankruptcy for sub-contractors who may have to wait up to a year for payment;
- Financial incentives were not passed on to sub-contractors;
- Communication between Primes and their supply chain was poor, which resulted in a lack of opportunity for innovative service provision for those with complex needs;
- Sub-contractors were caught between Primes need to meet targets and the DWP's desire for innovative service provision;
- There was no guarantee of work from Primes.

There are concerns that many of the problems encountered in the Work Programme procurement process will be repeated in the Transforming Rehabilitation programme. The Secretary of State Chris Grayling, in his evidence to the Justice Committee (2013) admitted that there had been problems with the contracting processes in the Work Programme and there were lessons to learn.

This is evident in research conducted by National Council for Voluntary Organisations (NCVO) (2012) that identified four main issues that impacted on their financial situation. Firstly, the sustainability of contracts. This report found that a number of VCSE had not received any contracts, some had not received formal contracts from the Prime provider and agreement for service was informal perhaps by email or telephone conversation and of those who had received contracts 71 out of 98 were concerned that the contracts were not sustainable; secondly, issues relating to the financial terms agreed with the Prime, which appeared to be a contributing factor as to why contracts were not sustainable; thirdly, payment levels, although this was difficult to assess due to respondents not wishing to divulge commercially sensitive data. However, the authors of the report suggested Primes were passing on an average of 15-20% management fee for referring clients and it was suggested this may warrant further investigation based on data from the

government and Prime contractors; finally, support from Prime contractors. It was suggested that it was important for Prime contractors to assist organisations to manage the payment structure of the Work Programme. It was telling that of the 71 organisations who reported negatively about the sustainability of their contracts, only 6 respondents reported receiving such help.

These issues have been examined in a report by ACEVO and the Shaw Trust (2013), where they recommend refinement rather than reinvention. One of the issues addressed is the funding model, where they state that upfront costs tended to consume all attachment fees and then VCSE were expected to provide services whilst awaiting deferred payments, which put serious strain on their financial resources. Suggestions put forward in the report are higher upfront payments and consideration of the possibility of moving away from per-person outcomes-based payments, and towards a cohort-based funding model.

There are a number of measures being put in place by the MoJ to improve the supply chain, which were outlined in the recent ACEVO information workshops (2013). These include the development of an industry standard contract for all Tiers in the supply chain, with embedded market stewardship principles, which will be discussed fully in the next section.

However, Tier 2/3 will still face a number of issues with regard to finance, in that there will be no guarantee of contracts and no fixed number of referrals, concerns for which were voiced in the Centre for Social Justice Report (2013). Another issue for VCSE is trying to establish a price for their services appropriately, as these are new services that may be untried and the prices quoted would need to be competitive.

The question for VCSE in deciding whether to take on these contracts or not are fundamental and do not as yet appear to have been addressed. Firstly, will there be other streams of funding available for VCSE to engage in offender rehabilitation; secondly, will Tier 1 providers allow VCSE who are not part of the supply chain access to prisons and offenders?

Contracts

As the expectation of TR is for VCSE to move into the commercial sector, it is vital that VCSE become commercially knowledgeable. This was outlined by the Secretary of State Chris Grayling in his evidence to the Justice Committee (2013), when examining what had happened in the Work Programme procurement process, he suggested to VCSE organisations:

"some of the reasons you found your participation in that contracting process frustrating were that you needed to be more commercial, and that we needed to do more to help you form partnerships and access financial support." (Q3)

There are efforts being made by MoJ to assist the VCSE in becoming more capable in understanding and negotiating contracts, with commercial skills courses and the introduction of a MoJ industry standard contract to be used by Tier 1.

Two key factors that need to be considered by VCSE when deciding whether to bid for a contracts is, what the payment model will be and what factors will inform the results framework.

Payment by Results

The payment mechanism suggested for services delivered within TR by the MoJ (2013d) is the Straw Man, comprised of 2 elements, Fixed Fee for Service (FFS) and Payment by Results (PbR). The aim of PbR is to improve service quality by offering bonuses for performance improvement, but withhold payment where targets are not met.

These issues are fundamental when VCSE are trying to place bids for contracts because the bid will rely on projected volumes on the FFS element to enable financial planning and there will be a requirement for sufficient cash flow to meet the PbR element, if that forms part of the contract.

At the time of writing the details of this have yet to be confirmed as the original consultation (MoJ 2013 (d)) resulted in a number of major concerns being expressed by various organisations. For example, Clinks (2013: 1) have made the following statement:

Clinks would specifically request more detailed numerical information on all aspects of the payment mechanism (including the respective proportions of the Fee for Service (FFS) and Payment by Results (PbR) elements), more information on how primes will be discouraged from passing down undue levels of financial risk and a clearer indication of what proportion of outcomes payments will be linked to binary and frequency reductions in reoffending respectively.

Further issues that were outlined at the ACEVO information workshop remain undecided: will PbR be implemented in the first year or not and will Tier 3 contracts include a PbR element at all? A particularly important issue that does not appear to have been resolved is which model of PbR will be used, binary, frequency or hybrid/grants. Binary looks at the total percentage of reoffending in a cohort and may include a binary 'hurdle' where providers will have to meet a specific target in order to get the PbR element; frequency, measures the number of re-offences per individual in the cohort and hybrid/grant which is a mixed model where the cost of delivering service is funded, but additional payments are rewarded as bonus payments if additional impacts are demonstrated.

One issue that was highlighted in the Work Programme where a binary system was used, was the practice of 'creaming' and 'parking'. This is where service users who were most likely to find employment, and so boost figures, were taken by Tier 1 providers and those who were more difficult to help and required more funding, were given to VCSE. This resulted in VCSE on occasions using their own financial reserves to help these clients or clients getting no help at all (Lane, Foster and Gardiner *et al.*, 2013).

Results Framework

When using a PbR payment mechanism how results are decided is vital. A results framework determines the value of which services matter and should be funded and which do not. This will then impact on how innovative service provision can be considered in the funding stream.

There are questions as to how results are measured and who should have input into the development of the framework. Dicker (2011) discusses the difficulty in trying to develop effective methods of measuring the rate of re-offending, which is particularly important in a PbR system. He outlines a number of methods, but each has some element of unreliability within it. He suggests one method would be to look at re-offending rates, but these would not be reliable because not all offenders who re-offend will be imprisoned and those who breach their licence conditions could be called back to prison, but would not have re-offended, which could give a false reading. Other factors such as reducing drug misuse or reduction in debt can result in reductions in reoffending, but are difficult to evidence, and so may not be deemed worthy of funding. There are no reliable measures of all types of crime: the Crime Survey for England and Wales, for example, is subject to sampling errors whilst self-reporting methods are potentially unreliable as offenders are unlikely to report self-incriminating information. Using comparison methods, meanwhile, relies on the comparison groups being matched effectively and the use of predicted measures of reoffending is also seen as being subject to design or operator error.

Another issue identified by Dicker (2011) is how long the monitoring of offenders should be conducted before it is decided the outcome has been achieved. Whilst there are undoubtedly issues related to measuring results via reoffending rates, it should be noted that the Ministry of Justice has a workable definition of proven reoffending which is currently used to measure reoffending rates across Probation Trusts and prisons. Whether this measure is suitable in a PbR context remains unanswered.

Evidencing good performance

In order to win contracts VCSE are going to have to evidence the effectiveness of the services they provide. The MoJ has developed the Justice Data Lab, an analytical service that allows organisations easy access to aggregate reoffending data in order to show statistically the value of their service. How effective this will be is not yet clear, with the first set of results proving to be disappointing. Between April and September 2013 there were 52 requests for re-offending information. Of these 7, requests were fully answered, 7 requests could not be answered due to insufficient data and the remaining requests were awaiting analysis. Another issue when using the Justice Data Lab is that there is a high threshold of data required in a cohort for analysis, which is a minimum of 60 offenders and only data up to 2010 is available, which could exclude a number of smaller VCSE (MoJ 2013 (a)).

It is therefore important that VCSE establish methods of monitoring and evaluating their service provision in order to prove effectiveness of the service provided. Information is being provided that can assist with this which includes the National Offender Management Service's (NOMS) Commissioning Intentions for 2013-14 which outline a

number of intermediate outcomes which, based on current evidence, are seen as having an important influence on reducing reoffending. NOMS are committed to developing innovative services and are aware that small organisations may not have the evidence base to demonstrate the effectiveness of their services. In order to address this NOMS has suggested that these organisations should give a clear description of their service, its aims and who the service users will be. The organisation should then look for reports on similar schemes, to evidence the effectiveness of the service and also put in place their own evaluation methods. However, NOMS (MoJ 2013 (e)) does advise commissioners for services against investing in unproven service provision, but does not give clear indications of how robust such evidence needs to be.

In partnership with New Philanthropy Capital, Clinks (2013) have developed a number of guidance documents to assist VCSE in this area. What remains in question is what level of evidence will be required by Tier 1 from VCSE in order for them to be satisfied of the effectiveness of a service and offer a contract.

Impact on status of VCSE

The VCSE has a long history in this country and is trusted to provide services that may otherwise remain unavailable and to speak out on behalf of the vulnerable and disadvantaged (Baring Foundation, 2011). One important aspect of these institutions is that they receive monies from a variety of funders and as such remain independent (Cabinet Office, 2012). The Government's commitment to now involve the VCSE in commercial contracts has a number of implications for the VCSE, which were highlighted by the Baring Foundation (2013).

One of the main concerns about losing financial independence was the fact that VCSE would lose the ability to speak out against issues of perceived injustice or poor statutory provision or regulation. The Baring Foundation Independence Panel (2013) stated:

'If the voice of the sector falls silent and charities look to their contract terms rather than their mission when vulnerable people turn up on their door step for support, our democracy is damaged, our society is less compassionate' (p12)

If VCSE rely solely on their contracts for funding, they are unlikely to risk those contracts by speaking out against the organisation that holds those contracts, whether that be government or a private company. Private companies within the Work Programme were suggested to have included 'gagging clauses' to ensure the silence of the VCSE (Rees, Taylor and Damm, 2013). The aim of these clauses was to prevent subcontractors from saying anything that may attract adverse publicity for the DWP and that departmental approval was required before any statements to the press were made. This caused concern for subcontractors and in their opinion proved to be a substantial barrier to the dissemination of information, resulting in the loss of useful material (NCVO, 2012). There is also the suggestion in the Baring Foundation Report (2013) that VCSE may impose self-censorship, not speaking out even if no 'gagging clause' exists, so as not to risk losing out on the contracts.

Another issue with regard to contracts is the fact that VCSE will be contracted to profit making companies, which may not lie well with 'not for profit' organisations and there is the suggestion that this can lead to mission drift where commercial realities impact on the direction and objectives of the organisation (Charity Commission, 2012).

This appears to be evident in other funding streams with the Department of Communities and Local Government Guidance (2012) where local councils were advised to identify so called 'fake charities' and 'sock puppets' and to cease funding for them. A number of high profile organisations responded to this guidance including NCVO (2012) who described it as 'short-sighted', as one of the important functions of the VCSE is campaigning on behalf of the disadvantaged and to bring to the attention of government, issues where policy may be not be appropriate and need review.

Another issue highlighted by the Independence Panel (2013) was that involvement in commercial contracts would result in a loss of identity for VCSE. The Panel identified three features that establish the identity of VCSE organisations; firstly financial independence as discussed above; secondly, brand power, where individual organisations build a solid reputation by their delivery of service and campaigning and as a result can rely on strong public support; finally, knowledge power where organisations develop insight and understanding about their service users and the services they require.

A final issue identified by the Independence Panel that relates specifically to TR, is that at present prisoners are not compelled to work with VCSE organisations, which leads to successful recruitment of service users. However, this will be lost if VCSE start to provide court-ordered services, because service users may be subject to sanction if they do not attend which could lead to loss of trust in the VCSE as they may be perceived to be a statutory organisation rather than a voluntary one. This was confirmed in research conducted by the Centre for Social (2013) where 64% of respondents were of the opinion that a reason for their effectiveness was due to service users choosing their service, rather than being compelled to use it.

Safeguards for VCSE

There are a number of agreements and institutions in place that are supposed to assist in ensuring that VCSE receive fair treatment when involved in working with government departments. The Compact is the agreement between government and civil society organisations first established in 1998 and then amended and developed in 2009 and 2010. In 2011 the Commission for the Compact was disbanded and responsibility for oversight of the Compact is now shared between the Office for Civil Society and Compact Voice.

The aim of the Compact is to set out core principles that are shared by the public sector and the third sector that allow for partnership working within communities. Every government department is signed up to the Compact and local authorities and other public bodies have a local Compact. The Compact is used in areas such as involvement in policy design and consultation, funding arrangements and ensuring involvement in the delivery of services.

One important issue outlined in the Compact is that organisations are allowed to:

‘Respect and uphold the independence of CSOs to deliver their mission, including their right to campaign, regardless of any relationship, financial or otherwise, which may exist’ (Compact, 2010: 8).

This is particularly important in light of the issues discussed above about VCSE maintaining their ability to speak out and campaign about issues that raise concern, without being in fear of losing contracts or being subject to ‘gagging’ orders within these contracts.

There have been a number of criticisms about the lack of governance by the Cabinet Office in ensuring compliance to the Compact. The National Audit Office (2012) found that although departments were supportive and there were examples of good practice, on the whole there was poor implementation, with the Compact not being embedded in the practice of the departments. There is also difficulty for organisations that may wish to complain about non-compliance in that the ‘understanding and recording of complaints is inconsistent and greater clarity here could help improve the Compact’s implementation’ (National Audit Office, 2012: 5).

One of the reasons this may be the case is due to the lack of central oversight. The National Audit Office suggests:

‘The Office for Civil Society is responsible for the Compact on behalf of government. However, we found its precise role with regard to the Compact was unclear. The Office for Civil Society’s roles and responsibilities in relation to the Compact are not set out in Compact guidance or on the Cabinet Office’s website. There is no body centrally that identifies and disseminates good practice on the Compact’s implementation’ (National Audit office 2012, p7)

The MoJ in its market stewardship principles for TR, has stated that Tier 1 organisations are expected to follow the principles embedded within the Compact (MoJ, 2013). However, as can be seen above, poor implementation within departments and no commitment to ensure compliance, VCSE is unlikely to be able to expect compliance by Tier 1 organisations.

Moreover, within their market stewardship principles, the Ministry of Justice has included ‘Merlin Plus’ an enhanced version of the existing Merlin Standard principles as a more practical, robust set of measures embedded within the service specification and contractual terms and conditions that Tier 1 providers must adhere to in terms of supply chain management, fair treatment of sub-contractors and the development of healthy high-performing supply chains.

These principles, first developed by the Department of Work and Pensions (2012), are built upon four fundamental and integrated principles. Firstly, supply chain design, providing innovative design where organisations can share good practice and design new

solutions to complex problems. Secondly, commitment, to the supply chain relationship both at procurement and during delivery of service, where Tier 1 providers should communicate with their supply chain clearly and consistently. Thirdly, conduct; Tier 1 providers have a responsibility to manage their supply chains with integrity and openness and in compliance with regulatory requirements. Finally, review, ensuring the supply chain works effectively in providing the services required by customers whilst also having a positive impact on the wider community.

A review of the effectiveness of the Merlin Standard in the Work Programme (Lane, Foster, Gardiner and Purvis, 2013) shows that the views from Tier 2/3 were mixed as to whether the Merlin Standard was effective in protecting them in the procurement process and management of service delivery. Of those interviewed, success in securing referrals appeared to solicit recommendation of the Merlin Standard, which included many Tier 1 providers.

This suggests that two of the main elements that form the Market Stewardship principles for the TR contracts are not viewed as being effective in protecting Tier 2/3 organisations. This will be of major concern to those who may think about bidding for contracts.

Conclusion

Getting involved in bidding for contracts or open-trading now accounts for 55% of income for the VCSE. Whether to bid for contracts in the new TR services will be a major consideration for VCSE organisations. Indeed, an important question for VCSE is what the landscape for rehabilitation services *outside* of the TR contracts will look like. These reforms may result in restricted access to prisons and prisoners for those organisations who sit outside the formal contracts that will be introduced, raising questions about how they might continue to work in this sector without working with, and for, a Tier 1 organisation. Moreover, it is likely to lead to even less alternative funding being available, raising the possibility of even fewer opportunities than exist under current arrangements. There are many factors that are unknown and undecided, but it is possible to examine similar schemes to see what the implications for VCSE might be. There are risks both financially and ethically, but lessons from the work programme appear to have impacted on how the MoJ intend to involve VCSE and the MoJ are attempting to offer some guidance and protection. How effective this guidance and protection has been will not be known until the first evaluations of the scheme are undertaken, which may not be available until it has been running for some time.

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THOUGHT PIECE

'Thought Pieces' are papers which draw on the author's personal knowledge and experience to offer stimulating and thought provoking ideas relevant to the aims of the Journal. The ideas are located in an academic, research, and/or practice context and all papers are peer reviewed. Responses to them should be submitted to the Journal in the normal way.

MY REHABILITATION REVOLUTION

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I've spent a fair proportion of 2013 poring over the ever-changing details of Transforming Rehabilitation (<http://www.scoop.it/t/probation-review>). Like many others, I've questioned some of the core assumptions and worried about the challenges of implementing a system that has an in-built fault-line between the new National Probation Service and the proposed Community Rehabilitation Companies.

So, I thought it was about time that I took up the challenge posed to all critics of any system:

"So, what would you do?"

All three major parties (I'm afraid I'm not up to speed on UKIP plans for the probation service) have indicated that they are in favour of opening up rehabilitation services to competition. So I've set out a 10 year plan on how to reduce reoffending while opening up the market. My timescale is a lot less ambitious than TR's dash to be completed before the 2015 general election. Needless to say, my plan has made liberal use of many other people's ideas.

A long term process

There is no doubt in my mind that it's possible to substantially reduce reoffending rates. The key to this is to introduce innovation while building on the very real successes of the last 10 years. In my view, local commissioning is essential to preserve local partnerships,

particularly IOM (Integrated Offender Management) schemes developed painstakingly over many years.

Stage One: 2013/14

The first stage of my plan involves increasing the number of probation trusts from 35 to 42 so that they align with police force/Police and Crime Commissioner boundaries.

I would also use this first year to get NOMS to draw up PbR contracts for these 42 trusts with the outcome of reducing re-offending using the current MoJ measures which gives us a reasonable baseline against which to judge performance.

Stage Two: 2014/15 – 2018/19

The 42 probation trusts will operate under a PbR contract for a four-year period. Although performance will be measured against the re-offending targets, all payment will be made up front with no deferred payments based on results. However, there will be a sizeable incentive. The 21 best performing trusts at the end of 2017/18 will have their contracts renewed for a five-year period from April 2019.

This will enable them to invest in long-term strategies to further reduce reoffending – it will also enable them to contract with voluntary organisations on a long-term basis, bringing some much-needed stability to the third sector.

NOMS will be responsible for two major pieces of work during Stage Two:

Stewarding the market

NOMS will be required to involve key stakeholders from the public, private and voluntary sectors in an open and on-going exchange of views to design the framework for five-year PbR contracts starting in 2019. The framework will have two key objectives: promoting innovation and reducing re-offending rates.

Due consideration will be given to using the “accelerator” model of relating payments to harder to achieve targets as developed by Jane Mansour and Ian Mulheirn for the predecessor to the work programme¹ and also recommended by Policy Exchange in their recent paper². In simple terms, the accelerator model means that providers receive a larger payment for reducing the re-offending of a more persistent, prolific offender. NOMS will be expected to encourage a range of different models (including Restorative Justice) to be delivered by a variety of providers including public-private partnerships, voluntary sector led consortia, social enterprises and mutualised probation services.

This culture of learning and information exchange will be suspended from April 2018 in recognition of the fact that stakeholders will then be effectively in competition, but will be restored after the procurement process is complete. The purpose is to co-produce an effective commissioning model which promotes best practice, rewards innovation and discourages gaming.

¹ Mulheirn & Menne (2008) Flexible New Deal: Making it work. Social Market Foundation

² Policy Exchange (2013) Payment by Results: Strategic choices and recommendations

Rationalising the prison estate

NOMS will also be required to implement the resettlement prison initiative. The timescale will allow NOMS not just to announce the pairing of prisons with probation trust areas but to actually get it to work. I would set the target for the proportion of prisoners being based in their nominated resettlement prison for the three months prior to release at 60% for 2014/15, rising by 5% per year to 90% by 2020/21.

Although I've been critical of the calibre of Police and Crime Commissioners (who may have been re-elected in May 2016, depending on the results of the next general election), I'm a strong advocate of local commissioning of system-wide reducing re-offending work in both prisons and the community. Either PCCs or beefed up Criminal Justice Boards will be enabled to take the lead on local commissioning.

Legislation will also be passed to enable probation trusts to operate in a more business-like fashion. In particular, they will be allowed to borrow money, carry forward unused funds into subsequent financial years and to hold in reserve an amount that is capped at 20% of their annual income.

Stage Three: 2019/20 – 2023/24

PCCs/Criminal Justice Boards will commission end-to-end reducing re-offending services which will cover offenders in the community, in prison and on release, using the National PbR framework designed by NOMS to achieve outcomes which are set on the basis of local need.

Even at this point, the proportion of contract paid on a PbR basis will be relatively small in order to be fair to new providers entering the market in 2019. I envisage 4% PbR in Year One rising to 20% in Year Five. Providers will be required to reinvest at least half of their PbR payments into reducing reoffending services.

Again, in order to have a stable justice system which improves performance over time, the top 21 performing organisations (or all those who have reduced re-offending by three percentage points from the baseline at the start of the 5-year contract, whichever is the greater number) will have their contracts renewed in March 2023 for a further five-year period starting in April 2024.

Conclusion

Of course, this plan is politically naive and relies on a hard-to-imagine long-term cross-party alliance that focuses on effective justice policy instead of a competition to be seen as the toughest on crime. But my hope is that it would focus the whole sector on improving services rather than fighting over their share of the cake. In my view, there is some truth to the Justice Secretary's claim that a true partnership between public, private and voluntary sector providers could produce a step-change in reducing reoffending and promoting desistance.



THOUGHT PIECE

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TRANSFORMING REHABILITATION AND THE CREEPING MARKETISATION OF BRITISH PUBLIC SERVICES

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The Government's plan for '*Transforming Rehabilitation*' (Ministry of Justice, 2013a) sets out the ways in which central Government intends to send criminal justice contracts out to tender and reduce the number of offenders being directly supervised by probation services within the public sector. Justice Secretary Chris Grayling points to systemic failings and excessive bureaucracy within the current probation structure, and includes the lack of community supervision post-release for those who serve prison sentences of less than 12 months, as reasons for this shift from public to private sector provision.

The need to transform

The consultation document makes reference to 2011 figures, showing that those released from prison sentences of less than 12 month have a reconviction rate of 58% (Ministry of Justice, 2013b), and that this rate slowly increases as former prisoners try to adapt to life outside the prison walls. Grayling may have a case for transforming the management of offenders post-conviction. However, it is noted that reconviction rates for other kinds of penalty, such as community sentences managed predominantly by probation workers within the current structure, are not listed.

Although comparing the relative successes and limitations of sentence types was perhaps not within the remit of the *Transforming Rehabilitation* consultation paper, any policy proposal discussing the future, and merit, of the established probation arrangements should include an analysis of its current performance. According to the Ministry of Justice's statistics for 2010-2011, community sentences outperform short-term prison sentences (i.e. less than 12 months) in terms of re-offending rates by around 22% (Ministry of Justice, 2013b). Additionally, an analysis conducted by the Howard League for Penal Reform (2005) identified the cost of a 12-month community order as about 10%

that of a custodial sentence of the same length. If community orders are both more effective in reducing future offending, and economically more efficient, it raises the question why Grayling is not championing the extension of existing probation arrangements and calling for low-level offenders to be given sentences to serve within the community, as opposed to custody, with cost-savings being redirected to support the recruitment of additional probation staff.

The national media, particularly the tabloid press, can be a source of misinformation in relation to public confidence in, and understanding of, the content and effectiveness of community sentences. The public lack awareness of the stringent conditions, such as unpaid work, compulsory drug and alcohol treatment, and programmes designed to address pro-criminal attitudes to which those under the supervision of probation officers are subject. When coupled with press rhetoric of 'soft justice' and 'walking free from court', it is no surprise that the public lack respect for the notion of community sentences as opposed to the more punitive and retributive option of life inside prison. It should be the role of the Justice Secretary to address such misrepresentations – not to indulge them.

Creeping marketisation within the public sector

The consultation paper argues that probation services for the management of low-to-medium risk offenders should be tendered out to private and voluntary companies in order to achieve greater flexibility of practice and meet the needs of their clients. A key target in the consultation is reducing bureaucracy; however this should not be at the expense of front line practice. This appears to be the direction in which all public services are currently heading, with policy proposals commonly discussed within economic terms, as opposed to the impacts that they will have on the social and moral fabric of the country (Maruna and Armstrong, 2013).

Efficiency is a central tenant of the *Transforming Rehabilitation* consultation, best conceptualised as budget cuts, designed to reduce the quality of the service to a minimum standard in order to rationalise the creeping marketisation of our public sector institutions. By offering probation contracts to private and voluntary companies, the Government expects to get 'more for its money', at least in the short term.

The consultation document cites one project in London that has saved the Ministry of Justice £25m. It is important to ensure value for money within the public sector, and right to minimise waste in Government departments. However, with reported re-offending rates described previously, the Government needs to do more to rationalise the position that the reformation of probation services is the solution to more efficient criminal justice.

The high rate of reconviction following release from prison suggests these institutions would be a more obvious target for reform than probation, which by comparison has been performing very well. By using prisons more sparingly for low-level offenders the savings could be re-invested in areas of high deprivation (in the form of education and social housing) in order to potentially bring down incidents of first-time offending and longer-term reductions in the costs associated with criminality. Additionally, this extra funding could lead to the implementation of a key Government plan – to employ ex-offenders as

mentors to those released from prison. Adequate funding for this plan will be pivotal in maintaining good staff morale and ensuring proper training is provided to new recruits.

However, instead of this drive to improve the life prospects of current offenders, and reduce the numbers of future ones, Grayling has announced plans to build larger prisons, housing up to 2,000 adult offenders. Given that prisons are now part of the creeping marketisation of our public services, and considering the poor reports that existing privately-run prisons have received from Her Majesty's Inspectorate of Prisons, this concept of increasing expensive and ineffective prison places – referred to as the 'incarceration binge' (Hoelter, 2013) – is of concern.

It is feared that such an emphasis on marketisation and open competition will lead to a 'race to the bottom', where private companies try to undercut each other in order to win lucrative Government contracts. This may work in areas like construction, but in criminal justice the results of such a trend are potentially catastrophic, in terms of unemployment (e.g. probation staff seen as surplus to requirements), the long-term prospects of ex-offenders (who will receive sub-standard support in their path to desistance from crime), and the wider society (who will have to bear the price – both socially and economically – for increased re-offending).

Additionally, it seems likely that the 'big three' – Serco, G4S and Sodexo – will win the majority of contracts due to their current involvement in the prison system and significant up-front economic capital. This would be unfortunate and go against the Government's philosophy of free-market capitalism, promoting the power of big business (as opposed to skillful expertise) in such a crucial area.

Payment-by-results and the notion of 'complete desistance'

The consultation promises that contracts will only be awarded on the basis of payment-by-results, with organisations needing to effectively tackle causes of offending, namely accommodation, employment and education deficits, antisocial attitudes, and mental illness in order to be paid by the Government for their services. The Government appears unaware of its own role in reducing crime; crime fluctuates and responds to wider social factors, such as the availability of affordable housing, the state of the economy, and perceptions of social injustice (Giorgiou, 2011; Males and Brown, 2010; Nikulina, Widom and Czaja, 2011, Tapia, 2010). With 69% of prisoners having been out of work prior to going into prison, and 13% never having worked (Hopkins, 2012), talking up the chances of this group gaining employment, particularly with the added stigma of a criminal record, seems absurd. Taken in combination with the Government's current negative rhetoric about those receiving benefits through the welfare system, this suggests a group of people who will be increasingly marginalized upon completion of their formal criminal sanctions.

If released prisoners are to receive assistance and preferential treatment in gaining employment, there is also the risk of this being unpopular with the wider public. When wages are being frozen (tantamount to a real-terms pay cut) and a substantial proportion of working aged adults are either un- or under-employed, there is likely to be a fierce

public backlash against such activity, resulting in further negative stereotyping of ex-offenders.

Responses to the previous consultation on this issue raised concerns by professionals about how the Government would define a 'result' within the payment-by-results framework. The reference in the consultation to 'complete desistance' is troubling in that it suggests a lack of knowledge of the desistance process. Desistance from crime is not a single event, and cannot be conceptualised as such (Laub and Sampson, 2001; Maruna, 2000). It is a process, worked through by the ex-offender in collaboration with others during which they become a fully restored and contributing member of society. However, this can only happen if they are given opportunities, through the gaining of employment and the acquisition of suitable housing, for instance. Researchers working on the *Discovering Desistance* project set out what they call "The Road from Crime" (see <http://www.iriss.org.uk/resources/the-road-from-crime>). Often, an ex-offender will relapse and commit a crime, in much the same way a recovering alcoholic may relapse in order to cope with their life circumstances. Within the context of the *Transforming Rehabilitation* drive, what are the implications for service providers, and indeed individuals receiving their support, if such a relapse happens? These questions need to be answered by Grayling if he wishes to reclaim any measure of credibility within criminological circles.

Conclusions

Whilst it is positive that the Ministry of Justice is looking at criminal justice reform, it has yet to convince many people that this is the right way to go about it. It seems harsh to single-out probation services, the employees of which have worked tirelessly to produce results that, comparative to short-term custodial sentences, are actually very good. As outlined above, prison reform and the reinvestment of Government savings into demoralised and troubled communities is what is really needed. This approach would reduce rates of re-offending, improve local communities, and build on the existing strengths within the probation service. It is feared that the Government's mind is already made up, and that we face a long, drawn-out ideological battle to rebuild an effective and efficient criminal justice system.

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PAYMENT BY RESULTS: HOPES, FEARS AND EVIDENCE

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Abstract

The idea that government should move away from paying for services to be delivered to paying in proportion to the level of reduction in reoffending achieved has obvious attractions, particularly in the current economic climate. But will adopting such a 'Payment by Results' model actually deliver the benefits claimed by its proponents? This article reviews some of the potential obstacles to success. As Payment by Results is a relatively untested concept in the field of criminal justice, the article draws on the experience of this approach in employment and in health where it has a longer history. The results suggest that the chances of Payment by Results leading to a reduction in reoffending in crime or in costs are slim. Adopting such an approach may also carry insidious, as well as obvious, dangers.

Keywords

Payment by Results; re-offending; evidence-based policy; cost effectiveness; Transforming Rehabilitation

Introduction

The Ministry of Justice (2011:2) makes a bold claim in its response to the Breaking the Cycle consultation and on its website:

We will change our whole approach to the management of offenders and their rehabilitation, so we only pay for what works in delivering reduced levels of crime.³

On the face of it this 'Payment by Results' (PbR) idea is hugely attractive, particularly in the current economic climate and under a government which is so keen, not only to reduce public expenditure, but also to reduce the scale of the public sector. Why should we pay for the delivery of a service which may or may not bring about the desired change, when it is possible to transfer the cost of failing onto the supplier. Paying only when the promised change has been achieved, and in proportion to the degree of change affected, is obviously preferable. Moreover, as Fox and Albertson (2011) explain, there are other potential benefits to PbR. The sheer possibility of making profits is expected to bring new providers into the field. This, combined with a financial incentive to achieve outcomes, is then expected to increase competition, sweep away unnecessary bureaucracy, and increase the desire to innovate. In turn, these developments should lead to a better understanding of what is effective. Also, if the anticipated gains in efficiency and effectiveness are realised, this will lead to lower unit costs (even allowing for an element of profit to be paid). The remaining savings can be ploughed back to pay for additional activities in this, or another, area of public policy. Additionally, under the Social Impact Bond variant, the possibility of making a profit will not only bring in new suppliers but also financial intermediaries who are expected to finance the service provision in advance of impacts being achieved, in return for a subsequent slice of the profits. This is expected to facilitate the involvement of smaller providers who may not have the financial resources to sustain a service over several years while waiting for their results to be evident and their payments to be triggered.

The idea of payment by results is new in the field of criminal justice, so it is important to consider what evidence there is to support the Ministry of Justice's (2013a) hope that the putative benefits of PbR will be realised. In fact, the only empirical evidence which seems to support this radical policy shift is the positive findings of one small piece of research (Frontier Economics, 2009). This made some rather large claims about success from a weakly designed reconviction analysis in which a sample of prisoners serving sentences of at least one year at one prison, who received additional support in relation to some resettlements needs, was compared with a poorly matched national sample. However, payment by results has a much longer history in other fields such as health, so it is worth reflecting on that experience too. Unfortunately, a recent Audit Commission (2012a:3) review of this sort of material does not inspire confidence as it concluded that:

'Our review of UK and international research evidence found few rigorous evaluations of PbR and no complete, systematic analysis of its effectiveness.'

³ See <https://www.justice.gov.uk/offenders/payment-by-results>

It then goes on to outline a number of 'issues that commissioners should consider if they are to use it successfully' which it derives from previous efforts to implement Payment by Results schemes. Combining the Audit Commission's concerns with those raised in responses to the Transforming Rehabilitation consultation (Ministry of Justice, 2013b) yields a very long list of questions about whether adopting a Payment by Results approach in delivering services to offenders will actually yield the sorts of benefits so confidently anticipated by the Ministry of Justice. This article addresses eight of the most important questions raised:

1. Do we know enough about how to reduce reoffending to attract new suppliers?
2. Can we measure reoffending well enough to base contracts on such measures?
3. Will reducing reoffending lead to 'reduced levels of crime' as the Ministry of Justice claim?
4. Will transferring uncertainties about effectiveness affect the price charged by suppliers or other aspects of the contract?
5. What will happen if suppliers miss targets?
6. Is it possible for suppliers to meet targets but not achieve outcomes?
7. Is it safe to rely on contracts and contract management?
8. Can we be certain that savings will outweigh costs?

In the next section, the first three questions are addressed mainly by considering what we know from a criminological perspective. Given that PbR is a new development in criminal justice, the remaining five questions are considered in the light of evidence from a broader evidence base, including research into other Payment by Results initiatives. The conclusion discusses how far this evidence supports the Ministry of Justice's optimism about PbR and how far it suggests that some of the concerns other commentators have raised are well-founded. It also considers whether the current focus on payment by results is unhelpful in that it distracts attention from other important questions about the provision of services to those who offend.

What does the evidence say?

1. Do we know enough about how to reduce reoffending to attract new suppliers?

Reducing adult reoffending is very hard. Many of those in custody or on probation have childhoods and histories marred by abuse and neglect (Social Exclusion Unit, 2002). As adults under supervision, they are usually assessed as having three or more of the nine main ('criminogenic') factors which are thought to promote offending such as serious alcohol or drug misuse, unemployment, pro-criminal attitudes, and cognitive skills deficits (see Cattell *et al.*, 2013, for example). Probation and prison staff, along with the voluntary sector, have worked hard to reduce reoffending. This work has been heavily influenced by 'what works' evidence from abroad (e.g. Andrews *et al.* 1990; Lipsey 1992) which focused on the use of intervention programmes which tackle cognitive deficits and pro-criminal attitudes. While some aspects of programme delivery are standardised, the evidence shows these interventions need to be tailored to take account of individual learning styles (or 'responsivity'). They also need to be 'multi-modal', which means being delivered

alongside other interventions, designed to overcome the practical obstacles which also impede reducing reoffending such as homelessness, a lack of job skills and education, social isolation, etc. As the National Audit Office (2013a) has pointed out, tackling many of these issues is not something that the Ministry of Justice (or contractors) can deliver alone.

While the best interventions have yielded 10-15 per cent reductions in reoffending with some groups, this is very unusual. The basic message is that some things work for some people in some circumstances, but that getting the right mix in practice is very difficult. This evidence base certainly does not offer any simple recipes which can be guaranteed to dramatically reduce overall reoffending rates. It remains true, as Vennard *et al.* (1997:33-34) concluded just as England and Wales were moving to 'evidence-based practice':

...the research literature does not demonstrate that cognitive behavioural approaches, or indeed any other type of approach, routinely produce major reductions in reoffending among a mixed population of offenders...it is not possible to identify any all-purpose methods or forms of intervention as being reliably and consistently better than standard or traditional programmes with offenders.

The evidence about whether importing and rolling-out this approach has been effective is also scant; and our knowledge about what works for women is particularly slight (Gelsthorpe and Hedderman, 2012). Even the latest rehearsal of this evidence from the Ministry of Justice (2013c) acknowledges these points, although not in these terms. Indeed, the Ministry of Justice contributed to this state of affairs in recent years by both cutting back expenditure on research and increasing restrictions on access to prisons and to probation for independent researchers.⁴ It has been suggested that once interventions are managed by private companies, funding and access may improve, and knowledge may develop more quickly. However, as that investment may give a provider commercial advantage, it is also possible that the overall pool of openly available knowledge about 'what works' may shrink rather than expand.

Meanwhile desistance theorists contend that this whole approach may have serious limitations (e.g. Farrall, 2003). In particular, 'what works' focuses on tackling what promotes offending rather than what promotes desistance. It also tends to treat moving away from offending to not offending as switching between two separate states rather than seeing that desistance as a process and acknowledging that the path to total desistance can be rather zig-zag (Burnett, 2004).

Given this context, it seems likely that reoffending rates remain 'stubbornly high' (Ministry of Justice, 2013a:3) because helping offenders to reduce reoffending is difficult, complex and based on an imperfect knowledge base. This is not a situation which is likely to draw in a lot of new potential suppliers unless they are naive, reckless or both. Indeed the risk of failure is so high that even the current pilot at Peterborough limits the risk to which

⁴ <http://www.justice.gov.uk/publications/research-and-analysis/noms>

suppliers are exposed; and it is why Ministry of Justice plans have, despite the rhetoric, always included an element of payment for service delivery.

2. Can we measure reoffending well enough to base contracts on such measures?

As payment depends, in whole or in part, on demonstrating a reduction in reoffending under PbR, it is axiomatic that this must be measured accurately. Results from the NHS, one year after a Payment by Results model was introduced to pay for elective (ie non-emergency) care between Primary Care Trusts (PCTs) and NHS Foundation Trusts during 2004-5 found that data quality was woeful (Audit Commission, 2005; O'Connor and Neumann, 2006). Although improvements have been made, after 5 years of quality assuring data for the NHS, the Audit Commission (2012b) found that there remained an average error rate of 7.5% in 'episodes of care' records. Only 4 Foundation Trusts had error rates of less than 5%. Indeed, inaccurate record keeping was still so widespread among Trusts that they concluded that 'More have performed consistently poorly or have varied between mediocrity and poor performance.' (2012b:3). This was associated with between £600m and £700m of under- and over-payments. Meanwhile a recent study by Capita (2013) found that 40% of decisions about how to allocate patients with mental health issues to 'clusters'⁵ involved misallocations, lacked the required evidence for the decision, and the time in the cluster was wrong. A further cause for concern was that these issues, and the implications for costs, were not usually being picked up at Board level.

Reconviction rates have been chosen as the outcome measure which will trigger payment under the Ministry of Justice plans. While reconviction data certainly reflect offending behaviour, they are also affected by other factors such as police clear-up rates and the time taken to finalise cases, with more serious cases taking longer (see Hedderman, 2009, for a fuller discussion of what reconviction measures apart from reoffending). They also vary over time for this reason as well as because justice has become more or less effective or efficient. At a local level this could include a police initiative aimed at tackling a particular form of crime. At a national level this can be caused by initiatives such as the Labour Government's 'offences brought to justice' initiative, which was largely achieved by rounding up the usual suspects rather than seeking out and prosecuting those who were previously unknown to the system (see Home Affairs Select Committee, 2008).

When looking at the impact of an intervention on a relatively small sample, reconviction rates can also be affected by errors in the data or data search, as well as changes in underlying offending behaviour. Even simply tracing someone's criminal history and re-offences accurately on the Police National Computer can be a rather hit or miss exercise. A recent check by the Ministry of Justice (2013d) found that about one in every ten offenders could not be found when name, date of birth and gender were used as the identifiers. Given that the most effective interventions only yield reductions in reoffending of this order, this could have serious consequences for being able to say with confidence

⁵ A 'cluster' is a grouping of those with similar characteristics and service needs in contrast to grouping people according to their diagnosis or the individual interventions they receive (Capita, 2013)

whether an intervention worked or not, as the recent study by Jolliffe *et al* (2011) demonstrates.

A further problem is that any perceived change must be directly attributable to the service being provided. While it is usually sufficient to adopt a Bayesian approach to deciding whether a change in reconviction is due to a genuine change in offending behaviour, once payment becomes contingent on being right about this, it becomes essential (not just very important) that the change represents a genuine reduction in reoffending and can be attributed to the intervention being delivered. In the criminal justice field this is usually done by matching those given an intervention with those who are not. Doing this well is possible but difficult. This is clear from the first report on this aspect of the Peterborough pilot (see Cave *et al.*, 2012). Unfortunately, in the field of reconviction analysis achieving accuracy is the enemy of transparency because it requires the use of very sophisticated statistical techniques to allow for some of the problems outlined above. In the case of PbR, it is worrying that simplistic and potentially misleading assessments of impact have been welcomed by the Secretary of State (Grayling, 2013) as evidence of success even before the independent evaluators have received the data for analysis.

3. Will reducing reoffending lead to 'reduced levels of crime' as the Ministry of Justice claim?

There is good reason to think that the actual level of crime in England and Wales is four or five times the 10 million or so crimes counted by the British Crime Survey; and more than 10 times the amount of crime recorded by the police (e.g. Brand and Price, 2000). The amount of crime which reaches court is even smaller because less than 30% of recorded crime is detected each year (Ministry of Justice, 2010); and just under half of that is dealt with through cautions, fixed penalties etc. Only one in four of those who do go on to be convicted at court are then sentenced to either custody or a community sentence (Ministry of Justice, 2010). In this context, the idea that efforts to reduce reoffending will make serious inroads into overall crime rates is simply fanciful. Perhaps this hope is built on the idea that about 100,000 people commit half of 'all crime'? If so, it is built on a misunderstanding of the evidence. These individuals certainly pick up a disproportionate number of convictions, but that is quite a different thing to being responsible for half of all offending. As Garside (2004:18) concludes from his assessment of the evidence:

...it stretches credibility to breaking point to claim that it is possible to achieve meaningful reductions in crime by targeting a few thousand of the usual suspects.

4. Will transferring uncertainties about effectiveness affect the price charged by suppliers or other aspects of the contract?

Transferring risk in any arena is expensive; and the greater the risk, the greater the price. That is why organisations like Wonga can charge 4,000% interest on unsecured loans while mortgage rates, secured against the value of a home, are currently averaging 4%.⁶ It is

⁶ See <https://www.wonga.com/> and <http://www.telegraph.co.uk/finance/personalfinance/borrowing/mortgages/10299887/Average-mortgage-rates-reach-new-low-of-3.43pc.html>

also why car insurance premiums for 17-22 year olds, who have higher accident rates, are three times the price of those for 50-59 year olds.⁷

It is too early to say exactly how uncertainty about the most effective ways of working with offenders to reduce reoffending will ultimately affect the cost of involving commercial companies in the provision of such services. However, the latest information from the Ministry of Justice (2013e) on this shows that it has already led to adjustments being made to the proposed payment mechanism, so that some allowance will be made for a learning curve. Also, the PbR element has been scaled back so that the majority of payment will be made (as now) for service delivery (see Ministry of Justice, 2013d). Even this may not be enough to tempt new suppliers into the market. Simulations for the (pro-PbR) think-tank the Social Market Foundation, based on the current proposed payment structure, suggest that providers may make losses if they spend money on providing rehabilitative services and concludes that 'The payment mechanism encourages providers to cut spending on services and allow reoffending to drift marginally upwards' (Mulhern, 2013:1). If this is right, the money available, the payment mechanism, or both, will have to change as, otherwise, only unscrupulous suppliers will be able to make a profit.

5. What will happen if suppliers miss targets?

The Work Programme was introduced in June 2011 to help long-term unemployed people move off benefits and into sustained employment. After 14 months the overall success rate was under 4 per cent (31,000 people) compared with an expected rate of just under 12 per cent (104,000 people). The project was particularly unsuccessful in harder cases in that, among the 9,500 former incapacity benefit claimants referred to providers, only 20 had been placed in a job that lasted three months. None of the 18 providers has met their contractual targets. As a result the Public Accounts Committee (2013a) reported that it expected one or more providers to go out of business or have their contracts cancelled. They also criticised the Department for Work and Pensions for having poor contingency plans. In July 2013, NHS Direct (2013), the provider which won 11 out of 46 regional contracts for providing the '111' non-emergency medical helpline and thus covered 34 per cent of England, announced that it was pulling out of the contract because the volume of calls had been 30-40% lower than the contract specified and the payment per call had fallen from around £20 per call to about £8. NHS England's (2013) contingency plans - or at least its response once the contingency occurred - consisted of suggesting that other existing providers may fill the gap. It seems unlikely that other providers will be queuing up to take over, unless it is with lower targets or increased payments. In both cases, there is a real risk that service users (or 'customers') will be the main losers. When the supervision of offenders fails, it is not just the needs of those being supervised which are not met (though that is important), but public safety is also potentially put in jeopardy. While the Ministry of Justice seems to have made some allowance for a change in individual risk triggering the involvement of the public Probation Service, they do not seem to have allowed for the wholesale failure or withdrawal of commercial service providers. The plans to curtail the public Probation Service included in the overall Transforming Rehabilitation strategy (Ministry of Justice, 2013a) certainly rule out any large-scale transfer back to them should a contractor fail or withdraw. The only obvious

⁷See <http://www.theaa.com/newsroom/bipi/201307-bipi.pdf>

alternative is that other providers move in but, as in the case of the 111 service, it is hard to believe that they will do this without charging a premium for doing so.

6. Is it possible for suppliers to meet targets but not achieve outcomes?

While the exact measure of reconviction to be used has been much debated, the idea that reconviction should be the ultimate measure of success for PbR has not been seriously challenged. This seems rather odd given that it is a measure of failure rather than success. An obvious difficulty with this is that while the new providers will no doubt be expected, like the public Probation Service, to report any offending they become aware of, they will also be aware that it is not in their commercial interests to do so.

The distorting effects of targets are so common that the effect has been formulated into Campbell's Law in the Social Sciences (Campbell, 1976) and Goodhart's Law in Economics (Chrystal and Mizen, 2001). In their simplest formulation, these state that 'when a measure becomes a target, it ceases to be a good measure'.⁸ A more cynical commentator has suggested that payment by results:

does not reward organisations for supporting people to achieve what they need; it rewards organisations for producing data about targets.... It makes good people do the wrong things, and then forces them to lie about it. (Lowe (2013) as cited in Garton Grimwood *et al.*, 2013:6).

In fact, fraud is only one of the seven ways which Smith (1993, as cited in Chowdry, 2011) identified in which targets can be achieved without this leading to the outcomes desired. The other six are:

Gaming - meeting the target without changing performance by focusing on the easy wins;

Convergence – targets are defined in relation to what other suppliers are able to provide, leading to a standard level of performance rather than excellence;

Tunnel vision – focusing on the agreed target even if it becomes clear that this is not making any real difference;

Sub-optimisation – the target is too narrow for meeting it to affect the overall objectives;

Myopia – focusing on short-term gains to yield quick returns, leaving longer-term issues to build up;

Ossification – failing to innovate because this may put profits at risk.

These are not simply potential problems. The UK experience of using PbR to get people into work has provided examples of fraud (CPS, 2013) and gaming through 'cream skimming' (only accepting easy cases) and 'parking' (accepting difficult cases but only working with easy ones). In addition to both parking and cream skimming in the provision of non-emergency care in the NHS, O'Connor and Neumann (2006) found 'upcoding' whereby easy cases are re-classified as hard ones in order to obtain higher fees. They also

⁸ See <http://www.atm.damtp.cam.ac.uk/mcintyre/papers/LHCE/goodhart.html>

found 'sub-optimisation' in that the volume of hospital operations became the target because this was measurable, even though operations formed only part of the care needed for improved health. Another version of potential 'upcoding' was identified in a more recent Audit Commission (2012c) whereby some patients who stayed in a hospital for less than 24 hours were coded and charged as in-patients and some as (much cheaper) out-patients. The Commission estimated that sorting out this one data problem could cost over £16m nationally to resolve.⁹

Most worryingly, Hudson *et al.*, (2010) found that, while previous research has shown gaming to have happened, their research on welfare to work in the UK showed that such practices were sometimes regarded as acceptable and endorsed by the service provider's managers. The alternative, as Price Waterhouse (2012:2) found in a recent review, is that:

providers and commissioners are increasingly deciding to negotiate reimbursement locally...our survey evidence shows that 50% or more providers engage in local negotiations with commissioners, outside the rules of PbR.

7. Is it safe to rely on contracts and contract management?

The uncertainties identified about what reduces reoffending, reliable data on reoffending and the lack of alternative sensitive outcome measures mean that designing and managing contracts which reward providers appropriately, but not over-generously, without creating perverse performance incentives, is going to be very hard. It is difficult to say whether the standard of government procurement is worse than in the private sector, although a number of Public Accounts Committee, National Audit Office and Audit Commission reports and Inquiries such as Laidlaw (2012) suggest that the mistakes made are often obvious and easily avoidable if the right basic procedures are followed. What is certainly true is that when government procurement goes wrong, the amounts involved can be eye-watering. For example, the Chair of the Public Accounts Committee (Hodge, 2011) commented in relation to one review of the management of large contracts by the Ministry of Defence procurement, that 'In this one hearing, when we were able to focus on only four projects, we identified over £8 billion of taxpayers' money which has been written off or incurred simply for reasons of delay.' While recent progress has been made, the Public Accounts Committee (2013b) still found that the Department continued to take an unrealistic view of the potential for overspending and was very weak at holding suppliers to account. Meanwhile, in another report the Public Accounts Committee (2011:3) concluded that the £11.4bn programme NHS patient record system was 'beyond the capacity of the Department of Health to deliver'.

The Ministry of Justice's record of letting and managing contracts has recently been criticised in a National Audit Office (2013b) review; and the National Offender Management Service (NOMS), which has been given responsibility for managing PbR, has a poor record in this regard too. For example, the National Audit Office (2009) concluded that not only had it made serious errors in its handling of the £234m C-NOMIS IT system

⁹ These sorts of problems have also been identified in other countries (see, Koning and Heinrich, 2011, for a review of the some of the international evidence on gaming).

for Prisons, which led to both delays and overspend, but that most of these mistakes were both foreseeable and avoidable. Most worryingly in relation to PbR: 'contractual arrangements with its key suppliers were weak and its supplier management poor' (National Audit Office, 2009: 7). NOMS was also criticised for failing to provide sufficient senior management oversight; failing to provide adequate management resources and structures; having poor financial monitoring and planning arrangements; for failing to grasp the technical complexity of the project; and failing to grasp that introducing a consistent system into an environment with inconsistent business practices would not work. Even when it sought to rectify these problems, the National Audit Office (2009:8) concluded that 'Although programme management has improved considerably in the last 18 months, weaknesses remain'. It is to be hoped that these deficiencies have now been rectified.

8. Can we be certain that savings will outweigh costs?

The Ministry of Justice has been required to reduce expenditure between 2010 and 2014 by a quarter (HM Treasury, 2010) and to plan for a further 10% reduction in 2015/16 (HM Treasury 2013). In this context, it is not surprising that the Ministry of Justice (2013a:3) is hoping that PbR will help to 'free up funding through increased efficiency and new ways of working'. However, the experience from other PbR schemes does not give grounds for optimism. This is partly because the contracts and the measurement of targets involved in operationalising PbR require very detailed planning and careful monitoring. Evidence from previous PbR schemes suggests that this is likely to be neither simple nor cheap. For example, in a detailed study of three Hospital Trusts and three PCTs, Marini and Street (2006) found that costs were estimated to have increased by around £100k to £180k in Hospital Trusts and from £90k to £190k in the PCTs. Most of the additional expenditure was attributed to recruiting the extra staff needed to negotiate contracts, collect data, monitor services and deal with contractual disputes. The Audit Commission (2005: 4) also found that when it was introduced into the NHS

...in the first year, Payment by Results proved to be a more complex, time-consuming and challenging process for the early implementers than they anticipated. It requires investment of time and resources – the organisations in our sample spent approximately £100,000 each, equivalent to £50 million nationally. It also requires clinical engagement, better planning and reporting arrangements, careful negotiation and close attention to detail. All this has meant that time and energy has been devoted to the system and its mechanics, and has not yet broadened into the expected concentration on quality of care and performance improvement

The fact that reconviction records can be missing in 10 per cent of cases searched (Ministry of Justice, 2013d) suggests that they too will have to spend time and effort improving record keeping to a level which will support a PbR model. This alone suggests that introducing PbR will not reduce costs in the immediate future. Given the NHS experience, even in the longer term, savings may be hard to identify.

Conclusions: does the evidence support hopes or fears?

The Justice Secretary, Chris Grayling, seems to take a very optimistic view of PbR. The evidence reviewed above suggests that this optimism is unlikely to be well-founded. It is

therefore reassuring that other parts of government take a more cautious position. For example, the executive director for strategy at the Cabinet Office's Efficiency and Reform Group (ERG) reportedly told delegates at the National Audit Office annual conference that her department was taking a more 'measured view' of payment-by-results. The director general for public services at the Treasury was similarly careful:

Chris Grayling... is going to take a payment by results approach to almost the whole of probation. But some of us who have been around a long time get very nervous about panaceas.....We're taking a very cautious approach on whether this is going to deliver better value for money compared to direct public spending intervention.

If the Ministry of Justice begins by learning from the experiences of other schemes, it may be able to avoid some of the issues which have affected other PbR initiatives. First, it is to be hoped that, despite their budget cuts, NOMS is able to improve its commissioning and project and contract management skills. Second, it might be worth considering whether some positive outcome measures might be tested alongside the proposed absence of reconvictions to assess whether a service for offenders has yielded benefits. Such measures might be harder to 'game' and less likely to create perverse incentives than reconviction. If reconviction is to be retained as a measure of success, the government will need to improve the quality of reconviction data significantly. This will be expensive and it will take some time to get right. The original plans to pilot and then roll-out PbR might have allowed for such developments, but the 'big-bang' approach now being pursued will happen well before such changes can be made. This is risky on many levels, so it is to be hoped that the Ministry does have good contingency plans (or deeper pockets, than they appear to have).

Unfortunately, it seems that the Ministry of Justice is intent on learning what are likely to be painful PbR lessons at first hand. By the time these lessons have been learnt, the public Probation Service will have become such a vestige of its former self. Once that happens, it is very unlikely that anyone will have the courage, imagination or money to recreate it. This is a source of concern as the Ministry of Justice's (2013f) own figures show that Probation has been making inroads into overall reconviction rates; and, anyway, has a much better record of reducing reconviction than prison in like-for-like cases. There are no magic solutions out there which will miraculously improve on those achievements and disrupting that work is not only of doubtful value but potentially dangerous. First, it may put the public at risk as individuals who are not high risk become so because of a commercial decision not to work with them. But PbR carries a second, perhaps less obvious, danger.

Payment by Results is being promoted on the grounds that it concentrates the supplier's mind on outcomes. Reviewing the evidence from other fields suggests that this is correct. However, the outcome it concentrates the mind on is profit. As the political philosopher Michael Sandel (2012,n.p.) observed:

A growing body of research confirms what common sense suggests: financial incentives and other market mechanisms can backfire by crowding out non-market norms.

The one really solid piece of evidence we have about the majority of those who get caught up in the criminal justice system is that they are drawn from the most deprived and disadvantaged in our society. Reducing reoffending is an important aspiration, but it has not previously been the only reason for working with offenders. It is unfashionable to argue that we owe them a duty of care, but that does not make it any less true.

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INTEGRATED OFFENDER MANAGEMENT: ASSESSING THE IMPACT AND BENEFITS - HOLY GRAIL OR FOOL'S ERRAND?

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Abstract

The development of Integrated Offender Management (IOM) approaches have spread rapidly across England and Wales since 2009 when IOM was acknowledged by Government through the Home Office policy statement. The MoJ commissioned process evaluation of the five IOM pioneer sites (Senior *et al* 2011) found that assessing the impact and benefits of IOM was difficult given the definitional issues of IOM and problems in identifying additionality. To date, this remains a challenge for local agencies, despite attempts to facilitate this, such as the IOM efficiency toolkit (Home Office and MoJ 2011). This paper will examine the challenges and limitations of the methodologies employed and will identify what lessons can be learned for evaluating other criminal justice initiatives such as Payment by Results schemes where definitions of interventions and additionality may be difficult to determine.

Keywords

Integrated offender management; impact evaluation; cost benefit analysis; Transforming Rehabilitation; Justice Reinvestment; Payment by Results

Introduction

Evidencing the impact and financial benefits of Integrated Offender Management (IOM) has been a challenge for Government and local agencies ever since IOM was recognised by the Government through Home Office guidance in 2009. IOM came to prominence when reductions in public finance commenced due to the economic crisis a year earlier. Given its widespread adoption across England and Wales, evidencing the impact and cost effectiveness of IOM has become the holy grail for local agencies and Government. It is particularly pertinent at this moment in England and Wales. The continuation of IOM at a local level is potentially under threat from the Government's Transforming Rehabilitation strategy (Ministry of Justice 2013a). It is perhaps ironic that IOM approaches based on the principle of more effectively joining up provision (Senior *et al* 2011) may potentially be dismantled by the fragmentation of community based offender management services as envisaged by Transforming Rehabilitation. The MoJ strategy sets out a division between the management of high risk offenders by public probation services and the marketization of services to manage low to medium risk offenders by private, voluntary sector and mutual organisations commissioned by Payment by Results (PbR).

This article will commence with a brief history of IOM. It will then define IOM and consider: the challenges of assessing the additionality of IOM, i.e. what changes to process and interventions have occurred as a result of IOM; the methodologies used to evaluate the impact of IOM and their limitations; the implications of this for the evaluation of IOM and other criminal justice services following the implementation of Transforming Rehabilitation; and will consider the risks for IOM arising from the implementation of Transforming Rehabilitation.

A brief history of IOM

Senior *et al* (2011) noted that IOM was (at the time of writing the report) the most developed attempt to operationalize the concept of end to end offender management conceptualised in the ASPIRE model (Grapes *et al* 2006) produced by the National Offender Management Service (NOMS).

“At its best an IOM approach aimed to co-ordinate all relevant agencies to deliver interventions for offenders identified as warranting intensive engagement, whatever their statutory status. It also sought to ensure, by support and disruption (of potential further offending), the continued commitment by offenders to engage in interventions offered with the express purpose of reducing further offending.” (Senior *et al* 2011: i)

IOM sought to replicate for targeted groups of adult offenders what had been mandated for youth justice, through the establishment of Youth Offending Teams (YOTs) by the Crime and Disorder Act 1998. YOTs comprised multi-agency teams drawn from: social services, police, probation, health and voluntary and community sector agencies (VCS). Teams were co-located and provided multi-agency case management of young offenders. The development of IOM at the pioneer sites (Senior *et al* 2011) was informed by: resettlement strategies to improve and co-ordinate provision for short term sentenced prisoners (under 12 months) released from custody; criticisms of the silo mentality

between probation and prison services identified by Carter (2003); the concept of 'Custody Plus' in the Criminal Justice Act 2003 which was intended to offer provision to short term sentenced prisoners; and the development of multi-agency planning and interventions based on seven reducing re-offending pathways.

During the IOM pioneer initiative which ran from 2008 to 2011 the Home Office acquired the lead responsibility within Government for IOM. This is something of an anomaly. Overall responsibility for offender management lies with the MoJ which now oversees prison, probation and youth justice services. IOM represents a good example of the tensions inherent in splitting the responsibility for criminal justice policy across these two competing Government departments. Fox *et al* (2013) commented that the operational and commissioning responsibilities for offender management in England and Wales are complicated by 112 public prisons, 35 probation trusts and 12 private prisons operating under the aegis of the National Offender Management service; the operational arm of the MoJ. This is further complicated by the Home Office having responsibility for the 43 police forces across England and Wales who have a significant role to play in IOM. Senior and colleagues (2011) reported that the involvement of the police in offender management was perhaps one of the most distinctive elements of IOM.

The strategic responsibility for IOM is shared locally between 322 community safety partnerships¹⁰ (CSPs) and 41 local criminal justice boards (LCJBs) in England and Wales. This reflects the parallel responsibilities of the Home Office for CSPs and the Ministry of Justice for LCJBs and the respective reach of these departments at a local and regional level. Arguably the reach of the Home Office has been strengthened through the appointment of Police and Crime Commissioners in November 2012. They are responsible to the Home Office at a Governmental level and ostensibly the electorate at a regional level¹¹. It is too early to say to what extent the PCC will impact on IOM or offender management more generally. Critically, the PCC will have no direct responsibility for the commissioning of offender management services within their areas, under Transforming Rehabilitation (2013a) this remains at a central level with NOMS.

What IOM seeks to achieve at an operational level is the joining up of services to address offending and re-offending, something which, arguably, Government fails to achieve at a national policy level. That the Home Office has the lead on IOM within Government may facilitate the continuation of IOM. Amid the shake-up of offender management services arising from the implementation of Transforming Rehabilitation (Ministry of Justice 2013a), the Home Office will be keen to retain its IOM foothold in offender management, nationally and locally. There are 67 IOM schemes across England and Wales, based on information provided by local areas to the IOM E-Learning Portal¹². While this is not comprehensive, it provides a measure of IOM proliferation. It should be noted that some

¹⁰ Community Safety Partnerships acquired a statutory responsibility to reduce re-offending through the Policing and Crime Act 2009

¹¹ The electoral mandate of PCCs was challenged by commentators given the low turnout

¹² The IOM E-Learning Portal was commissioned by the Home Office in 2011 and is hosted and managed by the Hallam Centre for Community Justice at Sheffield Hallam University. The portal can be accessed at: <http://www.cjp.org.uk/iom-elearning/>

of these schemes cover metropolitan and rural counties, while others operate over smaller geographical areas, unitary authorities and towns.

Defining IOM

In practice terms, IOM has developed from existing multi-agency case management practice (Senior *et al* 2011): Prolific and other Priority Offenders (PPO) Programme; Drug Intervention Programme (DIP); and Multi-Agency Public Protection Arrangements (MAPPA) for the most serious sexual and violent offenders. One of the strengths of IOM is that it has largely developed as a 'bottom up' innovation. In evaluation terms, this is one of its weaknesses. Attempting to identify the additionality of IOM, i.e. what local agencies were doing differently as a result of IOM was difficult across the IOM Pioneer sites as they had developed in different ways. It still remains difficult, given local variations between schemes. It has been further complicated by the Government guidance on IOM (Home Office 2009) summarised by Senior *et al* (2013) as:

“IOM was to be the strategic umbrella that brought together agencies across government to prioritise intervention with offenders causing crime in their locality; IOM was to build on and expand current offender-focused and public protection approaches, such as PPO, DIP and MAPPA; and IOM should relate to all agencies engaged in Community Safety Partnerships (CSPs) and Local Criminal Justice Boards (LCJBs) with direction and support in bringing together the management of repeat offenders into a more coherent structure” (Senior *et al*, 2011: 2-3)

This suggests that IOM operates at different levels, which adds complexity to the evaluation process. Trying to identify what is to be evaluated is not straightforward. It prompts the following questions:

- Is IOM a strategic process for bringing together agencies to tackle offenders in their localities?
- Is it an extension of existing offender management processes?
- Is it a way of bringing more coherence to the management of repeat offenders through two different multi-agency structures CSPs and LCJBs?

What IOM is not, is a clearly defined criminal justice intervention such as the Intensive Alternatives to Custody (IAC) pilots (Wong *et al* 2012a). These were being implemented around the same time as IOM officially commenced. IAC was a much easier pilot to evaluate given that the aim of the programme was clear; to test out the use of intensive community orders to divert offenders from short term custodial sentences.

As IOM has developed in local areas, it has become easier to more tightly define IOM for evaluation purposes. This is illustrated by Wong and colleagues (2011), who undertook a process and impact evaluation in one county area in England. Based on a documentation review and interviews and workshops with local stakeholders, they were able to define IOM as having the following components:

- Selection and de-selection of IOM offenders;
- Case management of IOM offenders through: one to one case management by a dedicated offender manager; day to day offender management by co-located staff from different agencies; multi-agency case conferencing on a regular weekly or monthly basis;
- Reducing re-offending pathways interventions responding to the case management activities;
- Police enforcement/other activities such as intelligence gathering resulting from the case management activities.

Assessing Additionality

At the same time as being commissioned to undertake a process evaluation of the five IOM pioneer sites, Senior *et al* (2011) were commissioned to undertake an impact feasibility study and a break even analysis of IOM. Neither of these studies were published by the MoJ. One of the difficulties inherent in undertaking an impact evaluation and break even analysis of the IOM pioneer sites was that of identifying the additionality of IOM. While it is not possible to reference either of the MoJ commissioned reports, the difficulties in identifying additionality can be found in the process evaluation report (Senior *et al* 2011). Some of these are considered below.

Identifying a start point for IOM

"Sexual intercourse began in ninety sixty three (which was rather late for me) - At the end of the Chatterley ban and the Beatles' first LP." opined Philip Larkin in his poem *Annus Mirabilis* (1974). In a similar vein, the 2009 Home Office guidance marked the official commencement of Integrated Offender Management (IOM), although arguably it had started much earlier in some areas of England and Wales. As reported by Senior *et al* (2011), some of the five IOM 'Pioneer sites' had received funding in 2008/09 to develop their IOM approaches. It could be argued that IOM started then, however, some of the Pioneer sites viewed IOM as commencing as early as 2006, at the point when they adopted multi-agency case management processes (*ibid*). While this may appear to be giving too much attention to something relatively unimportant, identifying when IOM commenced in a local area is not merely an issue of historical accuracy but a critical issue for evaluating IOM.

During workshops undertaken at each of the IOM Pioneer sites, individuals involved in delivering and managing IOM were asked to identify when IOM started. Respondents at the individual sites came up with start dates that varied between each other, in some instances by several years. In part their difficulties in agreeing a start date seem to stem from IOM being "built on pre-existing schemes and approaches" (Senior *et al* 2011).

The intervention cohort

One of the distinctive features of IOM at the pioneer sites was the inclusion of non-statutory offenders (i.e. offenders sentenced to less than 12 months in custody) within the IOM cohort - something that could be identified as additionality. However, the proportion of non-statutory offenders within IOM varied across the sites. Senior *et al* (2011) noted that Lancashire had the lowest proportion, just over a third (34%) of cases under statutory

supervision. West Yorkshire had the highest proportion at around three quarters (74%). In relation to PPOs, Lancashire had the lowest proportion just over one in five (22%) in the scheme, and Nottinghamshire had the highest proportion at seven in ten IOM offenders. The additional prioritisation of the non-statutory adult offender group was clearly more pronounced as a proportion of the workload in Lancashire than the other sites. What these figures also demonstrate is the inclusion of PPO offenders within the IOM cohort, some of whom were statutory and non-statutory offenders. This arrangement further illustrates the difficulties of both identifying a starting point for IOM and a distinct intervention cohort that had not previously received some form of IOM, albeit as a PPO or a DIP offender.

The diversity of approaches to IOM

Senior *et al* (2011) identified a "compendium of different approaches across the sites" which "limited the ability to closely compare each separate initiative." (Senior *et al* 2011:12) This was perhaps inevitable given that IOM was characterised by "bottom up development in local areas which achieved a collective description of IOM". (Senior *et al* 2011:3) These differences were illustrated by the different geographical areas covered by the scheme. As noted by Senior *et al* (2011):

"Bristol and Nottingham had a city focus, though the latter began to expand throughout the county during the evaluation. Although Lancashire had recently expanded the development of IOM beyond the Pennine police division, this evaluation focused on Burnley, Rossendale and Pendle local authorities (LAs). West Midlands IOM was the last to develop, located in two LAs, Walsall and Wolverhampton. Across West Yorkshire each of the hubs located in five LAs developed in unique ways." (Senior *et al* 2011: 12)

Case study in identifying the additionality for IOM

More recently focussing on a single county, with a shared county wide model of IOM with a specified in-scope cohort of offenders has made it easier to identify what constitutes additionality (Wong *et al* 2011). Table 1 reproduced from this study captures the additionality of IOM for PPO offenders across the county, identifying practices and processes before and after IOM across three local authority areas. While PPO offenders were not the sole group of offenders included in IOM, they were the cohort of offenders for whom the differences in practice were most easily identified by practitioners.

Table 1: Additionality of IOM for PPOs taken from a single county across three local authority areas (which illustrates variations between them)

	Before IOM	After IOM
Selection/De selection	<ul style="list-style-type: none"> • PPO scoring matrix used 	<ul style="list-style-type: none"> • Same scoring matrix used • PPO matrix; red, amber, green
One to one case management	<ul style="list-style-type: none"> • PPOs were seen 3 times a week • 1 police officer dealt with PPOs • Police and probation working on all cases • Statutory cases managed by probation • PPOs are seen 4 times a week 	<ul style="list-style-type: none"> • Probation led with a police officer and a sergeant (in one site) • Probation led (in another site) • Broader access to pathways • PPOs are seen 4 times a week
Day to day offender management (due to co location)	<ul style="list-style-type: none"> • Police and probation co-located • Information sharing difficult • A PPO probation officer, PPO offender supervisor and a PPO police officer • Co-location started with PPOs • Less instant access to agencies 	<ul style="list-style-type: none"> • Police and probation co-located • Existing PPO team joined by further probation officers and a new police officer • Accommodation worker within co-located team of police and probation • Access to police and more home visits; easier to refer. Prison officer also co-located.
Multi-agency case conferencing	<ul style="list-style-type: none"> • Previously all cases were considered • Regular PPO meeting each month • Weekly internal meeting 	<ul style="list-style-type: none"> • The focus is on those who are causing the most concern • All cases now considered at operational meetings on a traffic light basis • Weekly tasking meetings for IOM are held at probation • Monthly meeting which includes all agencies and partners
Pathways interventions from case management	<ul style="list-style-type: none"> • Each pathways strand separate from one another • Probation staff working with discrete groups of offenders • Links not as good for the key areas • Limited provision 	<ul style="list-style-type: none"> • All of the pathways interventions have been pulled together and there is more multi-agency working and information sharing • Multi agency working widened to more offenders and staff working to a broader remit in terms of offender types • More intensive level of support • Job Centre Plus and Citizens Advice Bureau are being co-located with the IOM team
Police activity from case management	<ul style="list-style-type: none"> • Police worked solely with PPOs • Only one police officer (who had other responsibilities) • Due to PPO work there have always been links between probation and police 	<ul style="list-style-type: none"> • Increase in number of police officers in team working across IOM and getting intelligence on the offenders • Police able to widen the net to a multi agency staged approach including closer monitoring • Police actively targeting non-statutory cases • More police home visits are made and communication has improved

While the problem of additionality was resolved in this study, challenges in undertaking an impact evaluation (based on impact on re-offending) remained; the three areas commenced IOM at different times which straddled a seven month period.

The solution adopted for the reconviction study was to identify a point in time when a sufficient number of offenders commenced on IOM across all the three areas. This provided a large county wide intervention cohort and a sufficient number from each area to allow comparisons to be made between the areas.

Applying an Experimental Paradigm to Evaluating IOM

The requirement to undertake an impact feasibility study for IOM and an impact feasibility study for IAC, commissioned by the MoJ in 2009 as part of the evaluations for both initiatives provided an indicator of the MoJ's intent to pursue an experimental approach to testing new initiatives. However, in both cases an impact study was never commissioned. The experimental paradigm is best illustrated by Sherman and colleagues who developed the Scientific Methods Scale in which evaluation designs are ranked according to their level of internal validity (*ibid.*). Randomised Control Trials are identified as the most rigorous evaluation design and quasi-experiments in which a comparison group is used are established as the 'next best thing'. The full scale is as follows:

Level 1 Correlation between a crime prevention program and a measure of crime or crime risk factors at a single point in time.

Level 2 Temporal sequence between the program and the crime or risk outcome clearly observed, or the presence of a comparison group without demonstrated comparability to the treatment group.

Level 3 A comparison between two or more comparable units of analysis, one with and one without the program.

Level 4 Comparison between multiple units with and without the program, controlling for other factors, or using comparison units that evidence only minor differences.

Level 5 Random assignment and analysis of comparable units to program and comparison groups.

(Sherman *et al.* 1998: 5-6)

For Sherman *et al.*, a programme could only be classed as 'working' if it had at least two Level 3 evaluations and all the available evidence to demonstrate effectiveness.

The challenges of adopting an experimental paradigm for IOM were examined in an options analysis undertaken by Wong *et al.* (2011) for the evaluation of the county based scheme mentioned above. After reviewing the options with the commissioners a 'combined Levels' option was adopted, comprising: a Level 2 analysis, comparing re-offending of IOM offenders before and after commencement on IOM using Police National Computer data on reconvictions; and (arguably) a Level 4 analysis¹³ comparing actual re-offending for 12 and 24 months following commencement on IOM with predicted rates of

¹³ The Maryland Scale devised by Sherman *et al.* in 1998 did not take into account the capability to use a rigorously tested methodology for predicting re-offending

re-offending for the IOM cohort using a rigorously tested MoJ methodology (Howard *et al* 2009).

To understand the difficulties of adopting an experimental approach, it is worth reviewing why the other options were discounted. The reasons from Wong *et al* (2011) are summarised below.

- Level 1 - This was the most limited analytical approach. It would not have been possible to attribute any differences to IOM
- Level 3 - The fundamental problem with identifying a *closely matched* comparator cohort was the need to obtain this cohort from a time pre-dating IOM. The re-offending of the comparator cohort would not be tracked over the same time period as the IOM cohort.
- Level 4 – It was not possible to undertake a matched pairs design as used for the Diamond Initiative evaluation (Dawson *et al* 2011) because it was not possible to identify matching individuals (based on re-offending history and needs) within the study area who were not going to receive IOM. If they fulfilled the selection criteria for IOM they were on IOM. It was also not possible to identify matching individuals from other comparable areas who did not receive IOM – given the proliferation of some form of IOM across the whole of England and Wales. By comparison with IOM schemes that were established before and after the Diamond Initiative (which commenced in 2009) the Diamond Initiative was a relatively tightly prescribed case management intervention for non-statutory offenders. In addition it operated in six London Boroughs; therefore it was possible to identify matched individuals from other London wards who did not receive Diamond (*ibid*).
- Level 5 – It was not possible to undertake a randomised control trial as this would have required re-designing the delivery of IOM in the study area.

The Challenge of Measuring Impact on Re-offending

Since the commissioning of the evaluation of the IOM Pioneer sites in 2009, the challenges of evidencing the impact of IOM have remained constant. These challenges could equally be applied to the evaluation of any criminal justice intervention; therefore they are illustrative and arguably have a wider application beyond IOM.

The primary directive for criminal justice services in England and Wales, particularly those targeted at offenders has (not unnaturally) been reducing re-offending. This is the stated goal of the MoJ confirmed in various policy documents (Ministry of Justice 2010, 2012, 2013a). The goal in itself is not problematic, however applying the MoJ 'standard' for measuring re-offending; reconvictions as recorded on the Police National Computer (PNC) database is challenging. The three main difficulties are examined below.

Accessing PNC data

Accessing anonymised individualised PNC data to assess the impact of IOM is a protracted process. In the recent past this has involved submitting a request to the Police National

Computer/Database Information Access Panel (PIAP) board which met once every three months. The author and colleagues experience is that while PIAP approved the request, fulfilling the request was held in abeyance due to the capacity of the MoJ which provides PNC data to meet the PIAP approved requests. In the past the MoJ was not involved in the PIAP decision process, which led to applications being approved which the MoJ had insufficient capacity to meet. In fairness to the MoJ, their principal problem has and continues to be that of capacity, they have had insufficient numbers of staff to deal with these 'external requests', while at the same time servicing the data demands of the MoJ staff, ministers and MPs. Requests for PNC data have grown, as statutory, private and voluntary and community sector agencies have realised that in order to maintain their services and/or funding for them, they need to evidence their impact on reducing re-offending. What this scenario illustrates is the mismatch between the policy aspiration of Government and the lack of capacity at a central level to adequately service it.

Timeframe for measuring impact

The MoJ 'standard' for measuring re-offending has become assessing reconvictions in the twelve months following commencement on an intervention, with a six month lag to allow convictions to be processed through the court system. It is therefore a minimum of eighteen months before any analysis is even undertaken. For most commissioners of services and/or those involved in delivering services this appears to be a long time to wait for results. This is particularly the case where public sector budgeting occurs on a twelve month cycle.

Capability to analyse PNC data

As noted by Fox *et al* 2013b, the analytical capability of public sector agencies has diminished over the last few years due to reductions in public finance. This has led to staffing reductions and maintaining front line delivery capability at the expense of back office functions. As to the voluntary and community sector, there is limited evidence that this capability exists or ever existed. As noted by Senior (2004), Mills (2010), and Wong *et al* (2012), VCS agencies struggle quantitatively to evidence the impact of their services using their own data, let alone data from another source. The creation of the MoJ Datalab¹⁴ is intended to address the problem of access and to some extent the capability to analyse PNC data by any agency. However, discussions between the author and MoJ staff suggest there are methodological limitations to this. Providing agencies are able to collate the relevant PNC identifiers for the cohort of offenders (a minimum of at least fifty) that the agency has worked with, the MoJ will be able to supply a binary measure of re-offending, i.e. whether reoffended or not. This will compare the re-offending rates of the cohort with a matched comparison cohort. However, the MoJ will not be able to identify whether or not this matched cohort will or will not have received an intervention the same as or similar to the intervention deployed by the agency. Therefore the observed difference between the two cohorts may be very small or non-existent.

¹⁴ Details of the Justice Data Lab can be found at: <http://www.justice.gov.uk/justice-data-lab>

The relationship between researchers, the commissioners and other research stakeholders

At a Government level, evaluation evidence is just one component of the policy making process. Policy-makers also draw on their own experience, expertise and judgement (Davies 2004). Policy-making also takes place within the context of finite resources which influences decisions (*ibid.*). It is also influenced by the values, habits and traditions of institutions such as Parliament, civil servants and the judiciary (*ibid.*). Outside forces such as lobby groups, pressure groups and consultants are able to influence the policy-making process and the whole policy-making process is subject to pragmatics and contingencies such as parliamentary terms and timetables and the capacities of institutions (*ibid.*). Thus, many commentators prefer the phrase 'evidence-informed policy' (*e.g.* Treadwell, Shine and Bartley 2011).

As Senior (2013) notes similar issues arise outside Government commissioned evaluations:

"Contract research was often commissioned in response to an external need to validate the ongoing project work. This could be particularly the case in small voluntary and community sector (VCS) projects, where the uncertainty of project funding often required an independent piece of research to validate how successful the programme had been before further funding would be allocated. The pressure to produce a piece of work that was descriptive of the project but did not essentially challenge the aims was acute." (Senior 2013: 365)

Asymmetric relationship

Advocates of the cultural cognition of risk¹⁵ such as Dan Kahan suggests there is an asymmetric relationship in relation to technical knowledge and understanding between scientists and the general public:

"...our argument is that cultural commitments operate as a kind of heuristic in the rational processing of information on public policy matters....citizens *aren't* in a position to figure out through personal investigation whether the death penalty deters, gun control undermines public safety, commerce threatens the environment, et cetera. They have to take the word of those whom they trust on issues of what sorts of empirical claims, and what sorts of data supporting such claims, are credible." (Kahan and Braman 2006: 149)

Arguably, such an asymmetric relationship also exists between researchers, research commissioners and other stakeholders, such as those delivering the evaluated intervention.

This has a number of facets:

¹⁵ The "cultural cognition of risk" refers to the tendency of individuals to form risk perceptions that are congenial to their values.

- Commissioners and other stakeholders being able to fully understand the methodology employed, the level of rigour attached to it and therefore the reliability and validity of the results
- Commissioners and other stakeholders understanding the limitations of an impact evaluation. While an impact evaluation may be able to identify an effect arising from an intervention such as IOM, it will not (on its own) be able to explain why an effect occurred and how this could be replicated. This is explored later in the article in relation to the limitations of the experimental paradigm.

In practice, for most commissioners and other stakeholders, the appropriateness of the methodology and the results of an impact and economic evaluation then largely becomes an article of faith, determined by: the trust in the research team; and the results themselves. However, as Kahan and Braman (2006) note, in relation to the public and their trust in empirical evidence, they are more likely to give credence to evidence from scientists:

“...who share their values—and who as a result of this same dynamic and others are predisposed to a particular view.” (Kahan and Braman 2006: 149)

In a similar way, the level of trust placed in the research team, is in large part based on a combination of: the track record of the research team in relation to previous research assignments and who they have been commissioned by; the relationship that has been forged between the research team, commissioners and other research stakeholders during the evaluation process.

The results themselves, whether they are viewed as positive or negative will have a bearing on this asymmetric relationship. As Senior (2013) noted there is often a tension in contract research between validation and evaluation. The research work undertaken by the author and colleagues on IOM has been commissioned via the contract research route. As observed by Senior, contract research is generally commissioned “in response to a need to externally validate the ongoing project work” (Senior 2013: 365). At the point when the IOM evaluations were conducted, they were already ongoing with a general presumption by the local agencies involved in commissioning and delivering them that they should continue. The desire for validation rather than evaluation can be undermining. Senior (2013) recounts the tactics deployed by a site lead from a multi-site government funded project whose aim was to discredit the evaluation results. These tactics included:

“detailed questioning of evidence presented; questioning the researchers’ understanding of the local context; comparing ‘inappropriately compiled’ statistics from their site to the other two sites; delays in providing necessary data; cancelling of research interviews; refusing to allow certain workers to be interviewed without the project leader’s presence; and dismissing the views of the subordinate player, the service users, by claiming that they were an unrepresentative sample, despite providing the sample themselves.” (Senior 2013: 366)

Burden of communication

The asymmetry of the relationship between the research team, commissioners and research stakeholders in relation to technical know-how, is perhaps (rightly) replicated in relation to explaining the research process and the results – with the burden of responsibility lying with the research team. When agencies are commissioning research, in particular quantitative research such as impact and economic evaluations, they are arguably not only commissioning researchers to provide the technical expertise but also the expertise in communicating the process and results. The implications of this are that the research team have a considerable responsibility for:

- Being transparent in explaining the methodologies being employed and the limitations of these at every stage of the evaluation process
- Taking care when writing research reports to explain the results and methodology in plain language and perhaps as a key test, in a way which allows the commissioners and research stakeholders themselves to be able to confidently communicate the results to others who have had little or no exposure to the research process

Taking care in presenting positive results so that the limitations of the results are properly understood is important, however communicating 'negative results' and managing expectations is perhaps the greater challenge.

A striking example of this is illustrated by the following excerpt taken from the foreword to the Final Evaluation Report of the Diamond Initiative (Dawson *et al* 2011).

"At the time of the Interim Report, no definite conclusions could be drawn about the results of the Diamond Initiative, but there were a number of reasons for cautious optimism. It was of course right, in the interests of accountability and transparency, to state these reasons in the Interim Report. But we live in a complex world where crime issues are of great political interest, and a 24-hour media culture is voracious in its search for stories. So publication of the Interim Report had the effect of increasing the already high political profile of the Diamond Initiative. Under pressure from the media and others to declare Diamond an unqualified success, SRAU researchers and members of the ARG found themselves having resolutely to insist that the research was not yet completed, and that it would be inappropriate to act prematurely on interim results. This Final Report on the results of the research justifies the earlier caution. After a very careful and thorough evaluation, SRAU researchers have concluded that the assessment of the crime reductive potential of the Diamond Initiative must be less encouraging than appeared to be the case from the data available at the time of the Interim Report."(Dawson *et al* 2011: Foreword, no page number)

Satisficing

As illustrated in the above excerpt, a wide range of individuals have a stake in the results of any evaluation. In the case of IOM, these have included: those commissioning the evaluation, who may be one of the agencies involved in delivering IOM or an agency with

a co-ordinating responsibility for criminal justice services in the local area; the plethora of agencies involved in delivering IOM from strategic manager through to front line practitioner; a commissioner of one of the services which contributes to IOM, for example, an NHS commissioner of mental health services; a local councillor with responsibility for the community safety portfolio or just a local councillor whose constituents have particular concerns about crime and/or offenders in their local area; and more recently the Police and Crime Commissioner.

Each of these stakeholders have their own interest in the results of any evaluation. Their response to any results (positive or negative) will inevitably be refracted through this and coloured by their understanding of the methodology and the extent to which they perceive this to be robust and legitimate.

This is illustrated by examples based on the author's experience of evaluating IOM in two different areas. In one area in England, the commissioners indicated that their preferred methodology for assessing the impact of IOM was a before and after comparison – a level 2 on the Maryland Scale in preference to a potential level 3 which would provide a more rigorous assessment. Their rationale was that a before and after comparison was something that elected members would more easily understand.

In a similar vein, in a different area of England, where both a level 3 and level 2 evaluation were undertaken, the commissioners chose to highlight the results from the level 2 (the before and after comparison) and not the more rigorous level 3.

Limitations of the experimental approach

Experimental criminology provides an approach to evaluation that, it is claimed, will provide policy-makers and practitioner with reliable evidence about what works. However, as noted by Pawson:

“Evaluation research is tortured by time constraints. The policy cycle revolves quicker than the research cycle, with the result that ‘real time’ evaluations often have little influence on policy making.”(Pawson 2002: 157)

In the case of IOM, despite the lack of robust quantitative evidence of effectiveness - to the standard advanced by Sherman *et al* (1998), this has not prevented its widespread implementation across England and Wales, encouraged and supported by Government. This is because at a local level, it is attractive to policy makers and practitioners. Firstly, the rationale behind IOM is plausible, in short, that better joined up working between agencies (in particular the police and probation) should improve the management of offenders, which should lead to a reduction in re-offending. Secondly, because IOM is based on existing multi-agency case management arrangements it has been a relatively easy innovation to implement. Applying the “engines of innovation” identified by Innes (2013) for policing practice to the development of IOM, locally, IOM has benefited from a “bottom up” form of innovation which Innes describes as follows:

"Practice entrepreneurship based innovation involves highly localised attempts to resolve a particular situation, being transferred and diffused more widely. As implied by the name, the defining quality of practice entrepreneurship is it is practically oriented, rather than being derived from abstract concepts and theories." (Innes 2013: 22)

IOM as innovation driven by practice entrepreneurship does not lend itself to the experimental paradigm for generating evidence of effectiveness. In fact, as Pawson and Tilley have argued, the experimental approach to assessing the effectiveness of criminal justice interventions:

"...constitutes a heroic failure, promising so much and yet ending up in ironic anticlimax. The underlying logic...seems meticulous, clear-headed and militarily precise, and yet findings seem to emerge in a typically non-cumulative, low impact, prone-to-equivocation sort of way."(Pawson and Tilley 1997: 8)

In the case of IOM, arguably, the context–mechanism–outcome approach advocated by Pawson and Tilley (1997) may be more appropriate than the experimental and quasi-experimental approach.

"Programs work (have successful outcomes) only in so far as they introduce the appropriate ideas and opportunities (mechanisms) to groups in the appropriate social and cultural conditions (contexts)."(Pawson and Tilley 1997: 57)

The recent evaluations of the MoJ PbR pilots appear to have adopted this context – mechanism – outcome approach as illustrated by the research questions which the Local Justice Reinvestment Pilot Evaluation is intended to answer:

- "1. What actions did local partners take to reduce crime, re-offending and demand on the criminal justice system, and why?
 2. (How) Did the actions of local partners contribute to better criminal justice system outcomes (including reduced first-time offending, re-offending and criminal justice system demand)?
 3. What were the perceived strengths and weaknesses of the project as implemented?
 4. Were there any unintended consequences/impacts on other parts of the criminal justice system and/or crime in the area (or neighbouring areas), and/or were any perverse incentives created?"
- (Wong *et al* 2013a: 8)

While this approach appears to have been understood and adopted at a Government level, the author's experience of evaluating IOM and other criminal justice interventions suggests that it has yet to happen for commissioners and consumers of evaluations outside Government, i.e. regional and local public sector commissioners, charitable trusts and public, private and voluntary sector service providers.

This is an important issue, given the Transforming Rehabilitation proposals and the black box approach which is the key feature of Payment by Results commissioning. In effect Government have devolved the responsibility for identifying what works to service providers, crucially, without testing whether service providers are up to the task. The experience of IOM suggests that they may not be. This is further confirmed by the interim evaluation report of the Local Justice Reinvestment Pilot where Wong and colleagues (2013a) found that (except in one site) there was limited use of evidence to determine which interventions to implement and limited evidence of monitoring performance against the outcome metrics. In part this appeared to be due to the financial climate and the design of the pilot: a reward payment structure with up front funding and limited incentives for local agencies to invest in doing anything substantially different.

What next for evaluating impact and cost effectiveness?

What are the implications of the above for the delivery of criminal justice interventions targeted at offenders?

The delivery of offender management services to low to medium risk offenders including non-statutory offenders will become day to day, bread and butter work for the private and voluntary sector agencies which win the Transforming Rehabilitation contracts.

There is an expectation that the reward payment (which forms part of the payment structure) will incentivise innovation by providers. As demonstrated by the Local Justice Reinvestment pilot this is not necessarily a given (Wong *et al* 2013a).

Assuming that Tier 1, 2 and 3 providers will experiment with different forms of offender management (although delivered primarily by the Tier 1 provider), there will be a need to monitor this closely.

As suggested by Tim Harford, Financial Times Journalist, broadcaster and author of “Adapt Why success starts with failure”, there are three essential steps to successful adaptations:

“...try new things, in the expectation that some will fail; make failure survivable because it will be common; and to make sure that you know when you’ve failed.”(Harford 2011: 36)

What this means for service providers whether they are the Tier 1, 2 or 3 provider, is the increased importance of encouraging a culture of openness and honesty in developing new services and/or changing services. Developing a culture that accepts that when services innovate, some things may work and others may not work. Embracing such a culture would have avoided the disruption tactics employed by the pilot site lead recounted by Senior (2013) in his review of the politics of contract research quoted above.

In order to know when you’ve failed, requires providers to be much more disciplined about defining their interventions and the additionality of the intervention, where they are aiming to do something different to what they were doing before. This means avoiding the fuzziness of IOM, i.e. being unclear about when it started, whether or not it

was an umbrella term, a strategic process; a new operational process, an adaptation of an existing process, a widening of the intervention cohort or all of them.

To make failure survivable, it would be prudent not to put all your eggs in one basket as one of the sites in the Youth Justice Custody Reinvestment Pathfinder did (Wong *et al* 2013b). This site focussed on setting up and implementing Multi-systemic therapy (MST) as their main delivery model for reducing custody bed nights over a two year period, in spite of research evidence which suggested that the impact of MST on re-offending was unlikely to occur within the pilot period.

As to what methodological approach to use in evaluating interventions which are part of the statutory offender management provision? There are arguments that support an experimental paradigm, to see whether different interventions perform better or worse than the 'standard' offender management provision. However, a limiting factor may be that the number of individuals in the intervention cohort may be insufficient to produce a statistically significant result and also that the time required to allow the experiment to play out may be too long to wait. In this instance the Pawson Tilley context–mechanism–outcome approach maybe more useful.

However, in both instances, if the outcome that the intervention is aiming to effect is re-offending as measured by PNC data, the problem of access arises.

The establishment of the Justice Data Lab, as operated in the manner described above, would provide insufficient level of granularity to enable adequate learning to take place, aggregated results are of limited use, anonymised individualised data is required. However, accessing this, is perhaps more akin to trying to locate the holy grail than undertaking an impact evaluation itself – without the data it is not possible. In addition, the Justice Data Lab is intended in the first instance to run as a one year pilot. There is no guarantee that even access to this limited data will be available after April 2014.

Until the MoJ is better resourced to provide ready access to this kind of data, the ability of providers to innovate and test out the effectiveness of their interventions on reducing reconvictions will be limited.

An alternative approach may be for providers to adopt other measures of re-offending such as re-arrest rates, or re-imprisonment. After all reconvictions are but one measure of re-offending.

What next for IOM?

While this article has primarily focussed on the technical aspects of evaluating IOM it is perhaps appropriate (given its currency) to consider the future of IOM arrangements as a result of the implementation of the Transforming Rehabilitation strategy. The paragraph from the Target Operating Model for Transforming Rehabilitation (Ministry of Justice 2013b) which references IOM (as part of a section which also references partnership working Police and Crime Commissioners) is reproduced below:

“To reduce re-offending, CRCs [Community Rehabilitation Companies] will need to work closely with other local partners, and in particular Police and Crime Commissioners. Bidders will need to evidence how they will engage with local partnerships, for example existing IOM arrangements. CRCs will be expected to work collaboratively with PCCs, with whom they are likely to engage through local Community Safety Partnership forums. As part of account management NOMS will require CRCs to provide assurance of their engagement in local partnerships where these are purposeful in maintaining performance, and will take into consideration feedback from stakeholders such as PCCs.” (Ministry of Justice 2013)

The assumptions which underpin this and the risks are considered below.

Investment in IOM

There is a financial incentive to reduce re-offending built into the payment structure for the CRCs (Ministry of Justice 2013c). IOM arrangements have generally focussed on offenders at high risk of re-offending whether they are statutory or non-statutory offenders (as stated above) Therefore there is a presumption that the CRC contract holders will want to maintain IOM in some form, in particular given the steer to do so within the Target Operating Model documentation. However, there are risks associated with this.

The first risk is the likelihood of reduced investment in IOM from the CRC. On the 26th June 2013, George Osborne, the Chancellor of the Exchequer announced further Government spending cuts. These are in addition to those already implemented between 2010 and 2014. The new reduction will be to be undertaken by 2015/16. This will represent a further 10 percent reduction (compared to the 2014/15 baseline) in funding for the Ministry of Justice (Her Majesty’s Treasury 2013). This suggests that the cost envelope for CRCs to deliver the same services that the Probation Trusts are currently delivering and commissioning will reduce. Probation are key players in IOM (Senior *et al* 2011, Wong *et al* 2012) occupying a number of roles which include: managing IOM offenders directly; servicing IOM multi-agency arrangements; commissioning housing advice, ETE, gender specific services for women offenders and other provision which provide wrap around support for IOM offenders. A reduced cost envelope has the potential to lead to a reduction in CRC investment in IOM, ironically one of the key policy areas championed in the Ministry of Justice 2010 vision for criminal justice delivery, “Breaking the Cycle: Effective punishment, rehabilitation and sentencing of offenders”.

The second is reduced investment in IOM from other agencies. Existing funding for IOM schemes, to work with under 12 month sentenced prisoners released into the community may be discontinued. This funding has been provided by community safety partnerships through Drugs Intervention Programme funding and/or other sources as noted by Senior *et al* (2011) and Wong *et al* (2013a). The Target Operating Model (Ministry of Justice 2013b) specifies that the contracted providers will be required to deliver a service to under 12 month sentenced prisoners – something that current probation staff are not statutorily required to do. Community safety partnerships, managing reduced budgets may presume that their funding is no longer required. Given that the cost envelope under which the contracted providers are likely to be operating will be lower than the existing

probation arrangements (due to further budget cuts at the Ministry of Justice), this community safety funding is more likely (rather than less likely) to be needed in order to maintain existing IOM provision.

Reduced investment in IOM could also be compounded by political considerations. Depending on the configuration of successful Tier 1, 2 and 3 bidders for the CRC contracts, Police and Crime Commissioners and elected members (within local councils) with responsibility for community safety partnerships may be reluctant to invest in IOM arrangements where this means transferring funding away from local providers with perceived local expertise to non-incumbent providers from outside the local area but who are within the winning consortium.

Culture of co-operation

As noted by Senior and colleagues (2011):

“The joining up of the key agencies was an essential feature of all IOM sites. Balanced centres of power between agencies were not always achieved within sites but respondents recognised the key roles played by all agencies and the central task of making this happen. At project level key individuals, experienced and committed to multi-agency working, were often significant drivers of good working practices on the ground. There was evidence too, where strategic individuals did not share a common view, relationships could become tense and counter-productive. At the root getting a good balance demanded core staffs were willing to think and work beyond agency boundaries.” (Senior *et al* 2011: 18)

As this suggests, cooperativeness between agencies and individuals is a defining element of IOM. Co-operation between local agencies following the bidding process for the CRC contracts, during and after the implementation of Transforming Rehabilitation has to some extent been presumed. Arguably, this should not be taken for granted. This cooperativeness may be disrupted by Transforming Rehabilitation.

Unsuccessful bidders for the CRC contracts may choose not to co-operate with the successful bidders. This has occurred in other social policy areas where the marketization of services has taken place. For example, in the establishment of Community Legal Advice Centres, undertaken by the Legal Services Commission (Fox *et al* 2010). These were intended to improve the co-ordination of legal advice services across housing, debt, welfare benefits and employment law. In two sites¹⁶ where the contracts to deliver Community Legal Advice Centres (CLACs) were won by non-incumbent local providers, there was a culture of non-cooperation from unsuccessful bidders. Some of the unsuccessful bidders managed to secure funding to continue their services alongside the Legal Services Commission and local authority contracted provider. These services ran in parallel and arguably in competition (for the same clients) with the CLACs.

¹⁶ Four community legal advice centres or CLACs were set up by the LSC and local authorities. Two contracts were won by local incumbent providers, two by non-incumbent providers.

The element of competition inherent in the Transforming Rehabilitation commissioning processes and the increasingly limited resources available to VCS agencies to work with offenders may exacerbate the competition which currently exists between them (Wong 2013c). This may manifest itself in less engagement in IOM processes and being less willing to share effective practice, in case this enables them to retain with a competitive edge in securing future funding.

Disruption due to change and increased complexity

The implementation of Transforming Rehabilitation itself is likely to be disruptive on IOM arrangements, irrespective of any of the above issues of reduced investment and cooperativeness. Disruption to IOM is also likely due to the added complexity of the information sharing arrangements for offenders arising from the separation between the CRC and National Probation Service. The risks of this fragmentation are captured by the response to the Transforming Rehabilitation proposals from the Police and Crime Commissioner for Gloucestershire.

“Fragmentation of the supervision of offenders, with the public provider responsible for high risk and MAPPA cases and the contracted provider responsible for low and medium risk offenders, would increase the complexity of information exchange and fracture the continuity of offender supervision, adding substantially to the risk of public protection failures.”
(Office of the Police and Crime Commissioner Gloucestershire 2013: 7)

Conclusion

The experience of evaluating IOM has highlighted the challenges of generating robust evaluation evidence of its effectiveness. There are numerous reasons for this, which include tightly defining the intervention/process in such a way that the additionality of IOM can be measured in terms of impact on reconvictions and cost effectiveness. Other reasons are the contract research context in which such evaluations have been undertaken, where satisficing research stakeholders may involve choosing less rigorous methods of measurement and/or highlighting measures that are less rigorous but are easier to understand. There are clearly limitations to the use of experimental and quasi experimental approaches to evaluating criminal justice interventions such as IOM, it is important that the results of any quantitative analysis are understood in relation the context in which the intervention was delivered and a thorough understanding of the mechanisms underpinning the intervention.

The impending implementation of the Transforming Rehabilitation strategy and the black box approach which the PbR commissioning of offender management services for low to medium risk offender represents, the onus will be on tier 1, 2 and 3 providers to generate their own evidence of effectiveness to enable them deliver the outcome target – reducing re-offending.

Where providers choose to do this and there is no guarantee that all providers will, their efforts to assess impact will be hampered by their access to PNC data unless a dedicated capacity is made available by the MoJ to provide the anonymised individualised data.

As to the impact of the implementation of the Transforming Rehabilitation strategy on IOM, there are potential risks to the continued delivery of IOM due to reduced investment, non-co-operation by agencies, the disruptive nature of the changes themselves and the impact on information sharing due to the fragmentation of offender management provision.

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THOUGHT PIECE

'Thought Pieces' are papers which draw on the author's personal knowledge and experience to offer stimulating and thought provoking ideas relevant to the aims of the Journal. The ideas are located in an academic, research, and/or practice context and all papers are peer reviewed. Responses to them should be submitted to the Journal in the normal way.

TRANSFORMING REHABILITATION: EVIDENCE, VALUES AND IDEOLOGY

Fergus McNeill, Professor of Criminology & Social Work, University of Glasgow

I'm writing this at Heathrow, on my way home from the first World Probation Congress in London on 8-10 October 2013. For me, it was a bittersweet event. Sweet to learn about and to celebrate what probation is and can be – at its best; bitter to be doing that at the very moment that the UK Government dismantles a world-leading, globally-renowned, award-winning public service with such a proud history.

On the first day of the conference - but at a separate event organised by User Voice - I was asked what my fears are about Transforming Rehabilitation (TR), specifically from a research-informed or evidence-based perspective. In one sense, that's a difficult question to answer. Since Transforming Rehabilitation is really about disestablishing probation, it is quite hard to advance a strictly 'evidence-based' response. It is impossible to experiment (in the strict sense) with criminal justice institutional arrangements, so there is no 'evidence-based' organisational structure for probation. That said, there are many arguments that can be made about which structures might best facilitate or impede desistance. And that's where my fears arise.

Firstly, TR seems to me to be based on several fundamental misconceptions about risk. Many informed commentators have noted the dangers of creating an organisational structure that reifies risk classifications; that assumes people can be easily or sensibly classified for any period of time as high, medium or low risk. They have also pointed out - repeatedly - that most 'serious further offences' by people under supervision are carried out by those classified as low or medium risk - not necessarily because the assessment and classification was wrong, but often because risk is dynamic and situational; it is *always* changing.

My concern with risk is a slightly different one. Ever since NOMS has elected to pursue a policy that resources should follow risk, it has slipped into the assumption that people who present a high risk of *harm* require the most intensive supervision. In one sense they do – public safety demands that they be closely monitored. But the ‘risk principle’ in the ‘what works’ research said something quite different; i.e. that people who presented a high risk of *reoffending* - whatever the likely gravity of their crimes - required (and benefited most from) intensive interventions. The reason was obvious. People who offend persistently tend to have very complex personal and social problems and it takes considerable time and skill to address those problems in a way that reduces risk. Yet TR seems to me to be built on the assumption that people who represent a low or medium risk of *harm* (but who often represent a high risk of *reoffending*) don’t need skilled and intensive support – that their supervision can be safely delegated to less experienced, less skilled and less qualified supervisors or supporters. While desistance research certainly does suggest a potentially important role for peer mentors, other volunteers, friends and family in supporting change, it also makes abundantly clear that for people who have offended *persistently* (but not necessarily *seriously*) desistance is a complex and uncertain process - a long and winding road that requires skilled navigation. TR diminishes the likelihood of skilled navigation (for reasons I’ll elaborate further below) at the same time as making the route between services more complex and elaborate.

My second major fear also flows directly from research evidence. Skilled navigators can’t enable and support change by themselves. First and foremost they need to be able to engage with the people doing the changing. That sounds simple, but it is no small task to develop relationships of trust with people whose relationships with others – often especially with authority figures – have often been, at worst, abusive and traumatic and, at best, inconsistent and difficult. In those circumstances, the process of building trust is hard enough for those with shared experience or with professional skills. It is made easier where legitimacy is conferred or more often earned by demonstrating the sorts of human values so important to probation practice (and to user voice organisations). My fear is that marketisation may be poisonous in this inter-personal process. A pecuniary contract preoccupied with achieving targets that generate financial rewards is not a recipe for trust and engagement; it is a recipe for service users *feeling* and *being* objectified as a potential income source – or, worse, as a waste of time and effort.

My third fear is also related to the logic of the market, but in a different way. I alluded above to TR’s creation of a more complex set of arrangements for service provision and delivery. This refers not just to the potential movements of service users between the rump National Probation Service (as and when fluctuating risk requires it) and the contractors/consortia but also to the complexities of the partnerships involved in delivery within and across regions – and of their relationships with related services (in health, education, employment, housing, etc.). In short, this seems like a recipe for disruption and fragmentation, when desistance research points to the necessity of coordination, consistency and continuity in supporting change.

To make matters worse, competition creates new problems of intellectual property and commercial interest that risk the creation of a whole new set of silos; not this time the familiar silos of public sector bodies failing to cooperate (a perennial problem, I admit, but

not one solved in any way by TR), but rather the silos of commercial competitors looking for an edge. That raises questions about the future of research-informed and evidence-based practice. First and foremost, private companies want to increase profits and shareholder returns and to grow their market share. If, as some of them argue, it is innovation and quality (and not just efficiency/cost reduction) that will drive profitability, then innovation and quality will be highly prized, and carefully guarded. Market logic demands that they will not be disposed to sharing their best ideas. An optimistic (or naïve) fan of the free market might say that this means that all will be driven to improve in a frenzied quest for quality and competitive advantage, but that means that they all have to waste time and (public) money individually inventing innovations instead of cooperating. Or maybe the qualitatively best contractor ends up as a monopoly provider, in which case market logic itself suggests that the end of competition will ensure that complacency sets in and quality atrophies.

An alternative and more likely outcome is that as soon as private contractors realise that there are no easy fixes or cheap ways of securing PbR outcomes (except perhaps by resort to the familiar problem of 'gaming'), companies or consortia will have to make their money in the more familiar fashion - by recruiting inexperienced and unskilled staff and by overburdening them so as to drive down costs (compare the recent inspection report on HMP Oakwood). In this approach, they make money not on unpredictable outcomes but on reliable volume of business; which leads of course to an even swifter abandonment of quality. It also creates an incentive to 'grow the market'; that is, to lobby for increases in the numbers of people subject to supervision, just as some private prison providers in the USA encouraged mass incarceration.

However, my ultimate fear is even more fundamental. I fear that privatisation and marketisation will corrupt criminal justice. I don't mean corruption in the obvious sense of people criminally carving up a quasi-market through bribes or other more subtle inducements or frauds (though that is an inevitable and serious risk in any and every market). Rather, my fear is that by *transforming rehabilitation* from being a moral good into a market good, something central to justice will be lost. Doing justice is not a task that we should contract out because it is a civic duty that citizens owe to one another. When we seek to sell off our mutual obligations to one another, we weaken the moral bonds between us, because we treat as merely instrumental things that are in fact constitutive of 'the good society'. Rehabilitation is one such good; it is a duty that citizens owe to one another. Those that offend owe it to those they have offended. Those that punish also owe it to those that they have punished. Is it really desirable that we seek to meet these obligations merely by paying others to do it for us? My view is that rehabilitation is best thought of as being everyone's concern and no-one's business. Transforming Rehabilitation risks turning it into some people's business and no-one's concern.

THOUGHT PIECE

'Thought Pieces' are papers which draw on the author's personal knowledge and experience to offer stimulating and thought provoking ideas relevant to the aims of the Journal. The ideas are located in an academic, research, and/or practice context and all papers are peer reviewed. Responses to them should be submitted to the Journal in the normal way.

RISK AND PRIVATISATION

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A privatised probation service will involve a plurality of providers with different histories, working practices, priorities and skills. This has implications for the management of risk. The most obvious aspect is the risk of leakage of sensitive data about offenders and their victims. Probation always handled data from other agencies - from prisons and police, shared data via Multi-Agency Public Protection Arrangements (MAPPA). Usually the problem was risk assessment data on individuals not being efficiently passed between agencies (e.g. from prison to probation) leading to wrong risk assessments. This will now be joined by the problem of data leakage to the media and the 'lost laptop' problem will increase as members of consortia share sensitive data on offenders. Low cost, low skill private providers will increase the probability and frequency of the 'lost laptop' problem in turn raising issues of human rights and privacy.

The most effective solution for collaborating agencies is data centralisation in a separate, secure location accessible only to specified personnel. The logical solution would be that National Probation Service (NPS) holds all data. This would minimise problems of disposal of sensitive data when contracts terminate. But it would also increase the direct control of NPS over private Community Rehabilitation Companies (CRCs) thus undermining the whole privatisation project. NPS will in any case be much too small to handle such a central monitoring task.

Leakage is one problem, data falsification is another. Individual and system failure was the general explanation for failures to pass information (notably estimates of risk of further offending) from one public sector agency to another - in the Sonnex case from prison to probation (Fitzgibbon, 2011). Privatisation brings the additional problem that private providers with an eye to contract renewal have a disincentive to share data which might render them likely to blame. Thus in a 'Sonnex' scenario the private CRC might be

incentivised to hide or even falsify data which could show that it failed to report and refer back to NPS a change in the risk profile of a low or medium risk individual and thus undermine its chances of contract renewal. Serco and G4S have already (allegedly) demonstrated an ability to technically defraud government (Travis, 2013).

Yet the management of difficult offenders with dynamic, changing risk profiles requires maximum inter-agency trust and collaboration. That's what MAPPA was all about. Where taking responsibility has resource implications even in the public sector cash-strapped agencies have an incentive to adopt a stance of 'it's your problem not ours'. But the likelihood of multi-agency collaboration turning into a variety of buck passing is maximised where competing providers are looking over their shoulders at Payment by Results and contract renewal. Multi-agency collaboration between a mix of private probation (CRCs) and those agencies still in the public sector (e.g. social services, police) will be more difficult. All these problems - data leakage, buck-passing, inadequate interagency consultation and data sharing, will all be greatly facilitated by the mismatch of CRC geographical areas and those of other agencies, including local authority social services, police and notably the NPS.

But probably the most important consequence of privatisation will be an increasing disincentive to manage qualitative aspects of risk. Binary calculations such as re-offending or not over a given period marginalise issues such as risk of serious harm to self - including alcohol and drugs, to others - including children and harm to those suffering mental health problems. Whether clients are not re-offending due to self-harm through drugs, or indeed progress indicated by re-offending but of a less serious nature, would not be measured.

To adapt a payment-by-results model to measure such qualitative issues as whether offenders are desisting due to increases in quality of life, though not mathematically impossible, would create extended delays in measurement of outcomes prior to payment for results. This would penalise smaller voluntary sector agencies and play into the hands of big security industry providers such as G4S and Serco who could sustain delayed payments. Yet it is the latter who, unlike the voluntary sector and probation mutuals, inhabit a security culture where success is defined in simply binary terms. This may well explain the periodic failures of such organisations in the area of management of privatised prisons (Grice, 2012).

Probation mutuals are being forced to bid for contracts only as part of consortia and, together with voluntary sector agencies are most likely to win contracts when in consortia with large security providers. This will inevitably result in the dominance of binary forms of risk management, a process that will be exacerbated in the long run by the haemorrhaging of skilled probation staff towards YOT and social work. The old probation staff with sophisticated understandings of the complex lives of ex-offenders will be gradually displaced by the box-tickers. And of course public probation has already gone a considerable way down this road. In the short term there will simply be a chaos in which a common language of risk - as a basis for MAPPA collaborations and clear referrals up and down the risk scale to NPS will dissolve in the mix of multiple providers from a diversity of backgrounds, educational levels and motivations.

With failure of private management in the prison sector the possibility of return to the public sector exists but for probation such an infrastructure will rapidly disappear. The residue of the NPS will be too small and have too few qualified staff to be able to re-embrace the workloads of failing CRCs. The long term outlook is either the consolidation of a society based on surveillance, control and warehousing of an underclass or the resurrection of tradition probation through social work with offenders provided by extending the remit of local authority social work - if, that is, it has in the meantime managed to escape a similar fate.

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TRANSFORMING REHABILITATION: TRANSFORMING THE OCCUPATIONAL IDENTITY OF PROBATION WORKERS?

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Abstract

This article explores the tensions and threats to the occupational identity of practitioners working with offenders, and identifies areas where the positive aspects of the probation service's values and humanitarian approach might endure under the changes being brought about by the Coalition's *Transforming Rehabilitation* agenda. It does so by reviewing change in the probation service and the nature of employee engagement with the service, drawing on recently published research with probation officers and trainee probation officers. It also reflects upon the literature analysing organisational change in the youth justice system and multi-agency working in children's services, as well as the author's own experience and views as a manager experiencing change and, currently, as an academic working with probation service officers (PSOs) on qualifying programmes for probation officers. Systems and structures may alter, but the process and pace of adaptation for individuals working within them is markedly slower, with resistance and reworking rather than radical overhaul, of occupational and professional identities. The article goes on to anticipate issues that might arise as the probation service and its workforce is divided across public, private and voluntary sectors.

Keywords

probation; rehabilitation; occupational identity; penal policy; corrections

The probation service is no stranger to changes in structure and remit. During its early decades it experienced relative stability despite expanding its activities, for example, into the parole system and community service (now badged as 'unpaid work'). However, the extent and pace of change since 1997 has been unremitting, as New Labour, first, created the National Probation Service (NPS) in 2001 and then later brought prisons and the probation service together within the National Offender Management Service (NOMS) (Mair and Burke, 2012). Probation services, previously relatively autonomous and linked both to the magistracy and to their local authorities, thus became Probation Areas and then, following the Offender Management Act 2007, incorporated bodies in the form of Probation Trusts (Cavadino *et al*, 2013). Alongside this, the public protection agenda, the What Works initiative, the use of technologies, and increased attention to enforcement and compliance have each impacted on the day to day routines and working lives of probation workers. So it might be assumed that probation officers, PSOs and other staff are well used to change and able to accommodate its effects. But the probation service is now facing surely the most radical overhaul in its history, as 'probation services' are contracted out for delivery across public, private and third sectors. What does this mean for those presently working in Trusts? And what differences might offenders notice as more agencies are involved in their supervision and support? This article raises questions about the essential nature of *probation supervision* and the occupational identities associated with probation, exploring their relevance within new delivery organisations and potential areas of resistance, adaptation and eclipse.

Accounts of the origins of probation and its realisation in organisational form give different emphases to its role in social justice, redemption, and control or separation of 'suspect populations' from respectable society (see Vanstone, 2004). The history of the service has frequently been described in terms of 'phases', one notable example suggesting that it moved from the missionary phase through welfare and diversion from custody phases towards more recent orientations towards punishment in the community and then public protection (Chui and Nellis, 2003). The reality of practice is less clear-cut, although changes in social and political norms certainly mean that the 'problem' of offending – and, inevitably, law-breakers – becomes framed by practitioners in different terms: 'redeemable or damned, treatable or recalcitrant, safe or risky, motivated or unmotivated' (Canton, 2011: 29). Current reference to *offender management* rather than *probation supervision* as the dominant way of describing the work of the probation service is a case in point. To what extent does this represent a real shift towards a technocratic and businesslike approach? Or does the term seek to mask the essential continuity in both human interactions between probation officers and probationers, and the normalising function (benign or otherwise) of probation?

These questions are certainly not settled. Yet, in the face of the *Transforming Rehabilitation* reforms (MoJ, 2013a: MoJ, 2013b), they become highly significant when we consider the practices and values that might transfer out of the probation service into the new Community Rehabilitation Companies (CRCs) as staff move from one to the other. They are also relevant in anticipating what motivations and values might guide this new version of the NPS, tightly focused on work with higher risk offenders and in the courts to assist sentencing and enforcement procedures. From a critical perspective, Cavadino *et al* (2013: 134) fear the 'withering away' of supervision of probationers and even question the

continued existence of the probation service. Similarly, Mair and Burke (2012: 181) look to a bleak future and fear that 'a small island of decency and humanity in the criminal justice system may be disappearing'. Elsewhere, Whitehead (2010) wonders whether reform and modernisation of the probation service have moved it so far from its original role in humanising justice that its ability to retake that role in the penal system has been damaged beyond repair.

Others are more guarded in the way they anticipate the future, and Canton (2011) in particular, stresses the importance of what the probation service continues to represent and its values, such as belief in the possibility of change and social inclusion. McNeill (2011) characterises probation as a justice agency, with key roles in advocating for probationers in relation to access to social goods that have been denied and mediating between law breakers, their communities and social institutions. This ideal view contrasts with the reality of delivering community sanctions in a tough penal climate dominated by public protection but, he argues, is critical for the long term legitimacy and credibility of probation. At this point, it is uncertain whether a doom-ridden or a phoenix-rising vision of the probation future is more likely to come about, although some hints might be gathered from empirical evidence gathered from probation officers and trainees.

The occupational cultures of probation officers have received much less attention than those of police and prison officers (Mawby and Worrall, 2013); the probation service has a less institutional structure, and its cultures and associated values are perhaps more varied and nebulous. Although for many years, probation was encompassed within the social work profession, a separate, agency-specific training programme has been available since 1998. The initial version, the Diploma in Probation Studies (DiPS) sought to combine academic studies with competence-based assessment in the workplace. The present iteration takes this a stage further by recruiting and targeting training at existing employees at PSO grade, who are expected to balance a significant operational role with their academic and workplace learning. This is a huge demand on each individual learner and it is very much to their credit that they have committed to training and stuck with it in these turbulent times. As course leader for one of the present qualifying programmes, my experience of learners is that they are highly motivated, interested in working with people and believers in personal change, although, as would be expected in a training structure linked more explicitly to the employer needs and the workplace, there is also evidence of instrumental rather than reflective learning and the 'culture of utility' noted by Millar and Burke (2012).

This resonates with the findings of Mawby and Worrall's (2013) research with existing or former probation workers, which roughly grouped them into 'lifers', 'second-careerists' (who had significant work lives or careers before joining the probation service), and 'offender managers'. This latter group had trained under the Diploma in Probation Studies arrangements, and were characterised as being predominantly female, fully conversant with administrative systems and technology, but markedly less conscious of community and social-structural conditions than the other two groups. Compared to the more vocational orientation of 'lifers' and 'second-careerists', they also took a more pragmatic view of their work-life and valued aspects of their job such as security, status and salary (bearing in mind the fieldwork for this study was conducted in 2010/11).

Yet the authors note that 'beneath the surface, however, was a principled rehabilitative approach to working with offenders and a readiness to move on if they were not allowed to work in the way that they wanted' (2013: 34). Furthermore they found that 'regardless of age or experience, our interviewees shared a belief in the worthwhileness of working with offenders in the community' and were struck by the determination of individuals in all three groups to maintain a positive sense of self-identity and, above all, to ' "make probation work" ' (2013: 40).

These continuities are also reflected in Deering's (2010a) research with DiPS trainees and in the summary of three studies presented by Annison *et al* (2008). The latter notes that, despite efforts to change the profession by removing it from social work training, the essential nature of the probation task is still 'peoplework' which demands sophisticated skills in order to respond to complex situations and individuals who may be damaged, disadvantaged or even dangerous. Mawby and Worrall (2013) further identify probation as "dirty work" of a kind that is necessary for society, but which has lost status and public trust, in particular through the service's closer links with the prison service and highly vilified groups such as sex offenders. In this context, despite the impulses towards managerialism and increased tolerance of punishment, probation continues to need – and it would seem has continued to recruit – individuals motivated and capable of engaging and showing empathy towards offenders and their capacity to make positive change; individuals who are also able to maintain a view of this work as worthy and valuable even in the face of public ignorance or even antagonism.

So there may be aspects of professional identity and core beliefs that have remained consistent (Deering, 2010b), alongside tensions and conflicts about the performance of tasks, attention to targets and dominance of risk-thinking which may vary more significantly according to the worker's experience and training background. It may be helpful to look further at the question of values and occupational cultures, an important element of which are constituted through common practices and routines, as well as expectations and organisational requirements. These have changed in dramatic fashion in the past 20 years since the initial introduction of National Standards. Practice has since been shaped by increased use of technology, structured one to one and group interventions, the norms around interagency working and more circumscribed interactions with offenders. The location of practice in large open plan offices often sited on industrial estates also impacts upon its feel and texture. Offenders are seen in offices, rarely in their homes, and there is regrettably little of the community engagement that Senior (2013) remembers from his practice in the 1970s and 1980s. Relaxation of contact requirements in the 2011 National Standards (MoJ, 2011) may have enabled probation workers to prioritise spending time on cases of greater risk, need or vulnerability, but research nevertheless still suggests that too often workload pressures result in short interviews that function as a 'checking in' rather than a meaningful intervention (see, for example, King, 2013). All of these practical and organisational arrangements affect the culture of the agency as played out in the interactions between workers and the norms that develop around routine tasks. These may conflict with the underlying values that workers hold, and it is interesting that studies involving experienced probation officers have uncovered resistance (Gregory, 2010) or creativity around the margins of practice standards and expectations (Mawby and Worrall, 2013) rather than a uniform

and mute conformity to organisational behaviours. The room allowed for professional discretion (Deering, 2010b) and the agency of probation workers (King, 2013) can thus be used to mitigate against pervasive managerialism and people-processing.

Structural changes to date have reshaped and reformed the probation service and its governance: the current proposals (MoJ, 2013a; 2013b) aim to break it apart. This means that change will not happen gradually, but over a much shorter timescale with a large portion (albeit unclear exactly how much) of the probation workload prospectively moving out of the public sector. As I write, the work of identifying which areas of work and work teams will stay in the public sector and which will transfer to the CRCs is underway. Earlier I suggested that key elements of the occupational culture of the probation service have changed progressively, with probation workers adapting to altered ways of approaching tasks and organisational arrangements. The time and space for adaption will be radically reduced in the current structural upheaval. To anticipate what might happen, it may be helpful to look closely at the reforms of the youth justice system in 2000 that literally threw professionals from different areas together and asked them to reinvent practice. Further learning may come from the attempts to integrate children's services under the *Every Child Matters* agenda (DfES) and the development of inter-professional teams there.

The experience of youth justice is instructive. In the 1990s, practice was primarily located in social services departments, with probation playing a lesser role and specific interventions being delivered by the voluntary sector or the police. The Crime and Disorder Act 1998 reforms were radical in terms of bringing youth justice work out of the established agencies and creating new inter-agency teams. This was motivated by New Labour's professed belief in 'joined-up' solutions to complex social problems, but was also an expression of the antagonism towards social work (Robinson, 2013) evident in the *No More Excuses* White Paper (Home Office, 1997) that had preceded the legislation. However, my own experience as a manager in a youth offending team (YOT) suggests practitioners in the new system did not immediately take on board the practice model promoted by the Youth Justice Board, focused on the risk factor prevention paradigm and prioritising prevention of offending. In reality, welfare concerns and the influence of social work, although under pressure, were still very much apparent in the early life of YOTs (Boden and Ellis, 2004; Field, 2007; Souhami, 2007). Indeed, on the basis of their study of a developing YOT, Burnett and Appleton (2004: 40) comment that, even in the midst of change, still 'the social work ethos is a hard nut to crack'. Souhami's (2007) ethnographic research over the first year of a YOT examined in more depth the experiences of practitioners and the way that their occupational identity was called into question. This happened both for the social workers who had formed the basis of the pre-existing youth justice team and for the practitioners from other disciplines who joined that core group, creating a crisis in meaning and security of purpose which Henderson (2013: 170) identifies as 'professional ontological insecurity'. Naturally, in these circumstances practitioners look to familiar roles, routines and shared language to bolster their sense of self, and consequently change in the norms around practice and culture tends to be gradual and perhaps uneven, prompted by new procedures, technology or the physical environment over time. Small scale research around the setting up of a Sure Start local programme (Morrow *et al*, 2005) suggests that change cannot be achieved quickly and

should take into account professional anxieties. In the context of creating multi-disciplinary teams in children's services, Anning *et al* (2010) also describe how occupational identities may be destabilised as role boundaries are blurred and tasks and responsibilities are allocated or shared in unfamiliar ways. The experience in children's services and in youth justice reveals the pain, confusion and uncertainty for individuals involved in rapid change forced by external pressures or directives.

The probation service in its present position might look closely at these experiences because they suggest that practitioners transferring to the new CRCs may retain elements of the ethos and practices of the probation service for some time, perhaps because of the understandable need for security, perhaps to shore up a sense of professional purpose. In YOTs, the change on the ground lagged behind headline policy development by some margin, so the impact of targets, computerisation, specific National Standards for youth justice and introduction of a formulaic assessment process (Asset) took some time to bite. Recent research suggests that New Labour's highly interventionist YJS has caused practitioners to take a more conditional approach to welfare interventions, valuing them for their potential impact on offending rather than as a moral good (Phoenix, 2009). Bateman (2011) also found them to be more acquiescent to enforcement and the use of custody for young people, both of which would have been anathema to a previous generation of youth justice workers. So, over a period of time new practices and practice expectations have become normalised, but there has also been a considerable turnover in staff, with many now working in the youth justice system having no knowledge or memory of youth justice before YOTs. Souhami (2009) charts the YOT trajectory, noting that YOT work, rather than being a multi-agency enterprise, is moving in the direction of assuming a professional status in its own right, with its own knowledge base, training, values and skills. Thus the shared narratives that sustain the occupational identity of YOT workers, for the majority, will no longer refer back to memories of the 'old' youth justice and the particular mixture of values and principle enacted there. CRCs may develop in a similar way. In the first instance, they will be largely populated by workers who are knowledgeable about the probation service and may still feel the grip of loyalty to their old employer. But inevitably, over time, there will be greater separation and these practitioners who remain with the CRC will forge a stronger identification, distinguishing their new roles and identities from probation through co-creating narratives with other employees from non-probation backgrounds.

This begs some questions about the future demographic of the CRC workforce and its possible heterogeneity. As they develop they may attract a mixture of practitioners and managers from diverse occupational backgrounds, and consequently potential exists for creativity or conflict in the tensions associated with bringing different groups together. However, achieving a healthy blend of skills and experience will depend on recruitment and the salaries and conditions offered, which may not be attractive to established professionals. A less optimistic scenario suggests a largely de-professionalised workforce. Most learners on the present qualifying programmes for probation officers will be retained by the NPS and, at this stage in the contracting process, it is too early to predict what training and development routes might be available within CRCs and whether these will be academically accredited or primarily competence-based. A best guess is that there will be areas of specialised practice which will receive significant training investment,

while the majority of workers will find that training is focused on their job roles and functions. However, this is not certain, and approaches may vary between, and even within, private sector organisations, as they currently do in the public sector. Predictions are further complicated by the presence of probation service mutuals amongst the possible bidders for CRC contracts, which might allow another chink of light in terms of continued commitment to staff training and development based on principled approaches and concern for individuals. Moreover, bids for CRCs will include smaller partner organisations from the voluntary and third sector (as 'supply chain partners'), which may add significantly to the variety of roles and opportunities available. These also have their independent cultures and communities of practice (Wenger, 1998), although they inevitably make some compromise and accommodation in the process of competing and contracting for statutory work (Gough, 2010).

This all points to the probable co-existence of multiple cultures within CRCs, and in the medium term, it is reasonable to suppose that they may develop according to the degrees of freedoms and flexibilities allowed. *Transforming Rehabilitation: A Strategy for Reform* (MoJ, 2013a: 13) states that:

While our providers will need to ensure that orders of the court are met and that licence conditions are enforced, we want them to have as much flexibility as possible in their approach to rehabilitating offenders. We want to put trust in the front line professionals who work with offenders and to free them from bureaucracy.

This is a laudable aim, but several tensions are apparent here. First, creativity and innovation requires resources to allow for experimentation and pilot projects, and this will be difficult for CRCs to commit when contracts are awarded in a tight fiscal climate. Second, true innovation inherently involves a degree of risk-taking which is unlikely to be welcome in the context of contracts and Payment by Results. Third, while National Standards and performance targets may be reduced, it is likely that CRCs will identify their own interim measures of performance against the broad outcome targets set in contracts. So it is by no means certain that practitioners on the ground will have permission for discretion and innovation in the way that *Transforming Rehabilitation* envisages, particularly in relation to enforcement and the interface with NPS. Finally, because new ways of delivering rehabilitation is an express intention of these reforms, no doubt CRCs will invest in showpiece projects but the question is whether there will be a determined will to take the learning from such projects into mainstream practice. So we might anticipate from this that there may be pockets of innovation and creativity in CRCs, but that they are likely to be dominated by routine practices and processing of offenders, bearing in mind that the numbers of low risk offenders currently under supervision to the probation service will be swelled once new responsibilities for short term prisoners come into force.

Part of the humanitarian ethos of the probation service has historically been acted out in its efforts to respond to the social needs of probationers and prisoners, needs such as housing, benefits and health. However, the recent focus of probation practice on cognitive behavioural interventions and risk management has effectively prioritised

developing 'human capital' over 'social capital' and practical assistance to overcome obstacles (Farrall, 2002; Farrall and Calverley, 2005). This is particularly a concern where individuals are in the early stages of desistance where motivation and capacity to change may be fragile (King, 2013). Here, the CRCs could be configured so that they offer more accessible and realistic help to probationers with the practical and social problems that they face, and the expectation that they do so is clearly signposted in the MoJ documentation, most explicitly in relation to resettlement (MoJ, 2013a). There may be issues about sheer volume of work and engagement with the communities where probationers and prisoners on release will live, but nevertheless there are grounds for cautious optimism.

Community engagement, of course, was a hallmark of the probation service for many decades (Senior, 2013). What are its prospects in the new NPS? A cursory glance suggests fairly poor, but certainly not entirely written out of the script. Concentrating on high-risk offenders necessarily means awareness of the community settings in which they live (or are specifically placed). Where individuals are subject to intensive intervention, they may be matched to volunteers or engaged with Communities of Support and Accountability. They may also be involved in restorative conferencing and community reparation activities. Naturally, this is different to community engagement with the aim of empowerment and enhancing community capacities, but some community focus nevertheless persists. If we consider also desistance-focused work which should encompass appropriate 'generative activity' (see for example, Maruna, 2001), *providing it has a will to do so*, the NPS could find itself connecting with a significant number of community and voluntary organisations on behalf of probationers and through the probationers' own efforts and engagements.

This leads us to consider what supervision of high risk offenders might look like in the new NPS. The first thing to note is that the term 'supervision' will shortly disappear as the Offender Rehabilitation Bill proposes to merge the supervision and activity requirements on the community order within one rehabilitation requirement. It must also be noted that rehabilitation as presented in the *Breaking the Cycle* White Paper (MoJ, 2010) and in *Transforming Rehabilitation* (MoJ, 2013a; MoJ, 2013b) is largely instrumental and concentrated on the aim of reducing reoffending. Interestingly, research amongst probation practitioners shows that, while they are conscious of risk in terms of re-offending, harm and public protection, they retain a concern for individuals. John Deering, for example, in his study of 51 probation workers found that:

There was little to suggest an adherence to new penalty thinking, despite the acknowledgement of the relative importance of risk and enforcement. In the main, practitioners had joined the service to offer constructive 'help' in the broadest sense to try and facilitate personal change, a reduction in personal problems and a reduction in offending, which together were seen as 'rehabilitation'. (2010: 464)

Deering's research was conducted in 2005/6 and he recognises that the tone of penal thinking since is likely to make it harder for probation workers to practice in their preferred way. On the face of it, absorption into the NPS could indeed exacerbate such

difficulties, because the focus will be so explicitly on public protection and it is a safe presumption that there will be little margin allowed for error. Already, practitioners are excessively concerned about the prospects of individuals on their caseloads committing Serious Further Offences, and this steers practice in an avowedly defensive direction. The probation service has always balanced care and control, but these changes could move it decisively further towards the control axis. Certainly control measures may be needed in cases of high potential risk, but experienced practitioners know only too well that success in managing risk and achieving change is best realised through relationships and working collaboratively with individuals. And this requires a high level of skill, professional judgement and an open, empathic approach. But what are the prospects for such an approach existing, never mind thriving, in the NPS?

Charged with public protection and, as a new agency, no doubt concerned with issues of public confidence, the NPS will clearly feel the impulse to use the powers and controls at its disposal. This could result in practice which is oppressive and impinges on rights in ways that are disproportionate or unjust. However, the practitioners retained by the NPS will be highly trained, with the majority being qualified probation officers and so, in the right environment, capable of exercising discretion, using necessary constraints conservatively and well, and adopting strength-based approaches. The 'right environment' in this instance, though, is highly contingent on the calibre of the managers who stay with the NPS, their imagination and their ability to support and stimulate responsive, research-informed practice. There are tools that might help: the Offender Engagement Project will be active in the NPS; for the time being, the existing probation officer training programmes remain in place; the nascent Probation Institute could act to bolster professional identity and standards; and the body of research and literature on desistance and desistance-focused approaches to practice is growing and provides rich material for development. Much of this relates to holistic assessment of need and attention to social circumstances, so it is essential that the NPS is confident and able to look outwards to other agencies – including, critically, the CRCs who will deliver many services and interventions on their behalf.

So there are opportunities and there is a great deal of threat associated with *Transforming Rehabilitation*. The NPS could forge a distinct identity and status, continuing the traditional probation role as a justice agency, characterised by humanity and compassion. Or it may not. The CRCs could introduce new ideas and practices, linking to communities and providing constructive help and support for individuals. Or they may do so patchily, or not at all. At this point we can only speculate - perhaps with some hunches about what may come about, but it is still guesswork and, in the time honoured phrase, only time will tell. Many of us will be waiting and watching with not a little anxiety.

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THOUGHT PIECE

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WHY CULTURAL DIFFERENCES BETWEEN SECTORS MEAN PROBATION WON'T WORK AS A COMMODITY

Samantha McGarry, Probation Officer

The scale of changes pursued by the current government is placing immense pressure on organisations in every sector, where service providers and companies are having to strive to deliver to the same standard with fewer staff and fewer resources. The proposed changes to the delivery of Probation Services in this context are particularly surprising, with preference for an untested and relatively uncoordinated use of voluntary and private sector agencies, rather than allowing the Probation Service to work with short term sentence prisoners. This means private and voluntary sector organisations would be entrusted with risk management duties at a time when investment in training and research has had to be reduced to the minimum. This is particularly problematic given the cultural differences between organisations within the public, private and voluntary sectors which could contribute to poor prioritising and risk recognition.

Research findings highlight that new and unexpected demands placed on an organisation reveal the significance of organisational culture (O'Donnell and Boyle, 2008.) In the case of public services, inherently differing approaches to delivery, whilst potentially lowering cost, can lead to reduced expectations of what will be tolerated as minimum standards. Serco's provision for the NHS in Cornwall is a prime example of achieving reduced costs yet doing so through greatly reduced staffing, leading to the typical time nurses spend with patients being reduced by half (Lawrence, 2012). There is little evidence to suggest that these innovations have led to the same or better outcomes via drastically reduced patient contact. Concerns therefore abound that differences in approach in key areas could mean that current standards on public protection and rehabilitation cannot be achieved through market competition and could weaken the intrinsic strengths they bring to partnership working.

Whilst there is no definite agreement about concepts of organisational culture, certain norms and priorities within organisations appear to guide and influence employees and managers, and ultimately service users, (see for example, McNeill *et al*, cited in Burke & Davies, 2011). The Voluntary and Community Sector (VCS) can be defined by its traditions of community spirit and support, being responsive, and adept at meeting specialist need. The private sector is very diverse, but many successful companies can be said to share characteristics such as flexibility, goal orientation, profit focus, technological innovation, performance enhancement and tried and tested solutions. In the context of partnership working, these differing approaches can complement each other, particularly when helping vulnerable and challenging people. The public sector has taken on increasing aspects of private sector methods in efforts to improve performance, for example through Continuous Improvement agendas to develop streamlined processes. However, this method sharing has not tended to travel in the opposite direction anywhere near as frequently, meaning the private sector's understanding of Probation methods and priorities is unlikely to be strong.

The government's assumption that organisations perform best with a financial incentive undervalues public sector norms and values which have helped contribute to reduced levels of serious harm (HMIP, 2013) as well as innovations such as Integrated Offender Management. Many of these norms and values can persist even when new members enter or change is imposed. The Probation Service is evidence of this, where risk management and public protection have become more clearly overriding principles, but which the Service has responded to by maintaining its social inclusion and holistic approach as one of the key methods to meet these objectives. Perhaps the reason the Probation Service has managed to integrate these risk management priorities with other approaches is the level of specialism and training involved. Kemshall and Hilder (2012) note that the Probation Service, alongside child protection services, is the most specialised at risk assessment, where "Notions around risk have become centrally organising principles." Consequently, public protection priorities have come to influence everything the service does.

The private and voluntary sectors lack this level of familiarity with this type of risk management, which impacts on how they approach associated tasks. A recent assessment on voluntary sector involvement in the criminal justice system found 'interviewees from both sectors identified several issues around how the VCS managed risk' (Wong *et al.*, 2012: ii). The VCS itself has actively highlighted the need for significant training input to resolve this gap (see, for example, The Third Sector Research Centre, 2013:10).

Private industry appears to have differing concerns. The CBI response to the Transforming Rehabilitation consultation, whilst highlighting knowledge gaps that 'it will take the market time to learn what works' (CBI, 2013: 3), also emphasised profitability and freedom of operation are equal to risk management, "Providers recognise...there's a minimum standard that must be met...this shouldn't manifest itself as an obstacle to providers in reducing costs and increasing outcomes" (CBI, 2013: 3). The pressure to maintain low costs could consequently encourage a minimalist approach to training and knowledge building. It would be a considerable shift to begin recognising the wider

community and the government as their equal customer alongside clients and shareholders.

Where risks appear to be increasing, the Community Rehabilitation Company (CRC) would be responsible for referring the case back to the Probation Service to reassess risk. However, the ability to recognise sometimes subtle changes suggesting an escalation in risk itself assumes an expertise in risk assessment. As the CRC would only ever be working with low to medium risk offenders, it would be much more difficult to recognise such changes, particularly where those indicators are subtle, as can often be the case with domestic violence perpetrators, for example. This would become particularly problematic if the pressure for reduced costs results in fewer staff, reduced training, and increased caseloads.

Differences in approach to risk management are further evident from the experience of privatised prisons. A recent study, (Panchamia, 2012) noted that the public prisons are most effective at maintaining safety, order and security, whilst private prisons are better at relationship building. Arguably, this suggests a public sector element is preferable when public safety questions are complicated.

All these pressures could lead to focussing resources on short-term 'easy wins', rather than those with complex needs. Social Finance's update on the Social Impact Bond project in Peterborough for example commented that offenders with problems in Attitudes Thinking and Behaviour would either be given 'basic guidance' or referred to Mental Health Services (Social Finance, 2012:10). This would leave a tremendous gap for those without a diagnosed mental health problem who nonetheless need considerable intervention around anger management, self-control and so forth. For the VCS, in the meantime, the requirement to achieve a particular level of reduced offending which is imperative in this context of PbR could be problematic for those agencies accustomed to working on qualitative rather than quantitative outcomes. Both would need to rapidly develop matching skills and working relationships to meet the same standards as provided by Probation.

There are also concerns that these untested changes could actually weaken service delivery. Voluntary and private sectors primarily work on the basis of the willing participation of the individual, and the prioritising of client need. The Social Impact Bond in Peterborough with St Giles Trust, the only pilot established by the government to date, is a self-selecting project, and consequently likely to be accessed by those who are already motivated, literate and engaging with support. Service users expect client-centred support, with specialist intervention, for example housing, or employment. Feedback from the project highlights that offenders like the non-enforcement approach involved. It is consequently a particular kind of support that has the potential to be part of a holistic approach. If, however, such organisations are awarded CRC status, a significant change in approach would be necessary, focussing as much on risk and compliance as on support and rehabilitation. This could impact on offenders' perceptions of the nature of the support offered, and potentially on their engagement. For the same reasons, employees may feel reluctant to develop this compulsory approach.

Service user perceptions and expectations could be further affected by the reduced visibility of Probation. It is of note that in Holland, where the voluntary sector is heavily involved in supervision processes, only 33% of Probation Officers thought service users regarded their service as part of the criminal justice system, (van Kalmthout & Durnescu, 2010: 4). If such attitudes became commonplace in Britain, this could impact adversely on responsibility taking and victim empathy, with potential disinclination by the offender to discuss offence related issues unless and until the relevant agencies become accustomed to fully addressing internal factors as well as external ones.

It is also important to note that the role of voluntary and private sector agencies abroad almost always involves a close working relationship with the National Probation Service. The Salvation Army in Holland mentioned above has long been established alongside the National Probation Service, mental health agencies and substance misuse services, (van Kalmthout & Durnescu, 2010: 35). A long established culture of a sole voluntary agency, with clear inter-agency working means there is a consistent co-ordinated approach to service delivery. This contrasts with proposals for 21 disparate CRCs across the country.

Overall, there are significant differences in approach and values between public, voluntary and private organisations. The idea of transferring Probation Services to the voluntary and private sectors expects not just a step change, but a rapid re-prioritising which would require a significant cultural shift. Dismantling established and trusted partnership working could jeopardise holistic approaches to supporting offenders. Right now, agencies such as the St Giles Trust are effective because of inter-agency working, with specialist interventions delivered and co-ordinated by the Probation Service, ensuring a long-term, rounded intervention. It is a falsehood to imagine a century's worth of risk management and rehabilitative expertise could be instantaneously handed over to twenty-one different hopefuls without the potential for some serious ramifications.

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PRACTICE VALUES VERSUS CONTRACT VALUES: THE IMPORTANCE OF A CULTURE OF REFLECTIVE PRACTICE

Becky Clarke, Head of Research & Policy, Greater Manchester Probation Trust

I joined the Probation Service relatively early in my career. I had worked as a researcher on a number of prison-based projects and then took up a temporary post as a Research Assistant in Greater Manchester Probation Area, joining a recently established research team. Twelve years later and I'm still here, just.

A culture of reflective practice

What I remember most about my early months in the service was the extent to which practice staff of all grades were engaging with research and evidence. This took me by surprise. There were all sorts of opportunities to be drawn into thoughtful debate about the work staff were doing, the 'position' of their clients in society, the local community context, and how they could examine the positive impact of their work. This could be in a formal meeting or in a staff room, or over coffee on a training day. I came to learn that this was a defining feature of the Probation Service – a commitment to reflective practice.

Some examples of the reflective practitioner are very visible, they are collective and marked by a process of piloting a new approach or intervention. Many of these have been documented in the research and evaluation undertaken within our organisation, or by academic institutions: for example, the development of a women's programme and wider network of women's centres, or an alternative to custody for young men (Clarke, 2004; Clarke *et al*, 2012). In many such examples, the innovation and reflective approach has been engendered in partnership with staff from other organisations and sectors. However, there is also 'one to one' practice - the day to day decision making about how to balance

the task of risk management with work to support 'rehabilitation' - decisions to enforce the order of the court with a desire to motivate and engage the individual. This practice is underpinned by a value base, one which is conducive to reflection upon how we should respond to particular groups or individuals on probation.

In reality, things have been continually changing over the last decade – the impact of 'new managerialism' on Probation and other public sector organisations has been well documented (Burke and Collett, 2010). The consequence has been that these qualities have not been valued as they once were. There are of course practitioners who continue to 'flex' their reflective muscles and drive pockets of innovation. However, on the whole staff of all grades have struggled to retain this characteristic to their work. Time previously spent engaging with evidence to inform their practice, or in collective efforts such as 'cross grade working groups', has in recent years been spent learning manuals and attending training on prescribed tools or processes (such as the Offender Assessment System or the National Offender Management Model). The existence of libraries and / or research teams within Probation Areas was another signifier of the commitment of the service to reflective practice. These have also all but disappeared in recent years.

Only very recently with the potential for increased professional judgement and an exploration of the potential format and content of 'activity requirements', has there been some attempt to return to a culture of reflective practice. Similarly, we have recently seen national policy and evidence follow that of local 'bottom up' approaches, picking up on the evidence from literature on desistance from crime (McNeill, 2006; McNeill and Weaver, 2012). Unfortunately, it may be too little too late.

Reflective practice in the context of Transforming Rehabilitation - rhetoric versus reality

Whilst the government's rhetoric would suggest that the Transforming Rehabilitation (TR) agenda will allow greater freedoms for staff to discover and 'do' 'what works', the reality is that the TR programme may catapult us back in the previous direction. In other words to the end of a spectrum that places the main emphasis on the process - the 'leanest' process delivered by the cheapest staff. I have read with interest a number of documents issued by MOJ and NOMs recently which reflect a series of disconnected messages regarding the practice culture of the future organisations.

NOMs as the commissioners in TR explicitly state in their '*Evidence and Segmentation*' document (recently published to influence the content of future bids and contracts), that interventions and offender management are more effective at reducing reoffending if attention is paid to the quality of delivery, indicating a recognition of the importance of properly trained and supported staff.

Although a focus on quality may make an intervention more expensive, paying attention to quality improves effectiveness and therefore, overall value for money' (NOMS, 2013b; p.13)

However, in its 'companion document' *NOMS Commissioning Intentions from 2014* there is clear recognition that the key driver of future service delivery will be achieving significant savings.

Unit costs across all sectors will be reduced by implementing the most efficient delivery models making effective use of the market and using 'payment by results'. (NOMS, 2013a; p.8)

Here in lies the first challenge for the rhetoric becoming reality. We know that the new providers will be supervising approximately 10% more individuals (on 12 month post release supervision), with an anticipated 30% cut in existing funding. This statement of intent is furthered in the '*Payment Mechanism Straw Man*' (MOJ, 2013) document through the contract principle of the 'learning curve discount', which will see the funding of the contracts reduce year on year due to anticipated efficiency savings.

There is no acknowledgement, let alone detail, from NOMs or the MOJ regarding how these competing intentions will be achieved. How will the new providers achieve more for less, AND deliver quality services? Is there some magic solution that the Probation Service, and for that matter other public sector organisations, have failed to discover? In order to drive the ongoing savings, will the providers (like the Probation Service of recent years) have to rely on the same old 'new managerialist' top down efficiency led approaches in order to ensure quick financial gains, whilst managing the risks of the occurrence of high profile failures. As we have seen in the last decade of the Probation service, if this is the case then it will further undermine any ability for staff to use professional judgement, creativity and innovation.

To what extent will new providers engage staff, listen to them and create the space to implement their ideas? Bearing in mind that the new Community Rehabilitation Companies (CRCs) will be working under continually reducing budgets, how will they establish a culture where creative thinking and reflective practice can inform delivering a service that better understands the individual and supports their efforts to rebuild their life post prison?

I fear that a focus on efficiency and ultimately more robust processes will lead to a furthering of defensive practice, defined by an increase in swift enforcement for those 'too difficult' to work with and the consequences of this – greater use of prison, and increased reoffending. In order for practitioners to be reflective they need increased time, in some cases reduced caseloads, and good support, which similarly may mean lower manager to staff ratios. So while NOMs acknowledge that a focus on quality and responsivity has been demonstrated to be 'cost effective' in broader terms – whether that be preventing further crimes, preventing use of prison and the damage it wreaks on individuals, families and communities, preventing the demands on other local services - these savings become devoid of any relevance in a structure where 'fee for service' and narrow Payment by Results mechanisms are the contract drivers.

Ironically, it is likely that a Payment by Results mechanism, delivered in the way currently being proposed in the *Payment Mechanism Straw Man* document, will lead to new

providers being risk averse, thus reducing the opportunity for staff to be innovative. If profit making companies are going to invest beyond the specifics of the contract they will want to be confident about the return on their investment. Will they ride the rollercoaster of attempting to identify the ever illusive 'what works?', with its inevitable loops of 'failure', inherent in the process of learning through innovation (Berman & Fox, 2012). Even the MOJ's most recent review of evidence - *Transforming Rehabilitation: a summary of evidence on reducing reoffending* (MOJ, 2013), a process which scoured the international sources for the holy grail of 'gold standard' evidence, concludes that many approaches don't have the 'robust' evidence required to draw conclusive results about impacts upon reoffending outcomes. The latter currently viewed as the only outcome that 'counts' in terms of the contract incentivisation.

In this context even the 'ethical' CRCs, such as the strong staff Mutuals under development, will struggle against the pressure to 'cherry pick'. Targeting their resources on those service users where they can be more confident to achieve the measured outcome. A commercial and market approach will inevitably incentivise this perverse behaviour, as has been demonstrated through the Work Programme. The consequences will be the parking of those individuals with the highest 'criminogenic needs', the most marginalised. In the Payment by Results context they will receive the most basic service, and when they do not engage will spiral in the system, becoming further criminalised, and marginalised from family and from housing or employment opportunities.

An alternative future of imagination, integration and reflective practice

The best results come when we are challenged to use our imagination – consider what can be achieved when we understand the individual's behaviour and their position in the context of place, time and social structures. This is where the reflective practitioner comes alive. Delivering the order of the court is of course critical, yet the reflective practitioner is able to do this whilst recognising that they – as representatives of the justice system - are part of the structure that is critical to the position of the individual. Hence effective approaches generally mean working in partnership beyond the confines of the criminal justice system, supporting the individual to move away from the CJS agencies, into a secure home, employment, and supportive relationships. Again, NOMs as the commissioners in TR, acknowledge the value of 'integration of service delivery' (NOMS, 2013a; p.10). However, weaving this often local agenda into national contracts is proving problematic and no detail has been reflected regarding *how* this will be achieved.

A common finding from the many criminal justice evaluations I have been involved in (often difficult to articulate in a context where we are searching for the 'what') was the significance of the 'who'. A 'good' programme can go 'bad' in the wrong hands, and similarly a blunt intervention can fly if the practitioner can use their skill to wield it in a responsive manner. I wonder for example if this is the current appeal of mentoring, and particularly peer mentoring. No doubt the ability to perceive the experiences and position of the service user are critical to the success of any practitioner, be it a peer mentor or CJ practitioner.

Yet however we 'badge' those staff tasked with supporting desistance from crime, the TR programme doesn't hold much promise for a culture where staff are appreciated for their values and given the tools, space and support to be reflective practitioners. In a world where policy flies in the face of evidence, and the only hope for innovation in service delivery is a narrow Payment by Results mechanism, any suggestion that 'reflective practice' can be retained post Transforming Rehabilitation is at best pretence, at worst a dangerous illusion.

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THOUGHT PIECE

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WORKING WITH OFFENDERS: SOMEONE HAS TO DO IT ...BUT NOT JUST ANYONE CAN

Rob C. Mawby, Reader in Criminology, University of Leicester and Anne Worrall, Professor of Criminology at Keele University and Honorary Professorial Fellow at the University of Western Australia

In our book *Doing Probation Work: Identity in a criminal justice occupation*, (published in February 2013), we ended the final chapter saying that in overseeing the supervision of offenders:

It would be courageous for both NOMS and the government to respect that this work inevitably involves a willingness to work holistically and optimistically, though not naively, with uncertainty, ambivalence and (to a degree) failure. **Someone has to do it** (Mawby and Worrall 2013: 154, emphasis added).

In the context of the Government's Transforming Rehabilitation proposals, we subsequently wished we had added to the assertion that 'someone has to do it', the qualification that **not just anyone can**. This reflected our analysis at the culmination of a research project which involved interviewing 60 current and former probation workers during 2010 and 2011 about their lives in probation. We had embarked on the research into occupational cultures at a time of uncertainty for the Probation Service and within a general mood of despondency among informed commentators such as Mair and Burke who argued that the Service had 'lost its roots, its traditions, its culture, its professionalism' (2012: 192). Our research challenged this view and its narrative of decline by suggesting that while working under pressurised circumstances in a much changed world, probation workers retained a strong sense of all these things. They could do what was required of them under the framework of NOMS – they could be competent offender

managers – while constructing identities that allowed them to believe that they were still part of what one interviewee described as an ‘honourable profession’.

The primary goal of our research had been to investigate and analyse the characteristics of probation workers as a group of criminal justice practitioners and professionals previously overlooked in the literature on occupational cultures. Our findings concluded that contemporary occupational cultures in probation work are positive and supportive of innovative, flexible and creative work with offenders in the interests of public protection. Having undertaken this research we have a particular interest in the consequences of the Government’s Transforming Rehabilitation proposals for probation workers’ occupational cultures and identity.

As an analytical device to examine identity we constructed three ideal types in order to draw out differences and similarities and to explain some of the complexity of probation cultures. Each of our 60 interviewees was situated within one of the three types. First there was the ‘the Lifer’ – predominantly over 40 years of age who had spent most of their working lives with the Probation Service. With a Postgraduate CQSW, they had a structural understanding of society, a social work approach to individuals and believed in the importance of the relationship between probation worker and probationer. Secondly, there was ‘the Second Careerist’ whose defining characteristic was that they had forged a previous career in an unrelated, or marginally related, occupation. Some had studied as mature students, they wanted to make a difference and use their transferable people skills from previous careers. They also believed in the importance of the ‘relationship’. Thirdly, there was ‘the Offender Manager’, predominantly under 40 years of age who had joined the Probation Service in the past 15 years. Their most common characteristic was that they had been trained through the *Diploma in Probation Studies* route (i.e. since the late 1990s). They had a public protection ethos with little investment in social work culture. Consequently, they exhibited some ambivalence about the ‘relationship’.

Each ideal type of worker has something important and irreplaceable to contribute to probation work: for example, the idealism, vocationalism and intellectualism of the Lifer; the life experiences, transferable skills and commitment to ‘making a difference’ of the Second Careerist; the victim empathy, concern for public protection and willingness to challenge offending behaviour of the Offender Manager. Taken together, these are the characteristics of the ‘perfect’ probation worker. On the basis of our sample, each type of worker was well represented in the Service at the time of the research. Unsurprisingly, we would argue that such proportions need to continue if the service is to maintain its unique contribution to criminal justice. While our interviewees may have zig-zagged into their careers as probation workers it is no accident that this is where they landed and built, or were building, meaningful careers. They were bound by common values, including a desire to ‘make a difference’, a conviction that people can change and a belief in the worth of working directly with individuals to effect change, and the Probation Service offered them work that could be creative, fulfilling and surprisingly action-oriented. The extent to which this will hold under the Transforming Rehabilitation proposals is by no means clear.

Whether fresh recruits in the image of these ideal types will be attracted to the new framework is open to debate, as is the question of how and if existing workers will adapt

and thrive. At first glance it is a mixed picture. The proposed arrangements are dependent upon cooperation between a complex range of organisations at strategic and operational levels. Probation workers in recent decades have been especially adept at working collaboratively, including with organisations like police services which have hitherto been regarded with suspicion and distrust. As such, probation workers have become accustomed to 'holding the ring', facilitating the operation of criminal justice processes by their ability to combine with partners and promote effective inter-agency working. The skills developed in this area will be essential in their new role as overseers of the private and voluntary service providers.

The Transforming Rehabilitation proposals also recognise the professionalism of the Probation Service and emphasise the importance of maintaining this professionalism as the Service will occupy a vital and significant role in the transfer to, and the effective operation of the new arrangements. Our research identified pride in their professionalism as one core strand running through probation cultures. During times of organisational change and turbulent operating conditions, probation cultures have been important in maintaining professional standards. However, and on the other hand, these cultural characteristics could be lost under the new proposals; a contradiction exists within the proposals in that they acknowledge the professionalism and yet threaten to fragment and dissipate it through structural reorganisation, role change and the introduction of a competitive market for offender management. Lifers may decide either that this is an opportunity for further creativity (for example, by upgrading offenders' risk statuses in order to hang on to them) or alternatively is a battle too far and it is time to throw in the towel. Second Careerists have already experienced change in their working lives and may rise to the next challenge holding on to their belief in the enduring social welfare heart of probation work. Offender Managers have experienced nothing but change since they joined the Service. They will see the difficulties of reduced budgets and market-driven futures, but will remain pragmatic. There will be chances for promotion, they are good on self-management and, if things don't work out, they can move on.

In conclusion, it is but one irony that the Government's proposals champion the worth and value of the Probation Service and yet threaten to undermine its core strengths through the proposed reforms. As one of our interviewees observed, probation work 'is rocket science' and our research evidences that it is supported through the existence of positive occupational cultures. It is a profession requiring extended training to achieve the necessary knowledge, skills, experience and values to work with offenders. We would urge policymakers to encourage and draw on these existing strengths for the benefit of probationers and wider society, and for the future effectiveness of offender management – *not just anyone can do it.*

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STILL WORKING WITH INVOLUNTARY CLIENTS

Jane Dominey, PhD candidate at the Institute of Criminology, University of Cambridge and former Probation Officer and lecturer in Probation Studies

The Government's reform plans for the Probation Service perplex, confuse and anger me. On occasions I find myself trying to explain the changes to people who, whilst knowledgeable about criminal justice, know little of probation practice or the position in England and Wales. This experience tends to highlight both the peculiar and the political nature of the Transforming Rehabilitation (TR) project. Yes, I find myself confirming, I did say that the existing Probation Service will be split between two different organisations who will arrange to buy interventions from each other. Yes, I did say that the re-offending rate of short sentenced prisoners is one of the official explanations for the abolition of Probation Trusts despite the fact that such prisoners are not currently supervised on release. Yes, I did say that existing Probation Trusts are not allowed to bid for the contracts to run the new Community Rehabilitation Companies (CRCs) and that CRCs are not required to employ qualified offender managers.

I am currently researching the experience of probation supervision in the context of the increased involvement of voluntary organisations and private companies in offender management. In the last year I have been undertaking fieldwork talking to supervisees and supervisors. Everyone in my sample of supervisees is assessed as low or medium risk of causing serious harm and subject to a community order. In the new world of TR they, and their difficulties with – for example – drugs, mental health, domestic violence, poverty and disability, will be the responsibility of the CRCs. In interview we have talked about the different contributions to community orders made by a variety of providers and a range of workers. Supervisees have explained what they make of these contrasting inputs and how they see the role of their probation offender manager. Supervisors have spoken of what, from their perspective, makes for good practice. A number of, sometimes familiar, community justice themes are easy to identify from the interviews: these include the

balance between help and punishment, the importance of relationships and communication and the dynamics of compliance. Working with involuntary clients is another key theme and one that, in the context of the TR proposals, I find particularly interesting.

‘Working with Involuntary Clients’ is the title of a book by Chris Trotter published in 1999. After introducing involuntary clients as those service users who ‘have not chosen to receive the services they are being given’ and, indeed, ‘might believe that it is unnecessary and intrusive’ (Trotter 1999 p2), the book goes on to consider the empirical evidence for effective intervention with this group and then provides straightforward practice guidance in role clarification, pro-social modelling, problem solving and relationship building. The message of the book made sense to practitioners and influenced the content of training programmes and ideas about good practice.

The notion of being an involuntary client or supervising involuntary clients is a common theme in my research interviews. Supervisees accept that community sanctions bring expectations and requirements but speak positively of supervisors who are worth making the effort to see and flexible in their approach to running the order. Probation supervisors are described as doing their job and checking up on behaviour, but in ways that are encouraging and supportive.

Probation supervisors in my sample often argue that a distinctive aspect of probation practice is the necessity to keep delivering a service for the length of the order. Probation is perceived as the organisation that must persevere, cannot give up and has to find some ground on which to build a supervisory relationship. Many of the examples given about how to do this in practice come straight from the pages of Trotter (1999). Providing help and support within the constraints of a time-limited and court-ordered professional relationship is a skilful undertaking. It’s been the core business of the Probation Service for many years. Will it simply transfer across to be the core business of the CRCs?

CRCs inherit the offender management and supervision responsibility for all existing low and medium risk offenders, but also are charged with the new task of supervising those released from short (under 12 month) prison sentences. These supervisees strike me as involuntary clients par excellence. Having served a few weeks in prison, they find themselves faced with 12 months supervision in the community. CRCs have to find a way of delivering this supervision as new-born organisations operating in a climate of financial austerity.

Do I underestimate some of the grounds for optimism? CRCs will, initially at least, employ experienced probation staff operating within a probation culture. Maybe the prime providers who buy the CRCs will bring innovative ideas from the voluntary sector as part of their supply chain. Perhaps it is unimaginative of me to assume that a rise in workload combined with a decrease in funding must mean the provision of an impoverished service.

For good reason, much of the concern about the TR proposals has been about risk assessment and risk management and the challenges faced by the new NPS. As a consequence of my research, I am also exercised by the quality of the practice that can be

expected from CRCs. The Probation Service has developed a distinctive ability to work effectively with people who are ambivalent about change and not always easy to engage. CRCs will need to find a way of maintaining this strength of probation practice. Maintaining the skills, knowledge and values of CRC practitioners seems an important starting point: maybe everyone should be encouraged to (re)read 'Working with Involuntary Clients'?

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PUBLIC PROTECTION? THE IMPLICATIONS OF GRAYLING'S 'TRANSFORMING REHABILITATION' AGENDA ON THE SAFETY OF WOMEN AND CHILDREN

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Abstract

The Coalition Government's new Transforming Rehabilitation (TR) agenda jeopardises the work undertaken with perpetrators of domestic abuse by highly skilled, qualified probation staff. Under new changes outlined by Grayling, Lord Chancellor and Secretary of State for Justice, probation clients who are assessed as posing a medium/low risk of causing harm will be assigned to private sector/voluntary organisations rather than come under the remit of the National Probation Service. This article argues that victims of domestic abuse, primarily women and children, will be placed at an increased risk of harm given this latest TR strategy. The majority of domestic abuse cases will be assessed as posing a medium risk of causing harm and will receive lower levels of intervention by a variety of disparate agencies and organisations. The Ministry of Justice states that the National Probation Service will directly manage offenders who pose a high risk of serious harm to the public, this article will argue that all perpetrators of domestic abuse should be considered as an important exception to this stance, and should remain under the auspices of Probation supervision, irrespective of statistical risk assessment, as has sex offender case management and sex offender treatment programme delivery.

Keywords

Domestic abuse, Transforming Rehabilitation, risk, perpetrator interventions, probation, protection, women and children

Domestic abuse and the need to protect women and children

This article explores the impact of the Ministry of Justice's Transforming Rehabilitation (TR) agenda in terms of looking at the potential increase in risk to women and children as a result of the transfer of domestic abuse perpetrator cases from Probation Trusts to a variety of private/voluntary organisations. Consideration is given to the difficulties of risk assessment of domestic abuse cases, and the methodology of intervention with court mandated domestic abuse perpetrators in the UK. The majority of domestic abuse cases will be assessed as posing a medium risk of causing harm and under TR and will receive lower levels of intervention by potentially unqualified and inexperienced staff, who will case manage, undertake programme intervention and enforce court mandated sanctions. This article will recommend that all domestic violence cases, or cases where domestic abuse has been a risk factor previously, should remain under the auspices of probation intervention and probation case managed supervision. This is essential to minimise risk and to reduce harm to the public, primarily women and children.

Although this article concentrates on male abuse of women, it is acknowledged that domestic abuse can occur within relationships encompassing all genders, ethnicities, age groups, those experiencing disabilities, across cultural, religious, economic and geographical boundaries (Jewkes, 2002; Walby and Allen, 2004). The work of criminal justice agencies in the UK predominantly looks at male abuse of female victims since most abusive individuals processed through the court system are men.

Domestic abuse is one of the most insidious of all issues within society, making its devastating impact, either directly or indirectly, on significant numbers of the population. There has been ample evaluative research confirming that one in four women experience abuse at some point in their lives (Morley and Mullender, 1994). Domestic abuse accounts for some fifteen per cent of all reported incidents of violence in the UK (Kershaw and Walker, 2007). The impact of domestic abuse on victims and survivors is enormous. Victims experience a huge range of negative outcomes and harm, including all levels of physical injury, psychological harm, emotional damage and, domestic abuse can have a significant impact on that person's ability to be an effective parent, to connect with friends/family or to engage in self-care and employment. Abusive behaviour has what is described as a 'radiating impact,' on the victim themselves, on their children, on family members, friends, colleagues and everyone connected with that person (Riger *et al.*, 2002; Hester *et al.*, 2007; Wood *et al.*, 2011). Domestic abuse is a whole family issue, impacting on the most vulnerable within a family unit, children. Research is unequivocal in showing us that children are greatly affected by directly experiencing domestic abuse, but also indirectly experiencing it by witnessing such abuse within their home environment. Moreover, there is a recognised overlap between domestic abuse and child sexual abuse (Humphries and Mullender, 2000; Mullender *et al.*, 2002; Hester *et al.*, 2007). Children who are sexually abused are, in the main, abused by someone who knows them and this is more often than not within a domestically abusive home environment.

75% of all UK children on child protection registers are affected by domestic violence. Children experience physical injury and sexual abuse, and witnessing domestic violence is emotionally abusive resulting in

psychological trauma, anger, fear, insecurity and guilt. In 40-66% of domestic violence cases, the same violent man is directly abusing the children.' (Edleson, 1999)

The vast majority of individuals who use abusive behaviour to control and dominate within intimate relationships are heterosexual men. Domestic violence amounting to a quarter of all violent crime within the UK (Mirlees-Black *et al.*, 1998), remains primarily a gendered crime (Straton, 1994 and Walby and Allen, 2004), and this assertion is consistently reinforced by findings from the British Crime Surveys of 1995-2007. The current Coalition Government are very aware of these issues, in 2010 the Right Honourable Teresa May issued a press release from the government stating that there were over a million female victims of domestic abuse annually (May, 2010). In 2013, ACPO lead on domestic abuse, Chief Constable Carmel Napier said:

“On average two women a week and one man every seventeen days are murdered by their current or former partner. Around one in four women and one in six men will experience domestic abuse in their lifetime, and according to the 2010/11 British Crime Survey five per cent of men and seven per cent of women experienced domestic abuse in the past year. The same survey also found that women between 16-24 years of age and men aged 16-34 were more likely to suffer relationship abuse than any other age range. (Napier C, 2012)

Most murders in the UK occur tragically within the victim's home, most of these involve men killing their wives and female partners; or parents/guardians killing their children, domestic abuse nearly always lies behind such tragedies (Wilson, 2012). We have seen this recently in a multitude of high profile cases, the angry, embittered, distorted thinking of a man is frequently behind such tragedies; a desperate way of gaining power and control and of a punitive attempt to get back at his partner or ex-partner, resulting in a retributive punishment of ultimate control.

Risk assessment of Court mandated Domestic Abuse Perpetrators
Under the provisions of the TR agenda, the initial risk assessment of cases will be undertaken by the National Probation Service, using a newly designed risk assessment tool (pending completion). The new tool will serve to restrict cases being re-evaluated as moving dynamically between risk categories, with most cases being assessed as being of medium or low risk, according to Grayling (Ministry of Justice, 2013: 21). In terms of current statistical risk assessment tools utilised by probation, perpetrators of domestic abuse are frequently assessed as posing a medium risk of harm. The difference between a client posing a medium risk or high risk of causing harm is considered in terms of an assessment of imminency. That is, whether the significant harm identified is likely to take place immediately. If this is thought to be the case, the risk assessment will be high. If the imminency of harm is not thought to be immediate, then the risk of harm will be assessed as being at a medium level. Many offenders perpetrating domestic abuse will be assessed as posing a medium risk of causing harm to their (ex) partner or to a future partner. The fact that significant harm will take place if the perpetrator re-offends is

generally not disputed given the emotional/psychological harm caused, as well as the index offence, usually containing physical or sexual assault.

However, there is a potential issue in terms of accurate risk assessment of re-offending when looking at domestic abuse cases. We know that victims of domestic abuse suffer many times prior to having the courage to make their experiences known to others, sometimes over periods of years, and even if they do disclose to those closest to them, they are even less likely to report the abuse to police or to other agencies (Hester, 2009). Therefore, this logically results in far fewer incidences of domestic abuse being formally reported and recorded. Without convictions or cautions recorded against the perpetrator's record, the statistical assessments carried out by probation show a significantly lower risk of re-offending and potentially, if all information is not gathered at the risk assessment stage, can indicate a lower risk of harm than is actually posed. It is widely recognised that criminal justice involvement occurs in only a minority of domestic abuse cases (Hester, 2006; Hester and Westmarland, 2007; Westmarland and Hester, 2007). Although the publicity of domestic abuse within the media has highlighted the issue of domestic abuse in the UK, and has encouraged more confidence in reporting, this issue continues to take place privately and without accurate recording of the levels of abuse. This demonstrates the difficulty in attempting any accuracy in terms of measuring risk of abusive behaviours when occurring within a domestic setting.

Tragically, there have been many such cases that have resulted in disaster in terms of managing a medium/low risk case where domestic abuse is known to be a factor in current or in previous offending behaviour. One example; Claire O'Connor was killed by her partner in the early hours of 1st January 2012 in Warwickshire. Mr Mann, who had previously domestically abused Ms O'Connor, hid her body in the boot of her own car until admitting the crime the following day. He was, at the time of killing his partner, under the supervision of probation and was not assessed as posing a high risk of harm (Gibbons, D, 2013). This is one of many cases where a woman has been killed at the hands of someone not thought to pose a high risk of harm.

Working with domestic violence perpetrators in the community, by probation partnerships or by voluntary/charity organisations.

In responding to domestic violence and its impact, perpetrator intervention emerged in the UK in the late 1980s and since 2000, court-mandated men have been referred into criminal justice system perpetrator programmes run by probation (Bowen, 2011). Domestic violence perpetrator programmes were developed in the UK, imported primarily from American feminist models, that looked to work with evidence-based approaches to criminal justice intervention and connected with the 'What Works' agenda in the UK. Well established programmes such as the Integrated Domestic Abuse Programme (IDAP) are now a firm part of probation intervention. Probation Trusts within England and Wales have gone on to develop effective partnership initiatives to address crime, including domestic abuse, and have encouraged new approaches, innovation and joint working protocols. An example is Northumbria Probation Trust's 'Solo project,' winner of a 2012 Howard League for Penal Reform Community Programme Award. This project works with perpetrators of domestic violence so as to ensure greater safety for women and children

(Howard League, 2012). Solo is a one to one perpetrator programme, delivered as part of a Community Order, Suspended Sentence Order or as part of Licence Conditions on release from prison. Specially trained probation staff work with perpetrators to deliver the initiative. This project is delivered within a multi-agency, risk management framework and is essential in any probation delivered intervention. Perpetrators undertaking the course are flagged on police systems and information sharing protocols are in place to ensure that any police call outs or arrest information is shared with the Probation Offender Manager (Northumbria Probation Trust, 2012). Solo is supported by a Women's Safety Worker, where contact and support is offered to the partner or ex-partner of the participating perpetrators. In this instance, this service is provided by Barnardo's on behalf of Northumbria Probation Trust.

Probation have routinely involved partner agencies with regard to providing support/integrated aspects of working with perpetrators of domestic abuse. Joint working is not a new concept to probation, neither is working in innovative ways with other agencies. Partners can be from voluntary agencies, charities or local specialist groups. A strength of probation involvement is the level of information sharing protocols firmly in place with both statutory and private agencies/organisations. Additionally, probation involvement has the benefits of robust case management systems that are not restricted by funding constraints and are integrated firmly within the Multi-Agency Risk Assessment Conference (MARAC) involvement. During a fringe meeting at the recent National Association of Probation Officers (NAPO) Annual General Meeting in Llandudno 2013, probation staff discussing domestic abuse spoke of how often probation was the only agency attending MARAC who represented both the perpetrator and victim, the only agency with a thorough perspective from both parties within the abusive relationship. Staff spoke about the value of this in terms of information sharing and effecting evidence led risk management (Napo AGM, 2013). This may be diminished if the work with domestic abuse is fragmented and disbursed throughout a variety of organisations nationally.

Group work programme approaches are methods of intervention with abusive men to address abusive behaviours (Respect, 2000). However, as Moran notes, 'Domestic violence perpetrator programmes remain a controversial and often contested form of intervention as far as responses to men's violence against women is concerned.' (Morran, 2011: 23). A perpetrator programme is a programme of group work sessions designed to assist men to stop being violent and abusive, to help them to learn to relate to their partners using respect and equality. An accredited programme is a programme that is evidence based and congruent with the "What Works" literature and is accredited by the Correctional Services Accreditation Panel (CSAP) which is tasked with assessing programmes for accreditation and promoting standards for the quality of delivery. Probation staff have, to date, worked with perpetrators of domestic abuse primarily using an 'accredited programme' approach coupled with experienced case management by qualified probation staff. Innovative approaches are still being trialled and evaluated within probation areas, using a variety of accredited programmes, one to one projects, and with intensive case management to motivate, reinforce and develop abusive men in their efforts to make positive attitude and behavioural change.

In 2010 the Ministry of Justice, National Offender Management Service (NOMS) published information regarding 'What Works with Domestic Violence Offenders?' (Ministry of Justice, 2010). NOMS felt that programmes should be accredited by CSAP and be designed to follow "What Works" principles. Three offending behaviour programmes for perpetrators were accredited by CSAP, these were the Integrated Domestic Abuse Programme (IDAP), Community Domestic Violence Programme (CDVP) and the prison based Healthy Relationships Programme (HRP). All programmes were integrated in design, including a strong multi agency approach, with multi agency risk assessments, and support for the female partner by way of a Women's Safety Worker. Many voluntary or private sector organisations use similar cognitive behavioural programmes or the standardised Duluth based group work programmes to address domestic abuse (Bowen, 2011), but they do so frequently in a non accredited way, without treatment management and using group work facilitators that are not trained to work specifically with abusive men and not within a criminal justice setting. This then clearly contradicts the NOMS 'What Works with Domestic Violence Offenders?' guidance. There are avenues for accreditation that programme providers can achieve in the community. Organisations can work with Respect, the charity and membership organisation that can provide 'Respect Accreditation' for perpetrator programmes in the UK, but there are few accredited organisations currently offering Respect accredited provision for perpetrators of abuse (Respect website, 2013). Domestic violence perpetrator programmes, that have accreditation in the community, are rare. This indicates that should the TR agenda be carried out as planned, future work with the majority of perpetrators may be carried out by organisations without accredited interventions and without evidence based evaluation.

Domestic violence perpetrator programmes are only part of the picture though. Morran found that those men attending programmes had often only minimally absorbed elements of the programme and therefore did not sustain permanent change when subject to short intervention periods (Morran, 2006). Research has shown that desistance is a process that varies from case to case, requiring considerable time, necessitating positive reinforcement and skills training. It is arguably the ongoing specialised case management of domestic abuse perpetrators, by fully qualified staff, that allows abusive men to effect change and to put into practice skills learnt by the completion of perpetrator programmes (Burnett and McNeil, 2005). The probation model of high level training in the form of specific domestic abuse work, motivational interviewing, effective offender engagement, dealing with involuntary clients and in working with the complexities of dealing with those who have been mandated by the court to attend interventions all contribute to the efficacy of programme interventions. It is this high level skill and knowledge base that will be absent when reassigning cases of domestic abuse to the private/voluntary sectors. Additionally, where financial considerations are linked to delivery, limiting time to engage, the ability to assist a man to effect change is also potentially hindered. This expert provision will not always be evident if this work is outsourced to private/voluntary sector organisations who are constrained by funding issues and profit maximisation. Interventions with abusive men require personalisation, and professional support by case managers trained in working with involuntary clients (Trotter, 2007) and evidence supports that standardised programmes alone cannot meaningfully address the complexities of the lives of perpetrators and how they desist from abusive behaviours (Morran, 2013).

Looking outside of criminal justice in terms of the TR agenda and the potential to outsource court mandated perpetrator interventions to other agencies and organisations. Most organisations are not currently adapted to working with this category of client. The majority of the existing community level work with perpetrators is carried out by relatively small organisations, charities and latterly by social enterprises; the voluntary aspect of attendance being of significant importance to many of these organisations in terms of accepting men onto programmes or interventions. Intervention work with perpetrators of domestic abuse is a relatively new area of work in terms of non-statutory organisations running voluntary perpetrator programmes. Indeed, specialist provision in the UK for addressing abusive behaviour by men towards women has only been running over recent years and has had very limited funding (Blacklock, 2001; Coy *et al.*, 2009). These will be the very organisations that the government will encourage to bid for mandatory criminal justice provision for domestic abuse perpetrators in the new arrangements under TR, probably as Tier 2/3 suppliers. Many Tier 2/3 suppliers are likely to be organisations whose priorities have been offering support for women and children as the funding and expertise in working with male perpetrators has not been readily available. There is some training available to voluntary agencies such as the 6 day Respect training (Respect, 2000) or 5 day Sea Change training programme (Seachange, 2013), but many organisations find the cost of such training prohibitive on restricted budgets. However, the in-depth desistance based probation case manager, report author and facilitator programme training is not readily available to agencies outside of the criminal justice sector.

Already, within the Coalition Government's Violence Against Women and Girls Strategy (HM Government, 2013), there has been very limited consideration of perpetrators with barely any governmental funding to support engagement and specific interventions with abusive men. Over £40million has been allocated for specialist services to assist women and children, but little has been allocated to working with perpetrators (HM Government, 2013). This has resulted in agencies and small organisations fighting fierce competition for modest pockets of funding, resulting in provision moving away from specialist services to those that are the cheapest, or those that are without cost. Clearly then, there will be conflict where small organisations are vying for the same small pockets of funding, and who have a complete lack of experience in dealing with enforcement of attendance, involuntary clients and of coercion in achieving completion of interventions.

Having regard to the privatisation of other public services, including prison privatisation, it appears logical to equate privatisation with financial saving. That it is associated primarily with cost savings and the reduction of expenditure from public funds. Accordingly, private sector companies already involved with criminal justice contracts are competing explicitly for contracts on the grounds of a reduced cost to the public purse. G4S, for example, believes that 'there are a number of areas where the private sector can deliver further cost savings to the Government,' including probation service areas where it is looking to increase its share of the market (Tobin, 2010). Therefore, to move interventions to private sector organisations, financial provision of such services is likely to preclude the time consuming practice and expertise required to work with the complexities of domestic abuse perpetrators as this *de facto* equates to being financially more expensive to provide. They are likely to reduce the numbers of experienced staff working in the area of domestic violence to enhance profit margins for shareholders within the private

organisation. This can only have a detrimental impact on work with domestic violence perpetrators, resulting ultimately in continued or enhanced risk to women and children living with such men.

Conclusion and recommendations

Breaking the cycle of crime will mean fewer victims in the long term, but we will not forget our primary responsibility for public safety now. This is a key role that is rightly fulfilled by the public sector. We will forge a new National Probation Service, drawing on the expertise and experience of its staff, focused on assessing risk, and managing those who pose the greatest risk of serious harm to the public. (Ministry of Justice, 2013).

The Ministry of Justice highlights the need to use staff with expertise and experience to manage those who pose the greatest risk of harm. Under new TR proposals, this will not include the majority of domestic abuse perpetrators, who will be managed and worked with by a variety of private companies and other agencies throughout the UK and throughout the 21 CRC areas. Expertise and experienced staff when working with court mandated perpetrators of domestic violence are predominantly located within probation at the current time. If Probation Trusts are dissolved and this work is assigned to a whole raft of other agencies, the expertise will be lost.

The perpetration of domestic abuse has a catastrophic impact on women, on children and on communities. Perpetrators of domestic abuse, or criminal cases in a domestically abusive context, should be considered by the Ministry of Justice as being amongst 'those who pose the greatest risk of serious harm to the public' (ibid). This will ensure appropriate levels of case management is maintained, that thorough risk assessment is undertaken and that the risk management of some of the most dangerous offenders, by virtue of the devastating and generally unrecorded impact of abuse perpetrated against women and children, are supervised appropriately and safely.

Grayling, Lord Chancellor and Secretary of State for Justice, appears to be facilitating the imminent outsourcing of criminal justice sanctioned domestic abuse perpetrators to a plethora of varying organisations. There is a risk in this approach and that risk will be taken by the women and children connected with the abusive men they are in contact with. He has advised of a new risk management tool that will assess that most offenders, (including domestic abuse perpetrators) will pose a medium or low risk to the public and those cases will be directed to the private sector to be managed, monitored and rehabilitated. The professional knowledge, highly experienced probation practitioners and the impact of probation intervention in both case management and treatment of convicted domestic abusers will be restricted to only a minority of high risk cases. This TR approach will potentially result in disaster, resulting in the increased risk posed to vulnerable women and children. This article argues that risk assessment of domestic abuse perpetrators is flawed in that only a minority of abusive incidents, recorded by way of criminal justice sanction, will contribute to risk assessments. This is unhelpful in making a judgement as to who may seriously harm their partner and when that harm may occur,

all cases involving domestic abuse have the potential to result in serious harm taking place.

This article recommends that all cases involving domestic violence, or where domestic abuse has been a risk factor previously, should be considered as an important exception in relation to the separation and prioritisation of work under the TR process. All work involving domestic abuse should remain under the auspices of probation intervention and probation case managed supervision. To distribute this work nationally to a variety of organisations, undertaking a variety of intervention packages, accredited, or more likely not accredited, is likely to have a significantly detrimental impact on the lives of vulnerable women and children. In order to properly protect the lives of women and children in England and Wales, perpetrators should be case managed and supervised by highly skilled, trained professionals and the interventions undertaken by agencies, whether within probation or by partnership agencies, need to be delivered in a well sequenced, integrated manner monitored and case managed by probation. It is acknowledged that in order to undertake this work a more substantial number of experienced staff will need to be retained within the auspices of the probation service than is currently envisaged. However, without this there is likely to be an increased risk of harm posed to women and children as a result of the implications of the Ministry of Justice's 'Transforming Rehabilitation' agenda.

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MIND THE GAP: QUALITY WITHOUT EQUALITY IN TRANSFORMING REHABILITATION

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Abstract

This paper forms part of a research project that started in 2012 and aimed at reviewing and identifying existing practices within probation that should be highlighted and maintained. The review focuses on the black and minority ethnic (BME) population of probation users. The nexus of our investigation was the London Probation Trust (LPT) and our primary research question was whether race equality can drive quality in the probation service. If the current reforms are all about competition and quality outcomes, then where does race equality sit?

Keywords

Transforming Rehabilitation; black and minority ethnic offenders; equality

Introduction

In the UK, the world economic crisis in combination with the 2010 change in government brought a number of institutional restructures and a shift in the philosophy on public spending. Under the slogan of “Punishment and Reform”, a number of public consultations were initiated including some that were focused on probation services (Ministry of Justice, 2012).

There should be no doubt that substantial changes will occur to criminal justice service provision nationally. The key concern principally stems from the high reoffending rates (i.e. one in two offenders return to custody, rising to 75% of young offenders). According to the Offender Management Caseload Statistics, in 2009, the UK had 151 prisoners per 100,000 population, the second highest rate in Western Europe, below Spain (Ministry of Justice, 2010). In England and Wales, the prison population is forecast to rise to 94,000 before the next general election (Berman, 2010). These failings are at an annual cost of £10 billion with an average bill of around £40k for each adult offender and £200k for juveniles (National Audit Office, 2010).

In December 2010, the UK coalition government published the Green Paper “Breaking the Cycle”, announcing its intentions for key reforms to the adult and youth justice sentencing philosophy and practice. One of the results of this new approach was the introduction of what is now called “Payment by Results” policy. One key element of this new approach to competition for criminal justice public funds is to test a range of models where providers from the private, public and voluntary sectors work in partnership and are paid by the results they deliver.

Following various consultations that aimed at bringing tailored changes to the probation services, 598 formal responses were received¹⁷. In their subsequent 2013 paper *Transforming Rehabilitation* (TR) (Ministry of Justice, 2013), the government is said to have reflected on these responses putting “forward proposals for reforming the delivery of offender services in the community to reduce reoffending rates whilst delivering improved value for money for the tax payer” (Ministry of Justice, 2013). One of the key objectives of these reforms is “opening the majority of probation services to competition, with contracts to be awarded to providers who can deliver efficient, high quality services and improve value for money” (Ministry of Justice, 2013).

It is expected that 70% of probation’s core work will be put out to competitive tender. We now know that TR will create a National Probation Service (NPS) taking away the current functions of the 35 Probation Trusts. NPS will retain the risk assessment of all offenders, the direct management of “high risk offenders”, the provision of advice to courts/Parole Board, the provision of victim liaison services and the management of their existing Approved Premises. What we also know is that 21 contract package areas will be created where market providers from all sectors will have the opportunity to compete for

¹⁷ All 35 Probation Trusts of England and Wales sent their thoughts including LPT, to read the response <http://www.london-probation.org.uk/pdf/LPT%20Response%20to%20Effective%20Probation%20Services%20Consultation.pdf> (accessed March 2013)

contracts that will pay them for providing supervision and rehabilitation services to service users who are:

- sentenced to community order or suspended sentence order
- sentenced to custodial sentence, including those discharged from short custodial sentences.

Criminologists and anyone working in the criminal justice field should be used to seeing new government proposals and reforms but what is being proposed under TR is unprecedented. One of the key concerns expressed in the literature is the pace in which these radical reforms are being introduced without too much evidence and data to back up their direction.

Comparisons for purposes of proportionality, fairness in sentencing, criminogenic factors and desistance are not the focus of this paper. In fact, there is one more truth that we have to accept before we proceed with our argument. We are not living in an equal society. Racism is embedded within our institutions and societies. We also need to accept that there is disproportionality in the criminal justice system (Mason, 2003; Rollock, 2009; London Probation Trust, 2012f). Analyses of disproportionality have demonstrated unequal outcomes for certain groups.

We also accept that progress in race equality has been, and will continue to be made. All 35 probation trusts seem to have acknowledged that they have no other choice but to accept the shift in government thinking on how public funds are disposed for criminal justice. Here, we simply make the point that the shift in public spending philosophy has brought upon probation trusts the challenge of a competitive market. This put an emphasis on outcomes, not activities, and as a result the need to look at each user afresh and ask, "How satisfied are they if we are to compete for continuing to deliver services to them"? We argue that specialist services that enhance race equality can help render better outcomes within this competitive market. As noted by LPT's response to the government's reforms:

"Engaging with black and minority ethnic offenders and communities is important if the Ministry of Justice are to achieve success in reducing the negative impact of disproportionality. In this context we would suggest that there is a risk that, by introducing an increasingly commercial approach, the Probation Service could appear more profit driven which may lead to a reduction in trust and confidence in our motives and independence" (London Probation Trust, 2012: 32).

Research methodology

In this paper we draw from a range of material including primary and secondary sources that were analysed as part of a project that was commissioned from LPT by the think-tank Independent Academic Research Studies (IARS). In particular, we looked at fieldwork data, academic literature, political discourse and policy documents, media

representations, statistics, and official reports. We also looked at publications and material from the voluntary sector, an important player that is often forgotten.

As part of the project, a half-day event was held on the 15th November 2012 at LPT headquarters. Titled “Towards better outcomes for BME service users of probation”, the event was structured as a consultation exercise with 50 probation staff working both at frontline and managerial levels. Further primary data was collected in a semi-structured discussion with members of LPT’s Serious Group Offending Forum. The Forum’s membership includes “a wide range of community organisations, faith groups and academic institutions that have developed substantial experience in providing effective evidence-based service solutions” (Choak *et al.*, 2012: 12). Thirteen forum members were present at our questioning, which took place during a scheduled meeting in February 2013.

Finally, eight unstructured interviews were carried out during the life of the project with key experts in the field including practitioners, policy makers, representatives of criminal justice agencies and academics. The findings were also presented at a workshop at the National Chief Probation Officers conference giving the research team an opportunity to refine and revise. The data was then published as Gavrielides and Blake: 2013 and launched at a national conference in June 2013¹⁸.

Many consultation responses expressed concerns that the TR reforms would lead to the implementation of a ‘one size fits all’ approach particularly in relation to offender supervision services. Bodies such as the Black Association of Probation Officers (ABPO) as well as a number of equality focused organisations also expressed concerns that TR does not provide for any equality and race equality responsibilities for contractors who are expected to work in three different tiers¹⁹. The Ministry of Justice has made it clear that it will not instruct Tier 1 providers on their equality and race equality obligations. However, it has pointed out that the payment mechanism that will be used is Payment by Results.

Here, we list some critical areas that we believe can drive quality for BME users of probation services. As the reforms are still on-going, it is unclear whether these areas that we identified will be addressed. However, they are mentioned here as there are good indications that they are not of primary concern in the TR philosophy.

Drivers of quality for BME users of probation

BME user confidence & engagement

The literature indicates that BME user confidence and engagement is directly linked with users’ perceptions of a better service. We know that poor relations with the criminal justice agencies, overrepresentation, and a history of discrimination and racial prejudice

¹⁸ See <http://iars.org.uk/content/bme-probation>

¹⁹ Tier 1 providers will contract directly with the Ministry of Justice and are likely to be from the private sector. Tier 2 and 3 providers are expected to be made principally from the voluntary and community sector (VCS) and they will only be sub-contracted by Tier 1 providers.

all play a part in distancing BME groups from probation service providers and lowering their confidence in the system. Whilst many of these issues might arise early in an offender's journey, their effects are felt throughout the system.

One example that we identified was the difficulty in delivering drug treatment and counselling services to BME groups due to fears about breaches of confidentiality. This was also identified as an issue amongst South Asian service users, where the cultural stigma attached to drug use creates an added pressure for drug abusers to remain anonymous (Fountain, 2009). Among BME groups the status of the probation service as a statutory body and agent of the criminal justice system can therefore threaten the ability of offender managers to negotiate a trusting relationship with their client. Indeed this is a point that was completely lost in the TR proposals.

Furthermore, when tackling BME confidence in the probation service, it is necessary to look further than explicitly discriminatory practices. It has been repeatedly observed in the literature that perceptions of discrimination in the criminal justice system can be just as damaging to BME confidence as the reality of unfair treatment (Nacro, 2004; Phillips, 2011).

To unravel these hidden biases, probation service providers under the new proposals will need to go the extra mile. For example, our review of LPT has shown that proactive steps had to be taken by commissioning "User Voice" as part of its Offender Engagement Project. User Voice set up four "Community Councils" consisting of users of LPT. According to User Voice, "The Councils provide an opportunity for service users to voice the concerns and ideas of the wider service user community in a solution focused way". Although not BME specific, this initiative should provide LPT with some more qualitative insight into its user's experiences and the factors that could increase their confidence and engagement with probation staff. It is highly questionable whether private sector providers will see this as a priority.

Furthermore, effective communication and confidence building lie at the heart of improving BME engagement with the probation service. Various barriers including language, social isolation, low literacy and cultural differences may hamper communication. All these factors make ethnic minorities one of the traditionally 'hard to reach' groups with which organisations struggle to connect. We also know that confidence and engagement can only be built if there is understanding of each other's cultures. Culturally inappropriate services create a real barrier to BME engagement with probation. Consequently, overlooking BME cultural needs contributes to low confidence in the criminal justice system and limits the effectiveness of probation interventions. Moreover it stands in the way of probation developing links within the community. For example, research revealed that many families have been discouraged from accessing professional support and advice due to a general perception of the inability of criminal justice agencies to meet diverse needs (Samota, 2011). Cultural sensitivity must guide service delivery at all times but the government has made it clear that it does not see its role as directing Tier 1 providers to include such courses or obligations on their staff or their subcontractors.

What is even more concerning about the current TR proposals is that they do not provide for any capacity building around race equality and the significance of culture as a driving factor. Our research has shown that generalised cultural preconceptions can lead to mistakes in service delivery. For instance, one ex-offender Nadim, who was released from prison late on a Friday night without any accommodation, suggested that presumptions made by LTP about close-knit Asian families meant it was wrongly assumed that he would be accommodated by relatives. Probation workers must therefore be sensitive to the offender as an individual with unique needs as well as a member of an ethnic or cultural community (Knight, 2004).

We must note that diversity and cultural awareness training is already offered by LPT to all members of staff, but the literature suggests that these practices could be expanded and given a more prominent role within the institution (House of Commons Home Affairs Committee, 2007). It is also apparent that training should encourage a nuanced approach to ethnic diversity and not rely on sweeping generalisations about different ethnic or religious groups. Such training is not provided for under TR.

Another way to tackle issues of staff confidence and to ensure cultural sensitivity is through cultural consultation. For example, the HIMMAT project works to improve outcomes for South Asian offenders in Calderdale by providing West Yorkshire Probation with cultural input and helping with the supervision of South Asian offenders. The project has received positive feedback from both the participants and offender managers, who emphasised the advantage of having staff on hand who are able to challenge offenders on issues that the offender managers were not comfortable dealing with themselves (Robinson, 2007).

In summary, probation service providers will need to acknowledge that occasionally it may be necessary to modify normal service delivery in order to ensure that probation remains appropriate for BME users (Jacobson *et al.*, 2010). The probation service should not be imposed as a 'one size fits all' practice. It is beneficial to adopt different service models when dealing with BME clients²⁰.

Working with the BME voluntary sector

According to Clinks, a national VCS infrastructure organisation supporting VCS groups who work with offenders, TR outlines a number of measures designed to facilitate the participation of the VCS in service delivery.

Our research has shown that one of the biggest strengths of the VCS is that the majority of its activity takes place at a local level, often addressing the needs of society's most disadvantaged groups. Historically, London has seen a strong and well-organised BME VCS. By that we do not just mean the visible BME organisations but the many small BME led

²⁰ For example, one community-led research project found strong support amongst their focus group of black and Asian offenders for faith-based programme options (Johal *et al.*, 2006). Ensuring services are appropriate for BME offenders may therefore require offender managers to think creatively and to respond to specialist needs at the development as well as delivery stage (Youth Justice Board, 2010).

projects that function in kitchens and back gardens of council estates and neighbourhoods. It is questionable how these small BME local groups and projects can participate in the service delivery in ways that TR is proposing.

We know that as partners, providers, and advocates, these local BME projects are ideally placed to work with Local Delivery Units (LDUs) to achieve results for local people - improving the quality of life and the quality of services in every area and encouraging strong and cohesive local communities. They can act as a broker between hard to reach BME communities, LPT and its LDUs. Statistics show that the public trusts the VCS more than other sectors, particularly in relation to equalities and criminal justice related work (ROTA, 2007). This is even more important to London's BME communities whose trust in criminal justice agencies is lower than average.

Accessing informal support networks

Informal support networks such as those provided by religious groups, family and community organisations play a vital role in the resettlement of BME offenders. For example, it has been noted that the support provided by social relationships complements the work of offender managers by aiding BME offenders' reintegration into society and creating opportunities for a life without crime. We also know that the support networks available to each offender will vary based on individual circumstances and so it is important for probation workers to be well-informed about the personal situations reflected in their caseloads. This is particularly pertinent for BME users as some may completely lack an infrastructure of family and friends (e.g. foreign nationals). However, it has also been documented that others may have unusually strong social and family networks that can hinder reintegration (e.g. by creating a feeling of shame and rejection). To build such relationships there needs to be time and personal investment and it is questionable whether these are factors that will be considered by private sector providers.

The community into which they are resettling provides another key source of support for offenders. In their evaluation of the 'What Works' pathfinder initiative, Durrance and Williams noted that many black people on probation feel isolated from their community and wider society (2003). The stigma attached to offending combined with economic disadvantage and possible racial discrimination creates a barrier to resettlement for many BME offenders and leaves them feeling unable to access community support services (Jacobson *et al.*, 2010). BME groups can also find themselves isolated from their own communities as a result of their offending behaviour. In Asian communities, for example, there is a strong stigma attached to substance abuse and so drugs-based offences can lead to a community backlash where the offender and their family are ostracised (Furzana *et al.*, 2000). However, under the TR proposals and the creation of contract areas it is questionable whether a service provider working in a specific geographical contract area can accommodate an offender from a different region.

Self-image and positive thinking

The TR programme has given no indication that it has considered the impact that the combination of social and economic disadvantage, racial discrimination and historic exploitation had on the negative image of BME groups and how this impacts upon their

conceptions of self-worth (Aleixo, 1997). This is particularly true for young black offenders (Sender, Littlechild and Smith, 2006). BME experiences within the criminal justice system can exacerbate low feelings of self-worth. Particular attention has been given to the effect of imprisonment on BME self-identity. Cowburn and Lavis (2009) maintain that western forms of identity are being forced on to BME prisoners, causing them to lose some of their sense of cultural identity and adding to feelings of isolation. It has also been said that prisons negatively address ethnicity and fail to provide BME prisoners with opportunities to create positive identities based on their race (Cheliotis and Liebling, 2006). Eurocentric service provision, discrimination and staff prejudice can therefore leave BME prisoners particularly vulnerable to isolation and feelings of negative self-identity.

For any individual to develop their potential and thrive, first there needs to be a sense of self-pride and a set of personal goals. Remove these, and independently of the social, societal, biological, political factors that may be evoked, we should not expect to see any desistance (Salkind, 2004). According to classic theories of human development, we acquire and foster these goals and aspirations through a mixture of factors such as our parents, role models, our peers and teachers (Salkind, 2004). But we first have to believe in ourselves.

However, the TR programme starts from the premise that if we are accessing a public service, then we must have a problem; it is not because we are simply nurturing our talents. Here we argue that however much money is given to the TR programme, it will not help address reoffending, if users of the criminal justice system are not encouraged to develop their talents and self-image.

This is particularly true for BME users whose self-confidence and trust is challenged by additional societal factors. Probation reports and assessments will become a lot more successful in achieving desistance if they are focused less on risks and more on identifying and nurturing individual talents. By identifying each offender's potential strengths and self-image, pride and hope are created while the system is steered towards capturing these opportunities rather than just managing risks.

What about victims?

Traditionally, the criminal justice system, including probation services, has focused on offenders. By definition, TR gives no consideration to victims. Our research points out at least two reasons why this is problematic. First, victims are also users of probation services. Secondly, by working with victims, there are benefits to be gained for improving better outcomes for BME offender users. The literature seems to suggest that often offenders want to make amends (Gavrielides, 2011). This can help desistance and integration (NOMS 2012a; 2012b). Offenders can be, and often are, also victims themselves, and productive interventions with them should recognise this.

One way to work directly or indirectly with victims is restorative justice (Gavrielides, 2007). Restorative practices (e.g. direct or indirect mediation, conferencing, circles and restorative boards) are founded upon the principles of inclusion, respect, mutual understanding, voluntary and honest dialogue (Gavrielides, 2012). One could argue that

these are core values, which if ingrained in society, could render racism impossible (Gavrielides, 2012b).

The 2012 joint thematic inspection by HMIC, HMI Probation, HMI Prisons and the HMCPSP found that the probation trusts that they inspected for restorative justice had “recognised [restorative justice’s] contribution to improved community confidence” (Criminal Justice Joint Inspection, 2012). This is particularly valuable for BME groups whose confidence in probation and the criminal justice system is lower than the average. According to the report, applying restorative justice where it is appropriate can also help improve outcomes in relation to reintegration and recidivism of BME offenders. Satisfaction rates between victims and offenders also tend to be higher compared to more traditional approaches. There are no plans for developing restorative justice schemes within TR proposals.

Keeping good practice

Here we want to highlight some existing practices which our review pointed out as drivers of quality practices for BME users of probation. They are based on the LPT and they are meant to serve only as examples. The findings of our review (Gavrielides and Blake, 2013) included some criticism for LPT which is now working towards some key areas of improvement.

Good practice no 1: User Surveys

Understanding what is important to those who receive a service is important. Offenders and victims must be treated as more than just passive receivers of criminal justice services. One way to involve them in the shaping up of services is user surveys.

For instance, our review looked at LPT’s third annual “Your Views Count” survey. This was carried out between October 15th and 26th 2012, and an impressive number of 3245 completed surveys were returned. The questions were designed to assess service users’ experiences of offender management and the extent to which they engaged in the process. 71.2% of user surveys reflected a positive experience of probation (see Figure 1 below). This compares favourably with NOMS 70% target but negatively compared to last year’s LPT’s performance (72.1%).

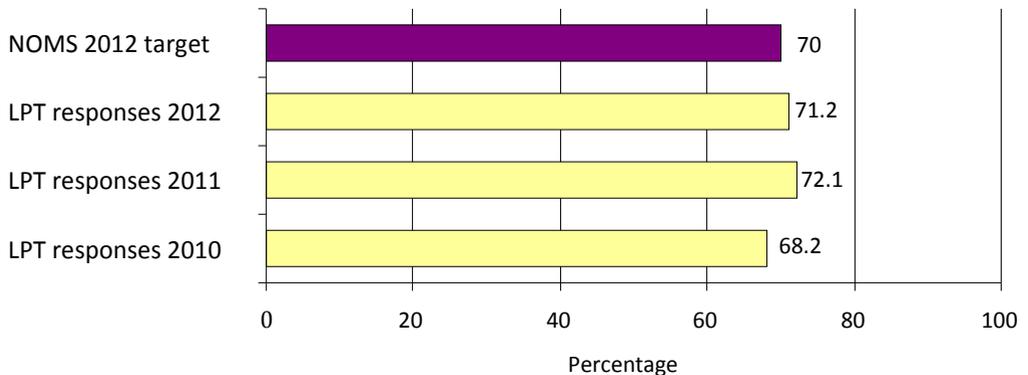


Figure 1: Positive results against NOMS 2012

The Ministry of Justice has made it clear that obligations to measure satisfaction and the views of users will not be included in Tier 1 contracts. It is up to the service provider to show that what they are being paid for has good results. How these results will be measured is questionable.

Good practice no 2: Expert community forums

In order to understand the complex issue of serious group offending, LPT set up a cross sector, multi-agency forum comprising community leaders and experts. The Serious Group Offending Forum brings together various local community projects to communicate key messages to each other and to the Trust. The Forum is funded by LPT and acts as an example of how dependent the success of this kind of community focused initiatives is on relationships and their underlying trust and ethos. This demands a certain level of personal dedication, involvement and investment. Keeping and funding such forms will be critical in understanding local needs for reducing reoffending and keeping the buy-in from BME communities. We have strong doubts as to how these community leaders will continue the same relationships with private sector providers.

Good practice no 3: Staff training & development

Talking at the ABPO 2013 conference, a NOMS representative accepted that the government does not consider that it has a role in instructing Tier 1 providers in relation to the inclusion of staff training and development particularly in the area of race equality. Our review showed that although LPT already provides; (1) diversity in Action Training (designed in partnership with the voluntary sector); (2) Human Rights Training; (3) Engagement with community, there is still a long way to go before it can safely claim that its staff provide culturally specific and sensitive services.

Good practice no 4: Supporting race equality staff initiatives

During our review of LPT, we were able to identify initiatives that had a significant impact on driving better outcomes for BME users of probation. These referred to staff initiatives such as Faith Champions and the Community in Action Project. The time and resource limitations of our project did not allow us to drill down into these initiatives but anecdotal evidence seems to suggest that there is significant support both internally from LPT staff and externally from LPT stakeholders to continue and strengthen this work including the diversity and equalities team and work plan. However, LPT is concerned that under the TR priorities this intention will not be supported. Other initiatives that link with national bodies were encouraged including the work carried out with the ABPO and the National Association of Asian Staff.

Concluding thoughts

This paper is written on the 20th anniversary of Stephen Lawrence's murder, whose name reminds us of the shame that our institutions bear for their occasional failings to see their users as human beings, possessing undeniable and basic rights including dignity, respect, equality and fairness. Indeed certain truths must be accepted as we move forward constructively with current criminal justice reforms. This paper also pointed out that any

reform that disregards persistent inequalities within the criminal justice system would simply be a waste of time and money.

Best practices that already exist within probation were identified. It is questionable whether these will continue under the new structures. It is certain that under the TR proposals race equality is not seen as a driver of quality. Nevertheless, it is our argument that the evidence here is clear. It is also clear that more needs to be done in the identified areas for specialist service provision for BME offenders.

A word of caution is offered here for policy makers. Independently of whether they decide to ignore the evidence, there will be a point where failures must be accounted for. This will have to be done publicly and to those who government and decision makers are meant to serve i.e. the public and the users of the reformed services. It would be naïve to ignore that society is changing, and with it the users of public services including those of probation. Excluding the voices of community is no longer an option. We must not forget that the battle for justice for Stephen Lawrence was not fought by government or agencies but by his family. It is because of their mobilisation that in January 2012 two of the murder suspects finally stood trial and were indeed found guilty. This mobilisation of society is also seen in phenomena such as the recent student demonstrations, the riots, public debates and media attitudes. It is also seen through the active and increased role of voluntary and community-based organisations.

Trust in government, its agencies and representatives continues to deteriorate, and this paper posits a key argument: if the Transforming Rehabilitation programme does not continue and intensify its community engagement journey, the necessary insights and 'buy-in' from those it aims to serve will never be achieved. Communities are becoming more organised through local structures and community leaders. This is a community-based infrastructure that should not be underestimated.

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THOUGHT PIECE

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'TRANSFORMING REHABILITATION' FOR WOMEN? A VIEW FROM THE COURTS

Gemma Birkett, Centre for Law, Justice and Journalism, City University London, in conversation with Val Castell JP, Magistrates' Association²¹ lead on Women Offenders

Coming into force next year, the Coalition government's *Transforming Rehabilitation* agenda will (amongst other things) extend supervision to offenders released from short-term sentences and open up probation services to new private providers. As seventy per cent of women sentenced to custody receive sentences of less than twelve months (Seal and Phoenix 2013: 168; see also Cabinet Office 2009; Gelsthorpe and Sharpe 2009), four out of every five of short sentences for women are passed by magistrates (Hedderman 2012: 5). Why women offenders are more likely than men to receive immediate custody from magistrates stimulates widespread debate in both academia and practice (see for example Corston 2007; Hedderman 2012; Hunter and Radcliffe 2013; Howard League 2013a). There is also increasing concern that the introduction of a "criminal justice market" (Gelsthorpe and Hedderman 2012: 375) will bring more risks than benefits to existing provision (ibid; see also Prison Reform Trust 2013; Women in Prison 2013; Howard League 2013b). As part of this on-going conversation, it is important to seek the viewpoints of those who are best placed to answer. In this extremely timely and policy-relevant issue of the *British Journal of Community Justice*, it is crucial, therefore, to have a view from the courts.

²¹ The Magistrates' Association represents over 80% of magistrates and is the only independent organisation in England and Wales advocating on behalf of the magistracy. It is fully governed and funded by its members.

GB: As the Magistrates Association lead on Women Offenders, you gave oral evidence to the Justice Select Committee's recent inquiry. The Committee's final report concluded that the new commissioning landscape presents both "risks and opportunities for the Corston agenda" (2013: 50). How do you view these from a sentencing perspective?

VC: *The potential improvements come from having specific requirements for women offenders in the new contracts²². It will be mandatory to allow women offenders the opportunity to be seen by women in women-only environments. In many cases, this may simply mean having days allocated for dealing with women offenders at main probation offices and this may not help some more vulnerable women to feel secure there. However, any measures to promote thinking about the effects of environment on likely compliance with orders have to be a step in the right direction. Having some provision for women everywhere will encourage sentencers to think about how we need to approach women with complex needs and problems. Hitherto it has only been possible to approach the subject in a very piecemeal fashion as provision has varied so much. It will now be more appropriate to think about disseminating information and advice nationally. The main risk is that having provision somewhere in the LJA [Local Justice Area] will be seen as sufficient, even if that is not available to every woman offender. The push to extend the urban model is very welcome, but I do not believe it will be sufficient.*

GB: You sit on the Ministry of Justice Women's Advisory Board. Do you think that the government is doing enough to provide sentencers with a clear understanding of the sentencing options available to them under the new arrangements?

VC: *As yet, we don't know what will be available to us. There has been limited consultation on what we would like to be available, but timescales have been too short to allow this to be widespread. When the contract requirements are finalised, we will have to wait and see how companies envisage fulfilling them. The community sentences may (I hope will) offer us more scope for alternatives for those who have passed the custody threshold.*

GB: Could you envisage a situation where magistrates will draw on their experience of previous outsourcing contracts (such as ALS/Capita for interpreters, GEOAmev or Serco for prison escorts) as the basis for deciding how rigorously community orders will be enforced by private providers? I.e. could reduced sentencer confidence in CRC-run community orders equate to an increase in the female prison population?

VC: *Confidence in orders comes with feedback on those orders working well, so if we keep seeing offenders back in court for breaches, or for further offending while on orders, we will tend to think that a different sentence needs to be tried – which may well be custody. Rises in the prison population could only come from the [new] orders failing to achieve their aims so that they were breached or failed to prevent reoffending.*

²² Via a Government amendment to the Offender Rehabilitation Bill made during Lords Third Reading. Under section 149 of the Equality Act 2010 and applying to both private and public sector providers.

GB: Lack of education is regularly cited as a reason why magistrates continue to sentence women to custody when there is alternative provision available. Do you think that your 23,000 colleagues have sufficient knowledge of the women's centres in operation? Is there an issue with trust or lack of provision? Or is there an issue at all?

VC: *Some are very knowledgeable, and have been involved with centres local to their courts. Where there has been a strong and active women's centre, most benches are aware of what is being offered and have confidence in the sentence provision. Nonetheless some women in those areas continue to receive custodial sentences and I think that demonstrates that alternative provision does not meet every case. Undoubtedly we all need to know and understand more about the complexities of the lives of many of the women who appear before us, and how women's centres may be able to actively address some of the issues that lead to offending. But equally we need to bear in mind that some are not complex or vulnerable at all and some will refuse to comply with any community sentence.*

Given the limited space available it is not possible to publish the conversation in full, but several issues require highlighting in the context of *Transforming Rehabilitation*. Notwithstanding the on-going work of dedicated and mobilised magistrates such as Val Castell, education and training amongst the magistracy remains an issue. As highlighted by Hunter and Radcliffe (2013: 35), whilst provision may exist in some areas there is currently no requirement for training on the specific needs of women offenders, although this is something that the Magistrates' Association is working to address.

Patchy provision in the community has also proved a significant barrier to the implementation of Corston's vision and *Transforming Rehabilitation* could present a fresh opportunity to (re)establish community options for women. Hard-fought changes to the Offender Rehabilitation Bill (representing the legislative parts of the strategy) must be welcomed; although, as highlighted by Val, the interpretation of future LJA 'provision' for women remains to be seen. Given the limited opportunities for consultation, it is clear that sentencers (and their legal advisors) along with the rest of the criminal justice community will have little time to negotiate the newly 'transformed' landscape for women.

Val Castell JP sits on the North Avon bench and is the Magistrates' Association lead on Women Offenders.

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WHAT WILL 'COUNT' AND BE TRANSFORMED FOR WOMEN IN THE CRIMINAL JUSTICE SYSTEM?

Rebecca Gomm, PhD Researcher, School of Applied Social Sciences, Durham University.

Abstract

We know that most women in the Criminal Justice System have a range of essential support needs. They have experienced, or are currently experiencing traumatic events, are living through abusive relationships, self-medicating and coping through drug misuse and have a lack of social support. In addition to difficulties with managing and providing for their dependent children, they have been described as presenting "particular challenges" in the recent Justice Select Committee Report (MoJ, 2013). The real challenge is to accept that success is a complex and layered process, especially within the context of chronic stress and trauma. Measures of offending and other quantitative target measures are simply not sufficient to account for positive change and the level of support required. The impact of good quality service provision on women with complex and diverse needs must be considered within a more sophisticated framework and commissioners from Prime providers and the MoJ should be held accountable for ensuring this.

Keywords

Women; trauma; depression; commissioning; desistance; Payment by Results (PbR)

Transforming Women in Rehabilitation

The starting point for this thought piece is a concern for how women in the Criminal Justice System (CJS) will be supported towards desistance in the current Transforming Rehabilitation reforms. I am at the final stages of my PhD at Durham University and the following outline is based upon discussions with probation officers, counsellors, voluntary sector leads and interviews with service users, concerning the meaning of support and the process of change for women that have desisted from offending. Within my research, desistance is conceptualised as the meaningful and subjective process of change for individuals, which is *supported* and not controlled by services. This has been widely advocated as a way of effectively “working with” offenders, rather than perhaps “working on” offenders and is outlined in the recent desistance guide brought together by ‘Clinks’ (2013).

The process of desistance cannot start for an individual without attention to essential support needs and there are high levels of unmet needs for women offenders. The contextual factors in women’s lives in the CJS have been widely documented in relation to histories of violence and abuse, with women presenting with high levels of depression, trauma, drug addiction and correspondingly high levels of mental health support needs (Corston, 2007). Recommendations have been made for strategies to take these complex factors into account in order to reduce offending, including attention to the pathways into crime (Gelsthorpe, 2011). There are many complex factors and if not addressed, a platform for positive change cannot exist. With regard to transforming rehabilitation, women have been recently described as presenting “particular challenges” as outlined in the Justice Select Committee Report (2013). I will outline and briefly consider what some of these challenges might be.

Arguably it is not the women that are presenting the challenges, but the challenge of what constitutes meaningful measurement. There is a discourse surrounding what counts and what should be considered meaningful and this is exacerbated by the current landscape. As outlined by Towl (2010) commitment to managerialism and the related allocation of resources is determined by the view that what is counted becomes what counts. We know that desistance will be measured quantifiably by a reduction in offending within a specific timeframe. However, more sophisticated and “meaningful” measurement is necessary and this needs to account for the process of positive change for individuals and arguably, needs to centre the measure of impact upon them. Quantifiable measures do not inform on the ways of working with women to support desistance and alternative frameworks are needed to account for the complexity of support needs.

In my view, the alternative frameworks need to learn from commissioning, research and evaluation models whereby the inputs are clear, but the outputs are difficult to define; such frameworks are included in mental health research. Service user impact is becoming increasingly prioritised within these research frameworks, in terms of utilising service user advice concerning their “lived experience”. This has been useful in a range of contexts, with examples including the shared decision making for treatment service development and targeting intervention which is preventative in scope (Staley, 2013). Based on my research to date, which has spanned support for women managed in the community by

the London Probation Trust and the voluntary sector, much of the work which supports women in the criminal justice system, is preventative in scope. This has been most evident in the Women's Centre included in the study, which works from the basis of a safe women only environment, providing counselling and support work for trauma and abuse, alongside other essential services.

For the purposes of illustrating why alternative frameworks for demonstrating success are needed, I will very briefly outline 2 case studies from my research. I think this is important for highlighting that quantitative measures of offending, which show the greatest reduction in offending, cannot account for the levels of support which are essential for women in the Criminal Justice System. To illustrate this, the context to these women's lives is outlined. Bearing in mind the stringent criteria for engagement in research in the community, priority was given to doing no harm and so the women were not given priority selection based on past experiences. I have merged the accounts of the two women to provide a very brief account, below:

Some background context: Both women had been subject to severe abuse as adults, as sexual and/or physical violence. This included rape and over twenty years of physical violence. There were traumatic childhood factors, including both enduring and intermittent sexual and physical violence. One of the women made 3 attempts at suicide prior to engaging with the service.

Desistance "measures": One of the women received 17 prior convictions before engaging with the service and has not received a conviction in 3 years. The other woman was convicted for 2 offences over 1 year ago and has not been subsequently reconvicted.

In terms of outcomes: One of the women engaged with education and is now in employment. The other woman described how she can now walk outside.

I did not ask the women what "good" looks like, but I did ask what had supported them in the Criminal Justice System. Although the specific themes and meaning making is not outlined here, the consistent message was that positive change had affected their whole lives and that it was not just about offending. Women in the CJS do not appear to have a separate offending life and a separate life of experiencing chronic stress and abuse (both on going and past experiences). I think this is a very pertinent consideration with regard to women and one which requires essential attendance to, with regard to future service delivery and support. To achieve this, commissioning needs to be accountable and there needs to be transparency in approach.

My great concern is that from a commissioning perspective, if there is a focus on reduction in offending only, there would be a cost-balance decision made based on the most gains, for the least resources. If the focus on reduction in official records of offending prevails, the sound investment would follow the woman that demonstrated the greatest reduction in offending. Both women accessed the same high levels of resources required in the context of trauma and abuse, but one apparently pays off better.

In terms of commissioning “investment”, there is always a filtering exercise based on the indicators of success. The support needs are complex and layered and need to involve a range of provision, including mental health provision and options for trauma informed care. For this reason, indicators of change need to include both mental health and criminal justice indicators, as they are not mutually exclusive. They are intrinsically related and commissioning should be sensitive to this and cohesive in approach.

The current landscape is a transitional mess and this is set to continue until the contracts are embedded. Going forward from April 2015, I anticipate that things will go very quiet, reflecting a decrease in transparency. For this reason, I think it is important that essential considerations are made now which tie in with the need for commissioning to be accountable to service users, particularly for those that can often be described as victims, as well as offenders.

Based on thoughts from this current research and concern for the legitimacy of impact measurement, I have made some brief recommendations, below:

- Intermediary outcomes, or “soft” outcomes need to be facilitated as a drive to ensure that desistance is essentially viewed as a process, rather than an event. With regard to women, these need to reflect the complexity of support needs.
- Joined up commissioning arrangements in the Ministry of Justice need to mirror service user requirements, which should include mental health provision and trauma informed care for women in the CJS.
- Contract evaluation needs to be embedded within both health and police and crime commissioning streams, in a cohesive way. The “evidence” for this needs to be considered as a parallel process as it concerns the same individuals. There needs to be a mechanism to ensure transparency and cohesion between them and to reflect that women comprise a different profile.
- Service level evaluation needs to be clearly linked to the above so that this is a continuous process, which third tier providers are aware of, rather than a reflection of what the providers *currently* do.
- The voluntary sector needs to be allowed built in flexibility within their contracts to prioritise care as it presents. As relationships develop between the women service users and practitioners, additional needs are uncovered on the basis of establishing supportive relationships. Most traumatic support needs and childhood events come to light after the relationship with the service user has been established and trust has been built.

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THOUGHT PIECE

'Thought Pieces' are papers which draw on the author's personal knowledge and experience to offer stimulating and thought provoking ideas relevant to the aims of the Journal. The ideas are located in an academic, research, and/or practice context and all papers are peer reviewed. Responses to them should be submitted to the Journal in the normal way.

A SOCIAL APPROACH TO THE PROCESS OF REHABILITATION

Tracey McMahon, author, currently serving a suspended sentence

My experiences within the Criminal Justice System have helped me to become a feature author on Criminal Law & Justice Weekly and a copywriter and translator currently working on the key areas in the Criminal Justice System regarding rehabilitation, employment and housing. I have previously had a suspended sentence supervision order and am currently subject to a second suspended sentence, this time without any orders attached. After a period of homelessness, I successfully picked up my business, approaching clients and being honest about my situation. After living on my mother's sofa for three months, I worked and was able to save up enough money for my own apartment. I am now in the process of registering a foundation to help those who slip through the net of the Criminal Justice System. There are gaping chasms in the CJS and there is not enough concentration on those who do make a success of their rehabilitation period. I am working and writing for the oldest law journal within the UK and have good support in the setting up of my foundation. With James Timpson of Timpson (a well-known employer who is actively involved with the employment of ex-offenders) as Patron, and UKCriminalLaw blog as ambassador to the foundation, I have made the most of my rehabilitation period and continue to do so.

This article raises my concerns around the Transforming Rehabilitation consultation paper proposed by the Ministry of Justice in January 2013. I aim to highlight concerns around the reforms detailed in the consultation paper. The government's approach to reducing the re-offending rates is commendable, however as will be shown, there are concerns around the approach from a social aspect. It is clear that the social problems associated with offending and re-offending behaviour need addressing and the consultation paper appears to miss the most vital areas such as employment, housing and addiction

problems. A more considered approach to the social problems caused by offending behaviour would cover the victim's well-being and address rehabilitation needs on a more sustainable level. If people are to be sentenced to custodial sentences, then as a society, we have a duty of care to ensure that offenders can re-enter society as rehabilitated individuals. For those who are released back into the community or serve a sentence in the community, the social aspect is very relevant. On completion of a sentence, re-entering communities is vital and if we ensure that communities welcome offenders back rather than be fearful, then society as a whole improves. I have been welcomed back into my community and experienced nothing other than support. Treating offenders as pariahs of society instils fear and worry within communities. The current consultation paper does nothing to address anything but a small area of the social issues associated with offending.

Overall Concerns

Rehabilitation has never existed in England and Wales. Rehabilitation should begin on the day of sentencing. The sentence is the punishment and within the punishment, rehabilitation can effectively run concurrently. Re-offending rates appear to be higher in those who are sentenced to shorter sentences either within the community or custodial sentences. In prison, due to resources being cut, there is little to show that any rehabilitation begins. Rehabilitation is a process, not an event and can only be achieved by the offender and supported by the Probation Service which is tasked with the management of offenders within the community. If rehabilitation is left until the end of the sentence, then for many, there is little incentive to rehabilitate. A more considered approach is required to assist repeat offenders into re-thinking their life. Simply locking them up for less than six months does not work and can never work. It is of little benefit for anyone and in my own sentencing, the sentencing judge made this very clear to me.

The concerns over Payment by Results are high. The current privatisation plans for Probation are a major concern for all I come across. The Probation Service is a national institution that has delivered results and achieved good outcomes in the management of offenders within the community. I include myself in this as I only came across dedicated probation officers who supported me wholly in my own rehabilitation. Moving offenders and repeat offenders from the current public-owned services to be managed by the private sector will in my view place the onus on offender managers to achieve payments by results as opposed to laying the responsibility of rehabilitation with the offender or re-offender. Rehabilitation and the process of leading a life without resorting to crime can only come from the person with the support of an offender manager they can approach, as I was able to. The incentive for me was my own wish to lead a decent and honest life. Discussing this with my offender manager was helpful, after we had explored why I was resorting to offending behaviour. It didn't take money or further punishment. Serving the sentence is my punishment; the rehabilitation process I am currently in is that of my own doing. I took a choice to not re-offend and my current sentence has no orders attached.

Substance Addiction

Substance addiction is one of the key areas of re-offending behaviours for many communities. There has never been more support for those who are addicted to illegal substances yet the re-offending rates are high in those who are repeatedly going through

the doors of Magistrates' Courts. Unless the root cause of the addiction is addressed as part of rehabilitation there is little cause for any offender with a substance addiction to abstain. The addressing of any addiction has to be paramount in order for an offender to abstain from a life of repeat offending behaviour to support continual addiction needs. During my time as a homeless person I came across those who perpetually re-offended in order to support their addiction needs. This enabled me to study from the ground-up what is obvious to me. The cycle is not broken and therefore repeat offending behaviour continues. A more considered approach to this is needed. Rather than punishing the addictive behaviour, support and encouragement can help to release the body and the mind from its addictive state.

Homelessness

It is no secret there is a housing crisis in the UK. Having experienced homelessness myself, albeit a short-lived period of around two weeks, I applied to 29 agencies that would not help me due to my not having a claim to any benefits. Sentencing offenders to short-term prison sentences contributes to homelessness in that it is impossible for an offender to maintain a home from prison. In only a matter of weeks, a person can lose a home and more support is needed in this area. In-reach services are required for those who are on shorter custodial sentences to maintain homes. There are clear chasms in the housing situation in this country. The private rental sector is a runaway train and with the asking of large deposits it is virtually impossible for those who leave prison to move from a hostel into a home of their own where responsibility with support to sustain a tenancy is given and problems can be addressed as they arise. I now successfully sustain my own home, pay my bills, earn an income and do not claim any benefits at all. I have achieved this in five months. The security of a home is paramount to assist the rehabilitation process. Giving sentencers more power to impose shorter sentences will only add to pressures that are immense for any offender hoping to rehabilitate.

Employment

Securing employment is a major problem for those with criminal convictions, and more so due to the tyrannical Disclosure & Barring Service (DBS) that is currently in place (McMahon, 2013). While I appreciate the need for screening, with over 9 million people in the UK with a criminal conviction, the current service is one that is preventative of gaining employment for those who have a conviction. I am self-employed with a registered sole trader business and am able to sustain my own employment within my remit. Unemployment rates are high within the offending community and this contributes to the cycle of re-offending behaviours. While there are companies who claim diversity in many areas, those with a criminal conviction who are obliged to disclose those convictions by law are in essence barred from employment - a further obstacle to rehabilitation. More has to be done on working on this area to enable re-entry into the employment world.

Conclusion

I appreciate that there need to be vast improvements in re-offending rates and helping offenders to rehabilitate; however, sentencing offenders to prison for a shorter term as a punishment is not the answer. There are far too many people in prison for non-violent minor crimes who have social problems as opposed to being a danger to the public.

Concentration on the needs as described above, are issues that are rarely mentioned in the consultation paper. Re-offending is a social and costly problem, therefore unless the social issues are addressed, more punishment will not work.

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THE IMPLICATIONS OF 'TRANSFORMING REHABILITATION' AND THE IMPORTANCE OF PROBATION PRACTITIONER SKILLS, METHODS AND INITIATIVES IN WORKING WITH SERVICE-USERS

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Abstract

With the anticipated reform of probation and rehabilitation services, it is important that existing practitioner skills, methods and initiatives are maintained and developed. This article is based on the research findings of a pilot study and subsequent introduction of a one-to-one structured supervision programme in Hertfordshire Probation Trust. This was a practitioner led initiative and was found to assist with effective use of the supervision session, whilst highlighting the importance of developing professional skills in working with service-users and vulnerable groups.

Keywords

Probation; supervision; offender engagement; best practice; training; Transforming Rehabilitation.

Introduction

I recall my first few days in probation as a trainee probation officer and being allocated my very first cases. I had worked with the offender client group previously and had an understanding of supervision processes and ways to help people to change and improve their lives. I found amongst my fellow Trainee Probation Officers a range of experiences in working with vulnerable people, and we passionately discussed supervision practices and debated whether probation was an enforcement or support agency. Throughout my probation career I have found that probation practitioners are renowned for navigating legislation and government policy, and for developing innovative skills, methods and practice techniques to fill the gap in the research base that underpins effective offender management. Understandably, many of the probation workers I currently come into contact with are preoccupied with developments with the 'Transforming Rehabilitation' reforms proposed by the Ministry of Justice and the subsequent uncertain future of the service.

The recent reducing re-offending statistics released (Ministry of Justice, 2013) reveal that the probation service has been producing good results in terms of reducing reoffending, with a number of probation trusts performing better than expected. This success is in addition to the Probation Service winning the British Quality Foundation gold medal for excellence in 2011 (Ministry of Justice, 2011) and with a number of Trusts individually awarded 4 and 5 star status for excellence. There has also been a recent report by HM Inspectorate of Probation (2013) which provides positive results about the performance and practices of probation trusts. Nonetheless, in the not too distant future the Ministry of Justice intends to change the landscape of probation as we currently know it. Although there are positive aspects to the 'Transforming Rehabilitation' proposals such as the provision of supervision to short term adult prisoners and the increased use of mentors, there are also less favourable aspects of the proposals such as the splitting of offender management, the creation of Community Rehabilitation Companies and the introduction of 'Payment by Results'. Needless to say, it is paramount that the Ministry of Justice strikes the right balance between 'Transforming Rehabilitation' and protecting existing offender rehabilitation services. However, due to the level of uncertainty and lack of detail, over on the frontline it is difficult to assess the extent to which the proposed reforms may impact on existing probation practice initiatives and quality of service. This includes the skills, expertise and status of probation practitioners that we hope will not be undermined or lost in the proposed new era of probation and community rehabilitation.

The supervision session

In 2011 I became involved in the NOMS Offender Engagement Programme by co-delivering one of the initial Skills for Effective Engagement and Development (SEED) pilots, and I was later involved in delivering Skills for Effective Engagement, Development and Supervision (SEEDS). SEEDS focuses on developing practitioner skills and practice in working with service-users, and at the core of SEEDS is the focus on the importance of the one-to-one relationship between the supervisor and supervisee (Ministry of Justice, 2012). SEEDS focuses on a number of themes but what is particularly important is the emphasis on structuring supervision sessions and enhancing the skills necessary to build meaningful supervisory relationships. Research suggests that offenders 'on probation' feel the

relationship with their supervising officer is one of the most significant aspects of their supervision, and this has been described as a powerful vehicle for changing behaviour and reducing reoffending (Barry, 2000; Rex, 1999; Ministry of Justice, 2012).

Many probation practitioners will have heard the expression that supervision is the “glue” that holds a Community Order or Licence together. In fact it is much more than this and is an opportunity to put a ‘package around the person’ inclusive of advice, support, intervention and risk management. Therefore the methods and techniques being offered by the SEEDS model and other innovations in probation are welcome additions to ‘best practice’. In this context, in 2010 I developed a programme of cognitive behavioural exercises for probation practitioners within Hertfordshire Probation Trust for use in supervision sessions with service-users. This was initially for use by new staff and those undertaking training to enhance their skills, some of which had requested additional guidance on approaches to supervision. I later developed this into Engage: A Structured Supervision Approach, a one-to-one structured supervision programme. After piloting the initial version of ‘Engage’ and taking feedback from both probation practitioners and service-users, and in addition after receiving valued input from probation colleagues and support from the management team, ‘Engage’ became widely used within Hertfordshire Probation Trust and a key part of its practice guidance framework.

The one-to-one structured supervision programme

Engage: A Structured Supervision Approach, is a one-to-one structured supervision programme for working with service users. It has been developed from an assembly of skills and experiences gained working within the field of probation and community rehabilitation, and includes 12 sessions of sequenced exercises which aim to engage service-users and form the basis of offence and life-focused discussion in areas including assessing needs, goal setting, changing behaviour, building support networks, life journeys, problem solving, victim empathy and relapse prevention (Hylton, 2011). The sessions are provided with instructions, theoretical underpinning and further independent tasks, and have been sequenced to correlate with the journey most service-users will go through. The programme is designed so that it can be individualised to suit the needs, motivations and circumstances of each service user, therefore avoiding the criticisms of the more rigid and sometimes impersonal and less confidential, general offending behaviour programme group settings (Hughes, 2012).

The theory behind the programme

In the development of the ‘Engage’ one-to-one structured supervision programme, focus was placed on opportunities to analyse the relationships between thoughts, feelings and behaviour, as this can allow the factors and thinking patterns underpinning negative behaviour to be explored and challenged (Beck, 1991). Effective practice research has placed substantial emphasis on the value of cognitive behavioural approaches in working with individuals who offend (Maguire 1995; Chapman and Hough, 2001). ‘Engage’ provides opportunity to delve into the lives of service users, as it is important for probation practitioners to use methods and techniques which consider the experiences and backgrounds of the individuals they supervise, as this can promote change in a number of ways. Firstly, rather than focusing only on the offending aspects of a service-

user's behaviour, it provides an opportunity to develop rapport through displaying an interest in the individual and their unique history and perspectives. Secondly, this can enable practitioners to develop insight and understanding of the factors underpinning the behaviours and to possibly consider further interventions. Thirdly, this can encourage service-users to reflect on the factors in their background which are relevant to their difficulties, to recognise previous successes and also to identify options for the future. Recent evidence has stressed the importance of establishing non-offending identities, and this is a method of encouraging service-users to recognise and build upon other, more positive aspects of their characters (Maruna, 2001).

Working with service-users requires that messages given are consistent and pro-social throughout the duration of contact and there needs to be continuity in the meaningful provision of supervision provided. Therefore, to a large extent the design and ethos of 'Engage' attempted to incorporate Holt's 4c's of case management, Consistency, Continuity, Consolidation and Commitment (Holt, 2000). In order to be effective, supervision sessions should enable service-users to construct new attitudes, thinking-patterns and life-skills which can be consolidated into a pro-social self-identity that seeks to achieve and maintain positive change, and the programme was structured with this in mind (Maruna, 2001). Research evidence suggests (Ministry of Justice, 2012) that the relationship between the supervisor and supervisee is vital to the supervisory process and a powerful driver in reducing reoffending. The structured supervision sessions of 'Engage' were designed to be delivered on a one-to-one basis, and aimed to provide for practitioners a vessel of engagement with service-users. The one-to-one delivery in confidential supervision environments meant sessions could be individualised to the needs and circumstances of each service-user, while having the potential to be immensely engaging and responsive, therefore building a relationship of openness, trust and commitment between supervisor and supervisee (Barry, 2000; Rex, 1999).

Probation practitioners are in a somewhat unique position in coming into contact with individuals at a point where they can be helped to change problematic behaviour, rectify deteriorating circumstances and reverse downward life cycles. For this reason it is important that probation practitioners are provided with appropriate training and development in order to increase and optimise their skills on an ongoing basis. Service-users can have complex problems and circumstances, and changing behaviour is rarely (if ever) a straightforward development, where negative behaviours suddenly stop and positive behaviour instantaneously follow. Usually change is a process which takes place over a period of time and motivation can sometimes slowly develop and waver, and can often lapse into previous behaviour. Clearly no single skill, method, practice or service alone can automatically lead to success, and ultimately enacting and maintaining change is affected by the skills, efforts and commitment of the practitioner, while being wholly dependant on the choices, motivations and circumstances of the service user. Effective use of the supervisory relationship and setting to identify where particular behaviours, circumstances, relationships or support networks may be problematic, can be just as important as identifying where new opportunities, support networks or solutions may be identified from, as well as focusing on pro-social goals and ambitions (McNeil, 2006; Locke and Latham, 2002). Therefore, with appropriate engagement, skills and methods, supervision is an opportunity to consider and review the service-user's wellbeing,

circumstances and progress, while having the format to plan, deliver and review the required support, interventions and risk management relevant to the service-user's needs, risks and goals. It is within this domain that the passion and commitment of probation practitioners, alongside highly developed professional skills and initiatives, can be very successful in the engagement, rehabilitation and management of offenders.

The 'Engage' project: Methods, feedback and findings

In 2011 the 'Engage' one-to-one structured supervision programme was piloted as a project in the 4 offices of Hertfordshire Probation Trust over a period of 6 months by 15 probation staff of varying grades. At the end of the period a consultation phase was commenced and feedback was received directly from the pilot staff members and from the service-users they had used 'Engage' with. There was a general consensus that 'Engage' was successful in facilitating use of the participatory sessions and exercises to assist service-users in moving away from offending behaviour and towards a lifestyle where offending has no place. The use of 'Engage' was described by practitioners as providing a vital structure to the supervision journey and that the exercises not only enabled service-users to engage by using visual, audio and kinaesthetic techniques, but as it was delivered on a one-to-one basis and could be individualised to each service-user, prompted valuable further discussion which delved into other areas of their lives which were not always easily accessible. The practitioners involved in the pilot stage and also many of the wider practitioner staff group that had gained access to 'Engage' reported that it assisted them in consistently promoting pro-social messages and engaging service users in positive collaborative engagement throughout the duration of the supervision. The exercises and sessions were found to encourage and support service-users to reflect on their behaviour, learning and progress, within a supportive environment which built a relationship of openness and commitment of both supervisor and supervisee. The feedback received from a number of service-users suggested they felt their supervision had become more meaningful with consistent and targeted focus on their needs, behaviour and goals, and each session tended to throw up different ideas, suggestions and solutions. A number of service-users had experiences of attending general offending behaviour programmes in group settings, but reported to find it easier to engage with the one-to-one programme in the supervision setting which they felt was more personal to them and helped them to get to know their supervising officer better.

Following the 'Engage' project pilot phase which lasted approximately 6 months, the sequencing of the sessions and exercises were amended based on user feedback with a needs assessment incorporated into the initial session. The 'Engage' one-to-one structured supervision programme was also amended to include exercise instructions, theoretical underpinning, and a 'supervision guide' to assist the development of the supervisory relationship. A certificate of completion and a feedback questionnaire were also added. Additionally, based on the feedback received, independent tasks were attached to each session in order to help the intended learning and messages to be reinforced. A behaviour log and independent log were included to enable service-users to record risky incidents and complete independent tasks, which could then be discussed in supervision. Practitioner feedback was that the availability of these logs was a reminder to investigate potential or actual offending since the last contact, and encouraged service-

users to be more forthcoming in disclosing potential offending situations that had been experienced or avoided, and an important disclosure to be explored in supervision sessions.

In 2012 the 'Engage' project was completed, the finalised version of the structured supervision one-to-one programme was shared with all practitioners, and the pilot findings and delivery methods explained in practice workshops. Various themes were included, such as the existing research that criminal behaviour can be a result of individuals lacking the internal and external resources to change their behaviour and thereby meet their needs and achieve their goals in pro-social ways. Therefore assisting individuals to use non-offending methods to achieve their goals can reduce and eliminate the need for offending (Maruna and Ward, 2007), particularly if there is focus on the issues individuals are facing and they are supported to enact change and achieve clearly defined goals (Hughes, 2011). The 'Engage' one-to-one structured supervision programme and the associated practice workshops also gave an opportunity to suggest the value-base to underpin supervision sessions, as that an individual may be an offender only at the point of committing the offending act, but that the gate of rehabilitation and change is open thereafter. There was a consensus that effective supervision sessions individualised to each service-user, including those that incorporate the techniques associated with 'Engage' and similar materials, should enable service-users to construct new attitudes, thinking-patterns and life-skills which can be consolidated into a pro-social self-identity that seeks to achieve and maintain positive change (Maruna, 2001). Therefore, it would be difficult to doubt that used efficiently, and with appropriate practitioner skills, methods and resources available, supervision is a key opportunity to support service-users to move away from offending behaviour and towards a lifestyle where offending has no place.

The 'Engage' project: Review, more feedback and conclusions
'Engage' progressed to become the published structured supervision programme for Hertfordshire Probation Trust, and became a core part of its practice guidance framework. In 2013 the use of 'Engage' was reviewed and feedback gathered from practitioners across Hertfordshire Probation Trust. The findings were that 'Engage' was successfully in use by practitioners across grade and with service-users of all risk thresholds. A popular view was that 'Engage' as a one-to-one structured supervision programme enabled practitioners to deliver a consistent approach in supervision, and was successful in its intention to provide intervention in the various areas it sought to reach. Of the service user feedback received via practitioners and through feedback questionnaires, the use of 'Engage' in facilitating structured supervision sessions provided added meaning to attending probation and assisted in prompting practitioner provision of help and support to service-users in their journeys to become offence free and improve their quality of life.

The findings from the 'Engage' project evidenced that it is important for practitioners to use skills and methods which service-users are able to respond to so that their risks and needs can be targeted within a wider package of support. This is in line with the research evidence that has shown that the success of rehabilitation interventions can be enhanced if delivered in ways that seek to engage active participation in enabling and assisting service-users in building a commitment to change (McNeil, 2006; Farrall, 2002). However,

in this context, the 'Achilles' heel' for practitioners in using the 'Engage' one-to-one structured supervision programme was in the variation of skills within the staff group. Whereas many practitioners had a range of skills they had developed within probation or other forms of employment and were experienced in supervising and engaging service-users and working with vulnerable groups, some reported deficits in levels of training and others found it difficult to engage the more challenging service users or to address some of the more complex problems that were subsequently raised, particularly in relation to needs, life experiences, support networks and goal setting. It was apparent that some practitioners did not have access to the various forms of training available in relation to engaging, motivating and supporting service-users. Fortunately, the SEEDS programme is making headway into this area by developing practitioner skills and their use of cognitive behavioural techniques, and recommends the continuous professional development of staff. It is important to note that a recent study into 'sentence planning and offender engagement' recommended training and development of motivational interviewing skills and counselling skills, and to recognise the therapeutic elements of the probation workers role. To this could possibly be added various appropriate forms of training to enhance the professional skills of probation workers, including courses in family work, clinical assessment, advisory skills and the teaching of life skills to adults (Hughes, 2012).

Used correctly, the 'Engage' one-to-one structured supervision programme has been an important initiative, which enabled practitioners to effectively use the supervision setting to enable service-users to understand and change their behaviour, therefore highlighting the importance of practitioner skills, training and development in motivating and engaging service-users (Wright *et al.*, 2005). Given that the relationship between supervisor and supervisee is a powerful driver in reducing reoffending, and greater engagement is a method to maximise this relationship, the effectiveness of 'Engage' was largely due to its design to be delivered on a one-to-one basis and individualised to the needs and circumstances of service-users, therefore having the potential to be immensely engaging and responsive (Barry, 2000; Rex, 1999). Additionally, with the support of probation managers and the focus of other existing initiatives such as SEEDS, probation practitioners were provided the time and skills to deliver 'Engage' effectively. Along with the passion and commitment of the practitioners and services-users involved, a key element to the success of 'Engage' was also due to probation managers and directors of services ensuring relevant resources were available, their pursuit of effective practice and quality of service, and recognising the importance of investment in and use of probation and practitioner led skills, methods and initiatives (Hughes, 2012).

'Transforming Rehabilitation' and the future of probation practice

Taking into account the findings of the 'Engage' one-to-one structured supervision programme and numerous other probation initiatives, the evidence is that the maintenance and development of practitioner skills and methods is paramount when working with offenders and vulnerable groups. 'Engage' is just one example of the methods and initiatives that exist because of the passion, commitment and expertise of probation practitioners. It is the motivation and efforts of probation trusts and practitioners in reducing reoffending, changing lives and protecting victims and the public that have influenced the creation and introduction of best practice skills, methods and

initiatives. Unfortunately, it is the opportunity for approaches and initiatives such as 'Engage', involving probation expertise and the support of probation trusts, and the input of probation practitioners and service-users alike, that are at risk of being undermined and lost in what is to be the new world of probation and community rehabilitation.

Although the Ministry of Justice has affirmed its appreciation for the hard work of the probation service and practitioners, there has been no guarantee that probation skills, initiatives and quality of service will be protected in taking forward the reform of rehabilitation. There has been some fear amongst probation workers that in the proposed new era of probation and community rehabilitation the existing terms and conditions of employment could be eroded, which could be the case whether transferred to a Community Rehabilitation Company or retained by the soon to be National Probation Service. If the status of the probation officer and the attraction of a career in probation is diminished, then it is reasonable to assume that the current level of skills, methods and service will also decrease. This is a highly contradictory prospect at a time when there has been increased focus on the training and development of probation practitioners and working with service-users, through avenues such as the Probation Qualifications Framework, the Offender Engagement Programme and SEEDS.

While the Ministry of Justice recognises there are a range of roles to be performed and services to be delivered in the rehabilitation and management of offenders, this is not fully reflected in the prospect of a scaled down National Probation Service solely reserved for public protection services. Likewise this is not reflected in the introduction of Community Rehabilitation Companies to manage the majority of offenders that may not necessarily be required to employ staff with a level of competence in accordance with existing probation qualifications, skills and methods. While probation is to remain central to public protection and enforcement at the high risk end of the scale, this is at the cost of engaging and supporting the wider range of offenders. If the Ministry of Justice is to reform rehabilitation for the better, an obvious alternative would be to invest in existing probation resources and in the training and development of probation workers. Given the success of the Probation Service in reducing reoffending, meeting performance targets and its quality of service, investing in its development would seek to further its accomplishments, including the continued interest in probation and practitioner led initiatives, new approaches and offender engagement and feedback. If this is not to be the case, it is therefore difficult to envisage a more effective justice system, or a more efficient system of community rehabilitation, if the current levels of probation qualification, occupational competence and quality of service, as a benchmark for supervising offenders, are not maintained and developed. If the Ministry of Justice does not get it 'right first time' then its reforms may fall incredibly short of its proposed intention to draw on the best services that can be offered by practitioners across the public, private and voluntary services, so that better support can be delivered to offenders. The risk is that if the current level of support, rehabilitation and risk management is not maintained, in conjunction with the necessary opportunities for the continuous training and development of practitioners within the field of probation and community rehabilitation, then it is not just probation workers that will be affected, but to a larger extent service-users, victims and the public that may suffer, potentially with grave consequences.

The Ministry of Justice is not misguided in thinking there is more that can be done to reduce re-offending rates and make a marked impact on the level of recidivism, and it is right for the Ministry of Justice to seek to ensure best value for taxpayer's money and supporting offenders to turn their back on offending. With the existing approaches to rehabilitation, many probation trusts are already working with the voluntary and community sector and the private sector, while drawing on and enhancing the considerable experience and expertise of probation practitioners. It would therefore make very good sense that rather than to reduce the scope of probation and practitioner expertise, to instead ensure that the current skills, methods and services of probation workers are not just maintained, but developed alongside further effective initiatives and interventions. The public sector probation service is set to continue to play a significant role in the reformed system of rehabilitation, however because of probation's history, expertise and success, it is much better placed to remain a key arm of the Criminal Justice System and to continue working across all risk thresholds rather than just working with high risk offenders and with the scaled down remit of public protection. If the aim is to make a real impact in reducing reoffending, to ensure lower crime rates and fewer victims, then the investment in the probation service and in the ongoing training and development of its staff, while remaining the main provider of rehabilitation services, would keep the best of the public sector working with all offenders. It is in this context that the 'rehabilitation revolution' and the ongoing transformation of rehabilitation, that began at least 107 years ago with the birth of probation, will continue to live on.

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TRANSFORMING REHABILITATION, A FISCAL MOTIVATED APPROACH TO OFFENDER MANAGEMENT

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Abstract

The probation service is about to undergo major changes in its structure as the Government drives through its proposals outlined in Transforming Rehabilitation. The question is whether this will be an improvement in how offenders are supervised and supported? In addition what will be the impact on the protection of the public? This paper outlines a number of concerns that are already affecting probation staff including the issue of risk.

Keywords

Target setting; risk; Payment by Results; what works.

Introduction

The probation service has been at the crossroads many times in its history but currently it is heading for its greatest challenge since its inception. The recommendations contained in 'Transforming Rehabilitation' will change the justice system. The question that has to be asked is whether it will be for the better? Recently thirteen Labour Police and Crime Commissioners have written to Chris Grayling, Secretary of State, to express their concerns about the planned changes and the potential impact for public safety. They stated that Probation Trusts know and understand their local areas and have constructive working relationships with agencies such as the police and private and voluntary sector groups. They were concerned with the fragmentation of services and how risk of reoffending can oscillate over time. The sheer speed of the proposed changes also alarmed them and they accused the Secretary of State of hiding behind the 2007 Offender Management Act (discussed later in the article) rather than seeking Parliamentary approval (see Russellwebster.com for details of responses to Transforming Rehabilitation). NAPO, the probation officers' union has complained that Transforming Rehabilitation conflates areas that probation is responsible for with those for which it is not, for example supervising short-term prisoners on release, and then to lay blame on it for not doing the work very well. One response would be that this is a somewhat disingenuous and cynical, constructing of a straw man for destruction. Undoubtedly, there is distinct merit in working with those sentenced to less than 12 months, this is a view shared by current probation staff and service users alike, as is the proposal to engage ex-service users and mentors to provide an individualised approach to sentence planning. But should this be a rationale for the dismantling of the probation service?

Debbie Ryan of G4S sees the Transforming Rehabilitation agenda as a:

Once in a lifetime opportunity to look at probation with a blank sheet of paper. It is a chance to put service users at the heart of the new service models and if the new providers get it right we will see less people in prison and more money in rehabilitation. (Cited in Webster, 2013a)

We would question the notion of starting with a blank piece of paper when we have substantial experience of the evolution of effective ways of working with offenders, from low to high risk. Should we be jettisoning all this for working on a blank piece of paper, or even the back of an envelope, to start again? The irony is that the National Offender Management Service is training probation services across the world in a model we seek to discard. We have to question how such 'innovation' will be paid for, given that the current plans are influenced by the current government's austerity measures and a significant part of the argument for reform being one of improving value for money. This paper will consider the evidence and the politics for the proposed changes.

The Probation Service in England and Wales has changed remarkably in its hundred year history from a philanthropic, untrained base to what it is today, an organisation perhaps overly target focused (not the fault of the service) but with a workforce that is trained to identify and manage risk (Goodman, 2012). It has withstood previous attempts to deprofessionalise it, notably Michael Howard in 1995 withdrawing the requirement for

staff to be trained for the work, which was overturned by New Labour when they were returned to power in 1997. It was new Labour that produced the Offender Management Act 2007 that introduced more competition into the probation service but it did not go as far as the current proposals. Sadiq Khan, Labour's Shadow Justice Secretary, has complained that experienced probation staff have not been treated with respect, with Labour voting against the new Bill which has been described by them as an enormous gamble (Khan, 2013).

The current government's plans appear to be, as some have suggested, a dismantling and privatisation of the service. It could be argued that the Probation Service as it existed needed to undergo a metamorphosis, having spent the majority of the past 15 years being driven by unrealistic and irrelevant targets imposed by the previous Labour government. Indeed, Burke (2011a) claimed that the publication of the Green Paper: 'Breaking the Cycle: Effective Rehabilitation and Sentencing of Offenders', (Ministry of Justice: 2010) was a bold and ambitious move to reform a system that had become overly centralised and bureaucratic. This system had witnessed the prison population grow, rather than tackle the root causes of reoffending. Following the departure of the then Justice Minister Ken Clarke, the resulting legislation (Legal Aid, Sentencing and Punishment of Offenders Act, 2012) has taken a very different tone and sees a return to more traditional conservative values (Burke, 2011b)

Under this legislation the Government plans to restructure the Probation Service into a National Service responsible for the supervision of all those assessed as high and very high risk of harm, whilst private and third sector companies will bid to provide the supervision of medium and low risk offenders and will be subject to a Payment by Results (PbR) approach to their work. Within this article we will explore the reasoning behind the government's new proposals, we will look at the possible implications for the assessment and management of risk and draw upon the views and concerns of current staff taken from the authors informal conversations with practicing probation staff, at a range of levels, in conjunction with our own observations resulting from engagement with people on the social network site, twitter.

Why Transforming Rehabilitation?

Developments in probation practice over the past decade or more have led to a number of wholesale changes in the way in which Probation Officers do their work (Bracken, 2012). This includes an increased reliance on risk assessment and control measures, increased inflexibility in reporting to probation offices as well as the delivery of offending behavioural programmes designed to address criminogenic needs (as if these could be split off from other aspects or characteristics of the offender). Much of this has been influenced by a need to be seen as being effective in practice and to meet government set targets. It is arguable that in doing so probation practice has become too focused on negating the deficits of the offender at the expense of the socially inclusive factors that impact on an individual's ability to desist from criminality. It renders the offender as a passive recipient of the intervention. Indeed, research carried out by the Social Inclusion Unit in 2002 (cited, Dobson, 2004) highlighted nine key areas that most influence recidivism rates. It is important to note that whilst all of these areas are included in the standardised risk assessment tool used by the probation service it is arguable that current

probation practice is ill-equipped to adequately address them. Undoubtedly, probation cannot be expected to resolve deep rooted social problems (Jordan, 2003) such as unemployment or lack of social housing, but for the individuals being supervised these are real factors that need to be addressed if they are to have a chance of desisting from crime. In the past probation nurtured relationships with hostels, housing associations and even ran projects to get offenders back into work. These projects were scrapped as the work became more and more focused on supervision and adherence to ever more restrictive National Standards. Charities and private companies are not likely to fare any better on new tightly budgeted interventions. Being met at the prison gate by an old lag is not really addressing the problem either, mentoring can be helpful as long as it is not too restrictive and hectoring.

Grayling (2013) stated: “There is a wealth of expertise in the public, private and voluntary sector- we need to unlock”. We would not argue about the expertise of the third sector and the need to work with it. However this should not be at the expense of dispensing with probation expertise in recognising and harnessing this good work in collaboration rather than competition. Realistically small charities will not be in a position to compete for the new contracts but will be brought in to provide a respectable veneer by the large private companies who will drive down costs to provide the cheapest possible prices. Will this be worth having? We have already seen how this has resulted in staff being made redundant in supervising community punishments negating the potential to encourage desistance (Sofos, 2013); rather, ticking boxes for minimal interventions is a somewhat short-sighted way of intervening with offenders.

The above is not to deny that there are agencies/organisations that exist in the charitable sector that hold individual expertise in areas that would assist individuals on their desistance journey and the desire to draw upon this expertise is an admirable one. However, to its credit the probation service has a long history of effective partnership working and many probation offices have close links with specialist charities and organisations that are mandated to assist the service users with specific needs such as employment, education or drugs and alcohol. This frees the probation officer to focus on risk assessment and management concerns. Nevertheless, the claims made by Justice Secretary Chris Grayling are that there remains a consistently high rate of reoffending that the current system clearly cannot address. His posturing is ‘evidence-lite’, unlike the impressive way in which offending rates have been falling for those supervised by probation.

The predicted rate takes into consideration the profile of offenders in the current cohort. Over recent years, the probation caseload has been increasingly made up of offenders with a high risk of reoffending. This is one of the reasons that comparing historical reoffending rates can be misleading. Therefore measuring actual reoffending against predicted reoffending provides a fair measure of performance. On this measure, the reoffending rate of those supervised by the probation service nationally was 9.18% against a predicted 9.67% – a reduction of 5.05% – more than enough to secure a Payment by Results bonus under the proposed Transforming Rehabilitation contracts. (Webster, 2013b)

In many ways the organisations that are likely to take on work hitherto undertaken by the probation service have not faced intensive scrutiny. St Giles Trust undertake much useful work in prison resettlement. It is interesting to note the personal comments from an academic, Alex Sutherland, from the Cambridge Institute of Criminology on the Women's Information and Resettlement for Ex-offenders (WIRE) project from April 2010 to early 2012.

Perhaps the biggest obstacle is that the WIRE project appears to lack a clear idea about what it is trying to achieve...As well as impacting on the operation of the project, this has implications for important administrative aspects as well. Without knowing the answers to questions such as 'What is the WIRE trying to achieve?', 'For whom?', 'How?' and 'Over what time-scale?', it is not possible to collect coherent data on the project and within what time-frame these should be achieved. This is not meant to undermine the work being done, but that work and the enormous effort accompanying it might be better 'spent' on a more focused approach (Sutherland, 2012: 17).

Whilst there have undoubtedly been some high profile failings in probation practice in recent years the evidence suggests that the service has not only improved to meet the targets set but has excelled to become the first ever public sector organisation to be awarded the British Quality Foundations 'Gold Medal for Excellence'. Indeed, Michael Teague (2013) argues that there is copious evidence that confirms the effectiveness of probation practice and that the statistics published are being used to justify a policy already decided upon rather than being used to formulate said policy. This assertion appears to be supported by the use of the recidivism rates of offenders sentenced to under 12 months to justify probation reforms; this cohort that does historically have a high rate of reoffending but is not currently supervised by the probation service. It is clear that those sentenced to less than 12 months custody represent a group known for their statistically high rate of reoffending although we could argue that this serves more to promote an abolition of such sentences than reforming of the probation service who on a comparable note demonstrate a much higher success rate. We would add that proposals to test those released from prison on short sentences for both class A and class B drugs is likely to lead to number of offenders breaching their licences, perversely increasing the prison population and not lowering it.

Payment by Results

The introduction of a method of payment by results is seen as a way of not only driving up standards but also reducing the cost to the public purse yet it is largely unproven in its effectiveness and appears to be a twist on the previously failed attempts to introduce contestability into the criminal justice system (Burke, 2011a) which supports an argument that competition will drive up standards suggesting that a flaw with the current system lacks any real incentive to affect change and is too focused on risk of harm. This a viewpoint shared by some service users:

A privately owned service...is far more performance based it is quality and not quantity that determines a higher level of professionalism, performance means being judged on success which includes reducing reoffending (Anon, Inside Times, 2012).

Over the last years they have not had our interests at heart, now it is being paid by performance there is a big difference...it's all about them making money (User voice, 2013).

It may well be that linking financial gain to the effective delivery of services does have a positive effect on the delivery of those services. However, this will greatly depend on those commissioned to do so. It has been announced that there has been a significant interest from more than 700 companies from across the world, it is also confirmed that despite the ongoing investigation of their handling of other public service contracts companies such as G4S and Serco will also be allowed to bid (BBC, 2013) It is concerning that many of those most skilled to deliver the required services such as charities for example do not have the funds to compete (Third sector, 2012) which is likely to mean that large private organisations are likely to be the primary bidders who have no experience of working with offenders which raises significant concerns and has been met with some distrust from service user groups (User Voice, 2013). The government plans envisage that current staff will transfer to the new providers and thus will negate any lack of experience the new companies may have however, this in itself has raised significant concerns within the probation staff groups. Whilst most staff members have expressed a moral distaste for the plans for what has been quoted by some as 'justice for profit' it is apparent from discussions on twitter, as well as from anecdotal conversation with probation staff, that the overriding concerns in fiscal terms relate to the individual terms and conditions staff may experience under the employment of the new Community Rehabilitations Companies (CRCs).

Expect salary will be harmonised, with third sector pay, can't see salary protection happening (@offenderex: 2013).

They are about profit, the only way to save money in probation is staff cost, that means less pay, less staff and higher caseloads (Probation Officer: N.H, Private Conversation: 2013).

Staff concerns in this regards may well be unfounded and there is clear indication that terms and conditions will be maintained at least until the point of share sale. That said, evidence taken from the work programme suggests that such a course of action is seen as a viable option even by third sector providers. St Giles Trust, a charity that works with ex-offenders, for example underestimated the costs and time scales involved in delivering a programme to get young people back into work and had to cut staff numbers in order to reduce costs. Evan Jones, head of community services at St Giles Trust says it has been stung by PbR. Speaking at the *Third Sector Payment by Results* workshop this month, he said St Giles had bid successfully for a programme for getting young people into work, but made mistakes when tendering. "We underestimated the time it took to get young people

into work," he said. "As a result, no one won - we had to reduce staff to cut our costs and the project didn't produce the expected results." (Third Sector, 2013).

Another side effect of PbR was that staff, conscious of meeting targets, tended to rush meetings with service users and felt pressured to try and meet unrealistic outcomes (Third Sector, 2012). One practitioner in a drug rehabilitation agency commented that it was not possible to deal honestly with the PbR contract that required the outcome of contact with clients to be abstinent. This, they commented, was simply not possible in the time allotted to work with users. As a consequence, either heavy users would be avoided, they would not achieve the target and thus not get paid under PbR, or they were economical with the truth. This might be seen as an inconvenient result, but worrying when contracts for rehabilitating offenders is linked to PbR. We have seen a worrying number of cases where large private contractors, the very ones that are likely to win these contracts have been economical with the truth in such matters as the numbers of offenders who are being tagged. Indeed Justice Ministers have rejected offers from G4S to repay £24 million and makes the final overcharging bill by G4S and Serco likely to be in excess of £30 million (Travis, 2013). Death and custody does not seem an impediment to claiming that they are safely tagged and the public protected.

What constitutes a result in the PbR model is yet to be clarified, yet the target is clear: the Ministry of Justice is of the view that the rate of reoffending is consistently high and needs to be reduced. However, any experienced probation officer will tell you that recidivism in itself is not an accurate measure of change and improvement in an individual (Ledger, 2010) and a reduction in risk can sometimes be a realistic goal. For example, a class A drug user who through intervention moves from committing serious street robbery to shop lifting could be considered a success and a move along their journey to desistance. However, under PbR would this be counted as a failure, resulting in a financial penalty for the provider? This raises significant concerns in regards to potential conflicts of interest stemming from the key idea that profit making organisations ultimately need to be accountable to their shareholders. Thus, we could surmise that the needs of the service user will be outweighed by the need of the balance sheet. Indeed, Teague (2011) argues that when probation staff focus their skills on revenue collection their capacity to act as neutral, professional rehabilitators may be compromised. Professional standards of staff is one area of concern from the American model that has been shared by UK stakeholders. In America this has been addressed by introducing a pre-determined minimum standard for probation staff (Schloss and Alarid, 2007), an option being mooted in the UK with the Probation Chiefs Association calling for a professional Institute for Probation which, it is hoped, would see a standard of qualification and professionalism that would remain in the service.

Risk assessment, management and Transforming Rehabilitation

Of all the concerns expressed in regards to the reforms, the matter of risk is clearly the most pertinent. It is envisaged that service users will be split by risk of harm, with the national service maintaining the supervision of all those assessed as high and very high; low and medium risk being managed by the CRCs. Whilst it is not currently clear how this will be achieved, the current plans call for the NPS to complete an initial assessment and

then the case will be allocated to either side. This is problematic in itself due to the complicated nature of risk assessments which Kemshall (2008) states are notoriously open to bias, in which professionals engage in subjective decision making which means that risk perceptions impact on how differing professionals and groups define and assess risk. Whilst the introduction of structured risk assessment tools clearly have their advantages (Miller and Mahoney, 2013) and the introduction of such tools has gone some way to negate such biases, risk is still in the eye of the beholder (Kemshall, 2008). Given that the very nature of the reforms will see performance being linked to fiscal gain it is not inconceivable to assume that these inherent biases will be amplified and could in affect lead to service user's risk being assessed as higher or lower dependant on the desired outcome to keep them with or send them to the national service or CRC. The problems with risk are further highlighted by the fact that at this stage it is unclear if the CRCs will be required to complete on going assessments of risk and/or what degree of risk assessment will be required by the NPS at commencement. What is known is that, as part of the reforms, the Ministry of Justice has announced the development of a new streamlined assessment tool that will be used.

The concerns related to the issue of allocation by risk is further highlighted by the dynamic nature of risk itself which could see service users effectively 'ping ponging' between the NPS and the CRCs a factor which undeniably could increase the risk posed to the public. User Voice (2013) raised this as a concern with one service user stating,

There is the potential for people to be passed around from one person to another and therefore lack consistency....relationship and trust may not be gained.

The importance of the relationship between the probation officer and service user is well documented and formed an integral part of the Carter Report (2003) which led to the implementation of end to end offender management. Whilst it should be noted that the current service does have some issues with providing truly end to end management this is generally due to staff turnover and the vast majority of cases are, or at least have the potential to be, managed by the same probation officer from pre-sentence stage to the end of their order. Despite this, G4S (one of the potential primary bidders) claim that:

For the first time there is the opportunity for the offender to have a single point of contact throughout their journey from release from custody to stabilisation. Evidence has shown 'what works' to reduce re-offending is the joined up co-ordination of a single plan to obtain primarily: a job, a house, a stable relationship and support to deal with debt. The recent NOMS publication on offender segmentation supports this holistic approach to offender engagement, noting that 'programmes that tackle just one risk factor are unlikely to make a difference by themselves. Interventions that target multiple factors are more likely to be effective.' This reform will integrate these services through a process and scale never been seen before. (G4S, 2013)

The current reforms by their very nature are unlikely to achieve this and in many ways are counterproductive to this goal. In fact we are moving away from a system that has a history of good partnership working to address multiple needs to one where a service user could be managed by a multitude of providers and where they can be removed from a productive working relationship at times of both success and failure which further impacts on effective risk assessment and management. This is because, as stated by Nash and Williams (2008), it is paramount for an assessor to fully understand a service user for a risk management plan to be effective. It is clear from the format of the reforms that the Ministry of Justice considers the probation service best placed to manage risk because the national service will maintain overall responsibility for the assessment of all offenders (at least at the initial stage) and the management of high risk offenders. Does this not mean, therefore, that there is some sense in the current service being best placed to deliver the supervision of offenders in the community? If the answer to that question is no then there is a need to the evidence which supports such an assertion.

There appears to be another misnomer at the heart of this misguided report, namely that the probation service is somehow against the notion of partnership. Nothing could be further from reality. Various mechanisms, such as cash limiting, have been used in the past to ensure that a certain percentage of probation money had to be devolved to the voluntary sector. Probation has worked willingly and constructively with organisations providing accommodation, specialist services in mental health, substance misuse and so on. Will this continue after probation has been transformed? There are grounds for thinking almost certainly not. Private companies will want to maximise their income and be unwilling to share it with other organisations raising the potential for innovations to become copyright property of the companies who will not want to lose competitive advantage.

Finally it is worth considering what we know about what works with offenders. Supervising offenders is a complex task and the evidence base is mixed. As Pawson and Tilley (1997) comment, certain ideas work for some people in some circumstances (see Goodman, p52 for a detailed discussion, 2008). This is why it has to be a professional activity. Shapland *et al.* (2012) have argued that engaging offenders and building relationships with them is an essential of the process of stopping reoffending. Furthermore, a number of other qualities are needed: advocacy, motivating, being able to talk about their problems and so on. Offenders need to be 'steered' into a non-offending way of life. Whilst this may be easily recognisable to people involved in probation we need to remember that, in reality, it is difficult to change people who have a poor self-image, low motivation and little self-confidence. McCulloch and McNeill's (2008) work on desistance-focused approaches which draws on work by Farrall (2002) and Rex (1998) (both of which asked probationers what they wanted from their probation officers) highlights the consistent message that probationers do not expect to have their problems resolved for them, rather they want advice and guidance. It was more realistic for probation to develop 'individual and community partnerships needed to enable probationers to achieve these goals themselves' (McCulloch and McNeill, 2008: 166). We agree with this finding: it takes skill to empower clients to find solutions and to achieve their goals. Untrained staff often find it easier to be 'rescuers' and do what they think is in the client's best interests. Thus, we argue that rather than starting with a blank piece of

paper we need to build on the lessons learnt from many years of engaging with offenders and being informed by research and good practice.

Conclusion

Will offenders realise the changes in supervision post Transforming Rehabilitation? The answer is almost certainly yes. Supervision will possibly be more idiosyncratic, possibly more rule-bound, staff might be less sensitive to issues of race and gender – we do not know the extent to which these changes will manifest and how they will be felt by probationers. We *do* know that the criminal justice system is discriminatory (Ministry of Justice, 2011) and the probation service has worked hard and learnt lessons to deliver services that are culturally and gender sensitive. This is not to say that they have it completely right but there is an acknowledgement that ‘colour blind approaches’ are insulting and do not work. The wheel should not have to be reinvented. Some of the companies likely to be bidding do not have a good track record in this area. Transforming Rehabilitation ignores this, which is a cause for great concern. What is clear is that costs will be cut and this may well result in a less well trained work force. Importantly, this situation has occurred previously and it did not work. Work with offenders is skilled and difficult: practitioners need to have the training to appreciate what makes people ‘tick’. This should not be conflated with the use of tick boxes to prove effective work has been done.

We have examined the proposed reforms to the probation service under the Transforming Rehabilitation Agenda. Whilst we can see that the plans hold some merit in the goals they are trying to achieve (reducing reoffending in an environment where saving tax payers money is paramount) it is evident that the current proposals raise some specific concerns. PbR could have the desired effect of raising standards and driving innovation but it is just as likely to force those innovative organisations out of the market place, resulting in the primary bidders being multinationals with little or no experience of probation practice. The motivation is more likely to focus on profit and minimum interest in the world inhabited by the offender.

Current probation staff have expressed concerns of a moral nature objecting to the possibility of probation services being run by such organisation and these concerns also focus on the very real possibility of decreased terms and conditions and a possible loss of professional status. Although some moves are being attempted to secure a Probation Institute to ensure that the service continues to be staffed by highly educated and skilled individuals there remains an important and unanswered question; will staff supervising low and medium risk offenders have any form of training?

Perhaps of most concern is the possibility of risk to the public that the current plans may hold. As stated it is not clear how, or if, CRCs will be required to deliver on-going risk assessments and to what extent financial implications might have on creating bias in risk assessment. Of particular concern is the fact that the very nature of allocation by risk could result in service users being passed from one provider to another resulting in points of increased risk and, critically, interrupting the journey to desistance. This aspect of the reforms needs to be explored further.

We are not disputing that for there to be a substantial decrease in recidivism rates the current system needs to change and draw on the skill sets of other agencies with expertise in specific fields relating to the causes of offending behaviour. However, it appears that the current plans are unlikely to achieve this. Rather, we advocate a revisit to the offender management model. One example of such work might be a model in which the probation service becomes the commissioner of such services on a local level whilst holding on to supervision and remaining a constant figure in the life of the offender. Can we afford to take a leap into the unknown?

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THOUGHT PIECE

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A RETURNING PROBATION OFFICER'S THOUGHTS ON THE EROSION OF PROFESSIONALISM IN OFFENDER MANAGEMENT AND THE TRANSFORMING REHABILITATION AGENDA

Julia Norton, Probation Officer

Professionals are often defined as those who have their knowledge certified by way of examination and that practice is grounded in theory. Traditionally Probation Officers have shared a set of core values which are underpinned by the notion of working for the greater good whilst recognising the intrinsic worth of the individual. My own view is that the Probation Officer qualification now serves as a 'badge of competency', is government driven and should be viewed in the context of a capitalist state. To this end it is important to consider if officers are being taught competency in specific tasks rather than intellectual development. The bookshelves in probation offices used to contain published academic works from practitioners, sadly these authors are not being replaced by their younger counterparts. One considers if this was part of the plan all along to place officers in an increasingly restrained environment where 'doing the job' becomes the only priority. The pre-sentence report, arguably one of the most important analytical documents, has now in the main been reduced to a series of tick boxes in an electronic format which prohibits any creative alteration of text: 'computer says no'. Surely investment in the promotion of autonomy and the intellectual potential of staff ensures continued professional development, and this is not necessarily satisfied by the generic 'one size fits all' training. Ideally one would prefer employers to consider sponsoring staff to complete higher qualifications and foster an environment where their own research informs practice.

Arguably practitioners now perceive that their role is being devalued and that rather than the MOJ raising standards, there is a determined effort being made to undermine

Probation Officers. Society looks to professionals to provide solutions to problems, Probation Trusts view reoffending as a problem and all efforts are focussed on reducing this problem. Should the TR proposals become realised then companies may view themselves firstly as 'financial institutions' secondly as 'offender managers' and arguably not at all as 'servants of the public'. Most commentators on TR emphasise the speed at which these reforms are taking place with a focus on overarching strategic objectives and little or no mention of the tactical or operational feasibility of many of the proposals. Probation Trusts are guilty of allowing themselves to become secretive organisations; were the public to be surveyed, one would predict there would be a preference for qualified non-profit making professionals to manage offenders. That said qualified officers will form part of the CRCs, for now, what of the future training of new 'offender managers', will individuals be motivated to undertake a period of study when their employment is precarious? Employees whose values do not sit well with the organisation may experience a conflict in this 'dual identity'.

Without doubt the greatest fear concerns the management of risk, the protection of victims, and potential victims. Draft documents propose that those posing the greatest threat of harm will remain under the supervision of the new NPS, an acknowledgment then that professionals are required. Latest proposals suggest that the penny is finally dropping in terms of risk being dynamic and the necessity to identify offending pathways, triggers to further offending, and accurate identification of potential victims. Politicians have showcased proposals by way of photo opportunities with community groups who no doubt have completed some meaningful interventions with offenders. Whilst there are a number of agencies who are best placed to treat addiction, address mental health issues, and support housing and educational needs, the only individuals with the professional capacity to assess and manage risk are Probation Officers. It is of course acknowledged that working alongside partnership agencies is vital and research suggests that an integrated approach to offender management could be further developed to cover a wider range of offenders. However one fears that this pooling of resources may be jeopardised by TR proposals; moreover can the Police be expected to share intelligence with untested organisations?

Having not practiced for the last four years, when returning to the Probation Trust at a most tumultuous time I was unsure what to expect. If the latest 'TR Bulletin' is to become a reality then I will move to the CRC as for the last few years I have worked for the Police and in Education, so not deemed eligible to work in the new NPS. The battle is not yet lost of course.

I have observed a constant, that Probation staff are a body of dedicated professionals who are committed to protecting the public and working with individuals to change their lives. Probation Officers are not resistant to change and are experts at responding to crisis situations; most days are a rollercoaster ride. We are used to doing 'more for less', regularly work unpaid overtime and go over and above our role in supporting and protecting people. That is who we are, that is what we do. One wishes that this message was more widely disseminated by those in influential circles.

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A PROBATION OFFICER'S BRIEF REFLECTIONS ON TWENTY YEARS OF REHABILITATIVE TRANSFORMATION

Mike Guilfoyle, former Probation Officer and Associate Member of Napo

In the autumn of 1990 I vividly recall my introductory visit to the probation office in North London that was to become the crucible in which my twenty year career as a probation officer was launched. The modern office block that housed the probation team was adjacent to an even newer Magistrates' Court, 'the palace of justice', opined the avuncular Assistant Chief Probation Officer, during my orientation week. I was slowly but methodically inducted into what appeared at the time an almost quasi-masonic occupational rite of passage, the richly grounded foundations of probation practice, the working credos of individual practitioners and Jarvis shaped procedural requirements, unfolded by my probation colleagues. My allocated generic supervision team comprised a disparate but highly skilled and vastly experienced team of practitioners whose congruent value base offered a nuanced balancing of the thorny tension evinced by the thread of supervisory care and control neatly meshed with my emerging probation identity. Having undertaken a post-graduate Certificate of Qualification in Social Work and immersed myself in the lore of social work practice, in mental health and child protection field placements, I had secured to my unexpected delight a placement in a field team in South London which specialised in pre-sentence reports - then known as social enquiry reports. However I still felt professionally ill-equipped to handle the multiple casework challenges that were associated with a community that, in most respects, had all the textbook characteristics of Inner London's social deprivation and indicative levels of crime and disorder.

However the historic organisational arrangements pertaining in London at that time seemed anomalous to me. The borough boundary straddled by one of London's main arterial roads often excited some liminal disputes as to whose responsibility it was to prepare reports and assist discharged prisoners (who, although not on statutory licence, frequently called in to see the duty officer for help and advice). Providing continuity of supervision when addresses between boroughs often shifted on a regular basis due to the rootless lifestyles of many of those on supervision was what probation officers did.

The presence and availability of skilled, highly trained and experienced practitioners was of inestimable value and this was most in evidence when at weekly team meetings the allocation of reports was keenly debated and such deliberations were framed and informed by a well-crafted casework sensitivity of fractured lives whose paths to offending were shaped by the perceived structural and social deficits of poor educational opportunity, joblessness, addictive behaviours and homelessness. One colleague whose resort to assertive advocacy on behalf of prisoners and hearty embrace of the use of benign authority (pro-socially modelling, *avant la lettre!*) in client supervision, worked tirelessly to motivate and ensure some of those most likely to harm others always featured prominently in regular cross-country prison visits. She brought her cogent practice wisdom to the attention of policy makers in parliament and her strengths based and family focussed work with prisoners shaped some of her subsequent evidence-informed and innovative work with sex offenders.

I was thankful that I was able to appear as a working probation officer with organisational sanction, when visible media interest was safely negotiated with the local newspaper that focused on "How probation contributed to safer communities". This was swiftly followed by an appearance with a probationer on BBC Newsnight on the best way of ensuring 'through the gate' support for ex-prisoners! Of course the low public profile of probation, outside of the critical negativity of more recent "supervisory failures" and what some view as a wider benign indifference to its work might be seen as a harbinger of just how susceptible it has been to the implementing of some of the more far reaching organisational reforms of recent times from the introduction of the National Offender Management Service to the current seismic Transforming Rehabilitation agenda.

To this end, report writing and the preeminent need to recommend to the judiciary the most bespoke sentencing options was reinforced by a well-developed and peer led gate keeping process that enabled neophytes as well as experienced colleagues, the opportunity to refine and discursively reflect on the impact of sentencing that might further disadvantage those whose shaping narrative of socially determined delinquency might further embed them in the criminal justice system. I was adjured on one occasion to attend a Crown Court hearing to present my report on a young woman whose offending was of a very serious nature. Her distressing and abusive domestic circumstances merited, after some considered supervisory case discussion with the senior probation officer, a "welfare oriented" intervention (this was prior to probation becoming a sentence in its own right) and although the sentencing judge was unimpressed with the recommendation, he nonetheless was appreciative of the commitment and time expended by my presence as the author of the report in court.

The formative supervisory experience afforded by the time honoured practice of graduated caseload increases, supportive managerial oversight and added casework complexity over the "probationary" year for newly appointed probation officers, enabled the acquisition of new found skills in dynamic casework and the "smell of practice" on joint prison visits, shared case conference participation and doubling up on home visits. The vestigial Divorce Court Welfare role was also finding another institutional direction as I was entering probation. The time allotted to assimilating the practitioner's knowledge bank around the diverse range of partnership organisations locally commissioned who worked with probation was invaluable as one needed time to gain such a ready familiarity with providers best suited to individual needs. Who to refer to and who to consult with, began to play an integral part in the compass of supervisory oversight. The local "spike" for homeless men, which had a much derided reputation from service users, began to work in lockstep with the courts and referring probation officers, once some of the vexed issues around institutional caretaking were flagged up in joint meetings and court liaison seminars.

This inveterate sense of the professionally compelling need to work together with others in the wider community to provide a skilled, purposeful, engaged and meaningful supervisory experience was brought home to me most poignantly when I was allocated supervisory responsibility for a woman who had a long standing and problematic drug and alcohol dependency. This was compounded by very enmeshed and abusive relationships which resulted in the build up of a persistent pattern of acquisitive offending, in which periods in custody interspersed periods of short-lived abstinence on release and recurrent relapses that meant reporting requirements under the incipient national standards framework (which had in the interim been tightened up but still offered some discretionary space) were often breached. Working together with drug and alcohol agencies and attending numerous Crown Court hearings as a referral to residential treatment was arranged, consumed considerable amounts of professional time and attention. The Crown Court judge, well versed in the therapeutic nomenclature of drug and probation reports, acceded to the final adjournment pending admittance. However the debilitating strain of remaining drug and alcohol-free proved too great and tragically she absconded and shortly thereafter died from an overdose in very disturbing circumstances. When I collected her personal belongings from HMP Holloway to pass onto family members, she had written on a scrap of paper. "Tell Mike that I will not let him down this time"!

The shifting political and managerial environment manifested most clearly in the introduction of tightened national standards, diminution of professional autonomy and greater national accountability to government began to impact. For many this was detrimental to the service's core professionalism and foundational ethos, more particularly with the undue emphasis on the management of supervision rather than the content, with a shriller emphasis on the macho-correctional language of offender management and the removal of the word 'probation' from court orders, foreshadowed with the inauguration of the National Probation Service in 2001. The "triune dicta" of enforcement, rehabilitation and public protection, enshrined in the NPS objectives strap line, reframed from "advise, assist and befriend", was augmented by a programme of

wholesale computerisation, standardised offending behaviour programmes and ever more desk bound, office-centric laborious assessment tools.

I worked as a probation officer through some turbulent political times and will readily admit to a considerable degree of occupational dissonance with the introduction of some of the target fixated coercive managerial imperatives that disfigured the workplace, demoralised probation workers, as well as the insidious attenuation of the probation identity meshed within the dominant prison-centric penal command and control world view of NOMS. The amount of time spent in front of computer screens compiling routine risk assessments remains perversely disproportionate. The demographic profile of probation staff has changed and the contemporary probation culture is certainly more diverse. The role of trade unions in probation and in particular Napo has been for me a powerful and tenacious influence in helping me to understand, respond and cope with many of the changes alluded to above.

It seems that the present Transforming Rehabilitation proposals if enacted will fast become a legislative bludgeoning engine intent on dismantling probation and offering in its place a largely fissiparous mix comprising a skein of lowest bidders and corporate raiders. This will almost inevitably undermine and fragment a service that already works best in cooperation and in multi-agency partnerships, that has at its heart a commitment to working holistically, with a resilient belief in the possibility of motivated change and reparative action. At a time of reduced resources the service helps to reduce the harms of offending at the local level in communities blighted by crime. Probation has made a unique contribution to criminal justice and although many would argue that it has lost much by way of its traditional roots, professionalism and identity, it still merits its place at the centre of any rehabilitative revolution. Arguably it has long been transforming rehabilitation. Let us hope that it can find its voice again?

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CARE LEAVERS AND THE NEW OFFENDER MANAGEMENT SYSTEM

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Jonathan Evans is a qualified social worker with experience of community development, youth justice, probation and family court welfare. He worked as both a practitioner and middle manager. Currently a Senior Lecturer at the Centre for Criminology in the University of South Wales, he is also a Welsh Labour & Co-operative Party councillor on Cardiff County Council where he chairs the Corporate Parenting Panel.

Putting to one side the ethics and wider potential risks of reconfiguring the mixed economy of welfare and punishment in favour of the market, this piece seeks to highlight some of the challenges that young people will continue to experience as they transition to independent living from the Looked After system. For some these obstacles will increase the likelihood of their entry into the adult criminal justice system.

The first New Labour government's Children (Leaving Care) Act 2000 represented a serious attempt to respond to the well documented gaps in income maintenance and service provision (Goddard, 2001) delivered to care leavers. Hitherto, the supportive measures that had, for example, been contained in Section 24 of the Children Act 1989 were bestowed on local authorities only as 'powers' rather than 'duties'. The new statute, however, placed responsibility on the local authority to put in place a Pathway Plan and appoint a Personal Advisor to help the young person navigate their transition from public care to independent living. This included advice, guidance and support in such areas as accommodation, health, education, training and employment; but also involved attention to such issues as emotional stability and self-esteem. This service is in place until at least the age of 21 years and, in some cases, longer (24/5 years). Although young people

obviously attain adult status at the age of 18 years, the welfare principle enshrined in the Children (Leaving Care) Act 2000 is intended to enjoy a brief but vital after-life in the less protected environment of adult services. The guardian of that principle is the Personal Advisor who, in consultation with the young person, drafts a 'pathway plan' from the age of sixteen to twenty-one years (and in many cases beyond). Since its passage through parliament, this statute has undoubtedly made a tangible difference to the quality of life and opportunities experienced by many young people leaving the care system; although it has to be acknowledged that, in terms of practical service delivery, its application has been uneven across the local authorities of the United Kingdom (APPG for Looked After Children and Care Leavers, 2013; House of Commons, 2009). Moreover, the extent to which the welfare principle has survived entry into the contemporary adult offender management system is debatable. It was not enhanced by the detachment of probation training from social work education in the mid-1990s. As a result there is perhaps inevitably an increasingly attenuated bond between these closely-related, but sadly estranged professions. Shared values and a common curriculum – including a working knowledge of welfare systems, and child and adolescent development – once informed a distinctive probation identity with social work roots. One suspects that three-way meetings with Personal Advisors about Pathway Plans are not a common or integral feature of contemporary probation practice.

In fairness, *Transforming Rehabilitation* (Ministry of Justice, 2013) acknowledges implicitly that adult offenders with a background in public care are over-represented in the criminal justice system. In a curiously positivist passage it identifies one of the 'root causes of offending' as 'childhoods spent in care' (Ministry of Justice, 2013: 27). There is also an ambiguous and oblique reference to offenders with 'complex needs and protected characteristics' (Ministry of Justice, 2013: 17). Could this include care leavers? It is unclear because the hard, complex and granular realities of these young people's lives are only alluded to fleetingly before they recede into the peripheral vision; along with those other spectral figures on the margins, the victims of 'broken homes, drug and alcohol misuse, generational worklessness...mental illness and educational failure' (Ministry of Justice, 2013: 27). The focus of the *Transforming Rehabilitation* vision, of course, is not on the care leaver or the socially excluded. Rather, it is instead fixed unblinkingly on the market. Hence the failure to even recognise that local authority Children's Services, Leaving Care support systems and Independent Living Teams may be worth engaging with as partners in the delivery of services to these young adults. There appears to be no understanding that such a partnership could reduce the dynamic risk factors which arise from care leavers' daily struggle to negotiate the hostile terrain awaiting them on leaving the Looked After Children's system. This transition to independence has always been characterised by risk, but in a context within which local authorities are struggling to meet their statutory responsibilities to their most vulnerable citizens, the fragile packages of care and support being handed to these young people are prone to unravel. Unlike most other young people, the safety nets of family and friends with social capital are generally not available to them when things go wrong.

It should be remembered that many of these young people are at risk of making poor decisions; not only because they are deprived of the traditional supports of family, but also because their cognitive and emotional development has often been impaired by

trauma, abuse and neglect. Many such young people find their way into the criminal justice system, of course. Some enter it as children. One survey of children in custody found that 27% had experience of the Looked After system and 39% had been on the Child Protection Register (Jacobson *et al*, 2010). Other young people with experience of the care system enter the criminal justice system for the first time as adults; at a time when the support offered by children's services tapers away.

The role of mentors is certainly not without merit, especially in relation to care leavers and others at risk of social exclusion. Indeed, there may even be echoes of the Social Exclusion Unit's (Office of the Deputy Prime Minister, 2005) promotion of the role of 'trusted adults'. These adults are not only considered trustworthy because they are reliable, knowledgeable and committed. Important as these attributes are to a young person who has perhaps experienced little in the way of consistent relationships with adults (including in many cases a care system that has replicated chaotic parenting), it is also essential that such practitioners are committed to the welfare of the young person. An essential requirement in the job description involves being a good advocate: ensuring care leavers' rights and entitlements are realised. Criminal Justice practitioners need to understand how Pathway Plans can work positively for a young person caught up in the criminal justice system. This requires of the practitioner a knowledge base and skill-set that is uncompromisingly on the side of the care leaver. It requires them to be guardians of the welfare principle.

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DEAR MR GRAYLING...

In the call for papers we invited anyone who wanted to write an open letter to the Minister to use this opportunity to do so. Hence this section; it contains four contributions and offers another perspective on the impact and consequences of the transforming rehabilitation agenda. If you would like to respond to these contributions in the next issue please do so as we will be happy to print responses, subject to editorial oversight. Responses should be submitted to the Journal in the normal way.

Dear Mr Grayling,

I have never written to a Cabinet minister before but the current proposals for transforming rehabilitation are causing me so much concern and anxiety for the professionals I work with and the client group I work with i.e. offenders. Ever since I have worked in Probation, which I joined as a member of staff in 1999, I have experienced a continued series of changes. However, what is now proposed seems to me to be a complete revolution rather than any form of evolution or building on previous successes. Therefore I feel have no option but to raise my concerns directly with you.

For 100 years, the Probation service has quietly been working effectively with offenders. The proposals by the coalition government of Conservatives and Liberal Democrats in relation to Transforming Rehabilitation are in my view flawed in a number of ways.

My understanding of Transforming Rehabilitation is that the plan is to destroy the current excellent provision and replace it with a very much slimmed down National Probation Service comprising of six areas plus Wales. This will be some 30% of the current Probation workforce. However the split of offenders into the two bodies will be somewhat different and we were initially told only 12% of current offenders proposed to enter the new National Probation Service.

The staff in this new body will, I understand, be civil servants with all the constraints on making public comments that these individuals are currently subject to. I do wonder if this change is partly due to an attempt to silence Probation professionals in the future from making comment about the performance of the criminal justice sector. For the entire period of 100 years Probation professionals have been keen to enter the debate on

criminal justice and ensure that services are developed and progressed to ensure they meet the needs of individual offenders and the wider community.

There will also be some 21 community rehabilitation companies formed to take on the 70% of remaining Probation staff. We were told initially that some 88% of current offenders will move into these new companies. As a professional who has been working in this sector since 1999 I have always been taught that we should use evidence-based practice and this means that the interventions we undertake with offenders need to be rigorously tested and understood to benefit the individual offender we are working with and progress them onto the road of the desistance. This has resulted in me and other Probation colleagues attempting to understand the evidence base for the current proposals by the government. There were I understand some pilots put in place to test out the proposals that form the basis of transforming rehabilitation but I understand that one of your first acts as the new Justice Minister was to terminate these pilots and forge ahead with this revolution of change within Probation,. I cannot see any evidence base and would welcome you contacting me with the justification for these changes. At present it would seem dogmatic ideology was the reason for these changes. It would seem to me that there seems to be an agenda that the private sector is good but that public sector provision is bad.

The current Probation trusts, of which there are 35, are being wound up and specifically prevented from bidding for any of the work that the 21 community rehabilitation companies will be delivering. It would seem that big multinational companies will be circling these contracts that I understand will be for a 10 year period. The choice of 21 CRCs is concerning as they appear to me to have no links to other organisations working with offenders. Their boundaries will be different from local justice areas, police force areas, local authority areas, health authority areas or even the new six areas of the National Probation Service with only Wales co-terminus. There is in my view a serious risk in this split into 21 CRCs and 6 probation areas that the lack of cohesion between different agencies, different boundaries, and different contracts, will make it more likely that offenders fall between the gaps in contracts and this will clearly place the public at more risk not less.

In addition to all the people and change caused by the above proposals it is clear from the Government proposals that all of these changes are to be achieved with no additional money. There is clearly a large cost implication in the winding up of 35 Probation Trusts. There is also a grave danger in winding up these bodies that a large degree of expertise and skills will be lost to the criminal justice sector for ever. When the trusts were formed by act of Parliament and we were clearly told that if in the future these bodies were ever to be dissolved then a period of one year's notice would be given. However I understand by using statutory instrument this notice period has been drastically contracted. We are now told that by 31 March 2014 the 35 trusts will be dissolved. Thus the pace and speed of winding up these bodies will in my view cause additional expense due to the speed and also potentially will mean that certain things could be overlooked or missed or just not achieved due to the timescale. For example consider the work that will need to be done to separate out the offenders current records in terms of the split. Probation Trusts like other bodies have a degree of paper archived records and these archives will need to be

split between the CRCs and the NPS and this will be a considerable additional piece of work.

One thing that suggests to me that these proposals were ill thought out in the first place is that it is my understanding that since these proposals were made public and negotiations have been ongoing this split of offenders could be altered and certainly the 30% and 70% split of staff has I understand now changed to nearer to 50% and 50% split.

The Management Boards of these Probation Trusts have developed a great deal of skill within the area of criminal justice and it seems that all this knowledge will be lost. As there is no additional money many resources will be diverted from front line probation work to achieve winding up of Probation Trusts. Like many in Probation Trusts I find it extraordinary that as a service we have delivered on all targets that were put in place. This includes a 10% reduction in the reoffending rates for the individuals we supervise. After delivering these reductions in crime the thanks we seem to have from government is that Probation Trusts are to be wound up and even worse specifically prevented from bidding in the open competition for the work that the 21 CRCs will be in future delivering if these changes are achieved.

It seems very strange to me and inconsistent that within the prison service competitive bids are accepted from both the private providers and public sector providers in relation to new contracts. Recently several prison contracts that were due to go a private sector provider have been given back to the public sector as the private sector provider was not considered fit to take on these contracts due to issues with other government contracts. Then within the treatment provider field, that address various addiction issues bids are accepted again from the public providers such as the NHS, specialist charities and private providers working in this field. How can it be right that parts of the public criminal justice sector are able to bid for work but in the case of probation the specialist public provider with a 100 year proven track record of achievement are being specifically excluded from this bidding process?

In addition to all this change that is being proposed without primary legislation, which as a member of staff within a Probation Trust does feel as if there is a democratic deficit to proceeding in this way. Are you as the Justice Secretary worried to put the transforming rehabilitation full proposals before Parliament to either gain their consent or have them rejected by a vote of Members of Parliament? Surely a government with a majority should not be scared to take new proposals through the parliamentary process before change is delivered. It seems to me that everyone I have spoken to who works within the field of Probation is opposed to these proposals, and in my experience all academic specialists within the area of criminology are saying these proposals will not work and it would seem as more of the public understand the implications and ramifications for this revolution within Probation they too are becoming concerned.

The one aspect of these proposals that does require a new act of Parliament is to bring into Probation for the first time ever the 60,000 offenders that are sentenced by the adult courts to sentences of under a year. This will in effect be an additional 15% of work within the field of Probation. Currently there are 18,000 thousand staff who work for the Trusts

and this equates to 16,000 full-time equivalent staff. At present it is very vague and unclear to me as to what work the government wish us to undertake with this group of offenders. Within the Young Offenders Institutions any custody sentence of one day or more automatically results in a three-month licence period. This enables Probation staff in the community to attempt to address the risks and triggers towards the re-offending needs of these offenders. Many Probation staff like me have been perplexed that this group of offenders has not previously had the benefit of specialist Probation staff intervention. However what is particularly galling and upsetting to a Probation professional like me is when reconviction rates for this group of under a year custody sentenced offenders that Probation has no responsibility for are used as some form of justification for the change that is currently being proposed. The evidence is 100% clear that Probation has delivered a 10% reduction in reoffending rates for those individuals that we are engaged with. Again this additional 15% of work that will result if the current bill achieves all its parliamentary hurdles, it is again to be delivered within existing budgets. Yet again this change like all the others is to be achieved by 2015. There is clearly a political agenda for achieving all this by 2015 as if 10 year contracts are in place before any possible change of government it will be virtually impossible for any incoming administration to drastically alter the status quo that they inherit.

I must also talk to you about training. Back in 1998 Michael Howard scrapped the previous full training and this left a gap before a new training scheme was put in place and individuals had qualified. This in effect created a shortage of Probation officers across the country. I do not see private hospitals training doctors and nurses. I do not see private schools training teachers. Working with offenders in my view requires appropriately qualified staff to manage the risk to the public the risk of reoffending and at the risk of harm to the offender. Currently many Probation officers have a diploma in Probation studies. This is the qualification I have. This qualification requires BA Honours degree studied within two years in Criminal Justice studies, an NVQ level 4 award qualification comprising 12 separate units each with a number of elements in them. The trainee probation officer also worked for two years under the direction of a Practice Development Assessor within a probation area. There were compulsory placements within Courts and in delivering an accredited group work programme. Each and every aspect of this training had to be passed to achieve the final qualification. This qualification framework was again changed to the current PQF (Probation Qualification Framework). At the present time I see no evidence that private sector providers have any particular interest in training staff to this level, as training is an expensive commodity and private sector providers will clearly be required to deliver a profit element for their shareholders.

Therefore I ask the Justice Secretary how he proposes to maintain, develop and enhance the training programmes for professional Probation staff within both the new NPS in the future and the new 21 CRCs that he is creating.

I also need to raise concerns over risk management. Probation address concerns in relation to reoffending, they address concerns in relation to risk of harm to the public and they address concerns in relation to risk of harm to the self. An offender such as an intravenous drug user will virtually inevitably be assessed as a high risk of harm of

reoffending as their primary aim is to feed their addiction and this is done often by criminal activity.

However an offender who has committed a violent or sexual offence could be assessed due to the nature of such offences as high risk of harm to the public but relatively low risk of harm of reoffending.

There are also offenders that have previously self harmed, have previously attempted suicide and whose chaotic lifestyle places them at serious risk of harm to themselves. Probation staff have over time developed very good clinical skills in addressing risk matters and these are informed by tools such as OASys (Offender Assessment System), OGRS 3 (Offender Group Reconviction Scale version 3), OVP (probability of proven violent-type reoffending), OGP (probability of proven non-violent reoffending), risk matrix 2000 (specialist tool for sex offenders), SARA (Spousal Assault Risk Assessment – Domestic Violence). However all these various assessment tools are only as good as the information that informs such an assessment and only as good as the professional individual completing these tools and interpreting the outcomes that such tools provide information on or about the offender. My very grave concern is that in future private companies delivering probation intervention will not want to use these tools as they will be seen as costly and time consuming. Also with a wide variety of different providers gathering the appropriate information in the appropriate timescale to undertake the correct assessment at the appropriate time will be problematic.

The brave new world of provision that you plan will increase the lack of joined up work between the various providers. Recently I had an offender sentenced in Court and the curfew requirement that was imposed as part of this sentence, for what the Court said was a 3 month period, did not commence for the first 8 days. Therefore it would seem the curfew provider has been paid for a 3 month curfew period when in fact the tag will have been in place on the offender for 8 days less than this. The private provider said that they always give the offender at least two attempts to fit the equipment and I wonder if the public are aware of this. When the public sector probation instruct an offender to report from a prison on the day of release from custody they get a single chance and should they fail firm and decisive enforcement action is taken which would normally be recall to custody.

Finally can I close by asking for a full and comprehensive reply to the points of concern I have raised and also I leave you with a prediction. As you will be aware some private providers within the railways franchise field have handed back their contracts to the government as they found there was not a profit in it for them. An example of this is the East Coast Main Line that was given back by a private provider for this reason. However this contract back in the public sector it is now delivering a profit and like probation the thanks that these public sector staff and management have delivered e.g. a profit within the public sector is being given is for this contract to again be put in the hands of private providers again. I do not understand the logic of this move.

In my view private providers are going to find it very hard to achieve a profit within these 21 CRCs and deliver any form of appropriate service level to the wider public therefore I

feel there is a clear danger that some of these contracts will be handed back. I remember what was a famous quote Sir Robin Day said to a previous Defence Secretary John Knott when I believe he said "Here today gone tomorrow politician". Like all Ministers your time in office will be limited and I urge you to pause and think again about these proposals as in my view these proposals will harm the criminal justice system and will result in re-offending rates increasing as the disjointed system you are putting in place will not cope with dealing with offenders who can be very chaotic in their behaviour.

Probation for me is a second career. I initially worked in the private sector but after redundancy from this job I went to University and obtained a Social Science degree as a mature student. After this in 1999, I joined Probation. I have worked as a Probation Service Officer in a Resettlement team, a Relapse Prevention Team. I have worked in YOT team (Youth Offending Team). I undertook Probation Officer training commencing in 2002. After qualifying I undertook generic Probation Officer work writing reports and supervising a wide range of offenders including those considered to be high risk of harm. I have worked with a group of offenders when delivering an accredited programme. I have also worked within a Magistrates Court. Over the years I have worked in a number of different probation offices across the county. After a period of ill health I now work part-time. Like many in probation I am questioning if I will be continuing to work in probation if these changes are delivered.

*Yours sincerely,
Nicholas Alderson-Rice
Probation Officer, Kent Probation Trust*

Dear Mr Grayling,

I wish to express my own personal perspectives within this letter to you. I have spent the last 27 years working in various organisations and agencies within the criminal justice arena. I like to think that my 'life of crime' has resulted in an accumulation of knowledge and experience gained whilst working in various positions. I have utilised these skills for the benefit of my organisation and clients. I have considered myself to be dedicated to helping the communities I have served; playing my small part in protecting the public and reducing harm, either as a police officer, local authority licensing officer and latterly, over the past 12 years, as a probation officer.

As a probation officer I have taken every opportunity to enhance my own knowledge base and training, becoming part of a well-established team of professionals in my local probation office. My long term colleagues share similar attributes: passion, dedication and vocational commitment to the role of assisting the most vulnerable in our community to make positive changes to their lives. The role of a probation officer is not a well-publicised role, it is not a glamorous role, and sometimes it is frustrating, disappointing and dispiriting. However, the triumphs of clients are always uplifting and have held me in this post for longer than any other I have undertaken.

For the past five years though, various central initiatives, priorities and processes have gradually eroded my role in being able to make a meaningful difference to people's lives. Our local, more rural offices have all been gradually closed down, removing me to a centralised justice centre in a larger urban centre (often inaccessible to my clients by public transport). The number of email communications I receive have increased inexorably over the past few years to become almost impossible to manage, let alone actually read. The increase in emphasis has been in the assessment of risk, data collation and officer performance management systems. The aim, to achieve ever increasingly important managerial targets and key performance indicators based on audits of the data input. These priorities have completely taken over.

This has all served to effectively remove me from the community I work for and from my clients. I am contained within a sterile office environment, removed from the social background of my clients' lives. In this context, I am therefore rendered almost ineffective in engagement terms. This process has gradually eroded what I consider to be effective practice, it has served to strain the professional relationship I have with clients and has resulted in what I term, 'image before effectiveness' approaches to probation practice. Home visits have been discouraged and severely restricted, interviews with prisoners conducted by telephone or, if available, by wobbly video link. I have been forbidden from taking clients in my own car to meetings, appointments, etcetera and have had to engage clients in the authoritarian justice centre interview rooms. This comes after they have been searched, scanned and left disaffected by the centre security processes. In short, I have, to all intents and purposes, been removed from the community that I serve and have been challenged in terms of having the time and permissions to engage on a human level with clients.

I did of course manage to navigate these restrictions, on my own terms. I continued to have a few meaningful case manager interactions, but opportunities have been fewer and fewer to engineer. These more meaningful interactions have been creatively accounted for in case management recording and I have tried hard to continue to be relevant in my engagement with clients and with the community.

I had hoped that the tide would change, that engagement with clients would again be prioritised and moved to the fore, but now Mr Grayling - you have arrived. You have been disingenuous about your reasons for privatising probation. You have challenged my firm ethical belief that profit from the punishment of human beings is intrinsically wrong. You are rushing through an unproven, dangerous ideology through parliament, putting communities at risk of harm and putting my colleagues in a catastrophic position individually, intellectually and morally.

In the next few weeks we will be 'automatically assigned' to a new role. This, in my opinion, will either be as an automaton, inputting data, regimented risk assessment, adherence to a plethora of targets and processes, onto new computer systems as civil servants with no capacity to say, 'Stop, this is not right'. Or alternatively, I will be assigned to an, as yet unknown, organisation that cares only to maximise shareholder profits. My esteemed colleagues and I are being treated as commodities, our clients as commodities, not for the public good but for shareholder profit maximisation. You Mr Grayling are at best misguided in this methodology, at worst fundamentally corrupt in this approach, sponsored by the Conservative-Liberal Democrat coalition government.

Mr Grayling, I have taken the decision that I cannot be involved in this 'Transforming Rehabilitation' process. For me it is time to say simply - enough! I will take my 27 years, my commitment and enthusiasm and move out of criminal justice. So, on 2 December 2013 I will send my Chief Officer an email, to add to the hundreds she no doubt receives weekly. It will start,

'I wish to tender my resignation...'

*Professionally yours
An Exiting Probation Officer*

(Name and address supplied)

Dear Mr Grayling,

Universally apart, you are unlikely to read this. However, I cannot sit idly by fearful that humble words are unlikely to touch the extremes of your thinking as they now strike at the very heart of the essence of probation. Watching the House of Commons debate inspired by the defence of probations' excellence, integrity and heritage, I was saddened by your immovability. Having re-read the PCA/PA, Staffordshire and West Midlands Probation Trust, NAPO, West Midlands Police and Crime Commissioner, Magistrates Association and other contributions to your TR Consultation and listened intently to two hours of steadfast and unstinting debate, I seek to avoid plagiarising or re-phrasing what are already well-argued concerns, and instead express a few heartfelt thoughts of my own.

Probation has been varyingly described as the 'jewel in the criminal justice crown' to the 'cement holding communities together' and as the 'building blocks of partnerships and innovation'. During its 107 year history probation has met challenge and change, evolving into an excellent organization. Indeed, we are still becoming! Yet, you are determined to bring about its abolition.

Many, wiser and more intellectual than I, have written and spoken about the enormity of the risks you are taking with public safety and risking increases in re-offending rates and the prison population. The majority of serious further offences occur in Tiers 1, 2 and 3. I am deeply concerned about the fragmentation, reducing localism and the complexities of an untried and untested design and all that can and will go wrong. Even your own Ministry has warned about the 'pace of change' constituting a significant risk.

There is a real sense on the ground of a lack of understanding about our core business, about the complexities of Integrated Offender Management arrangements and about the importance of local commissioning. Confronted with more bureaucracy, increased opportunities for error and miscommunication, strongly opposing and differing outlooks on performance expectations and targeted interventions the risks are mounting. There is already an issue with the existing IT systems. Then, there is the impact of the split itself, the risks of staff reductions, shortcuts, fraud, poorly resourced and trained staff. These new circumstances will factor in yet more risk and opportunity for hugely complex situations to break-down and put public safety at risk. This will dishearten and disenfranchise an already stretched workforce.

My twitter account (@lanGould5) reflects my journey over the past 12 months. Recently, I stopped tweeting on behalf of Staffordshire West Midlands Trust because I was no longer able to underpin the integrity of SWM's commitment for doing right by your Government and significantly fulfilling its sense of moral duty to its dedicated and successful workforce. I'm re-assured that it had made its position inexplicably clear but I understand, alongside other probation trusts, have been formally 'reminded' that they have a duty to carry out the will of the Secretary of State.

Recently, I attended a Trust Board meeting and made an impassioned plea for them not to capitulate to your TR reforms and to stand by its commitment to public safety and

reducing re-offending rates, and to adjoin to other Trusts who have chosen to remain steadfast in their opposition fundamentally unconvinced that these reforms will achieve the outcome which we all want.

So, what of my pedigree and what drives my passion and spirit? As a survivor of abuse, a care leaver, a polio victim and a secondary education failure, and with 30 years' faithful service, you could say, aged 58 I'm still on a journey of discovery. Having climbed many mountains over a lifetime of experiences, I could never have imagined that in some small way, my career could possibly end by writing to the Minister of Justice. Yet, driven by a sense of vocation, duty and public service, I am deeply concerned about the risks you are taking with public safety. Indeed, at the World Congress on Probation the acclaimed England and Wales Probation Service demonstrated an international reputation for 'excellence'. Would you not want to build on that international reputation?

I'm proud to be a Probation Manager in Sandwell, the second best performing Local Authority for reduced re-offending rates in the country. Yet, less is proclaimed about our successes and more about apportioning blame. I know of no Trusts that work in silos or without the effective support of charities and voluntary organizations. Indeed, this is the richness and diversity we support. Partnerships have year-on-year reduced re-offending rates. The question that many are asking is 'why would the Government want to bring about the cessation of excellence which has over a decade been built on and continues to demonstrate what works despite reduced investment and increase bureaucracy?'

I took industrial action for only the second time in my career, having had 16 years without a single day off. This was driven by a principled and fundamental belief that what is being proposed will not protect the public or further reduce re-offending rates. Further, it gave me and my probation colleagues an opportunity to move out from behind the veil and proclaim with pride the role probation plays within local communities. I do not take going on strike lightly. Indeed, whilst it will involve a loss of salary, it will not reflect the many unpaid hours overtime that both I and so many others give willingly out of a sense of vocation and compassion for the communities we serve.

I wish now to reflect on two concerns which lie close to my heart; commissioning and localism. In a recent article I wrote for the PCA/PA about health, I explained my biggest disappointment was that of not achieving effective health commissioning arrangements underpinned by service level agreements. However, these experiences will fade when compared with those faced by the new CRCs as they begin to engage over commissioning arrangements.

There are very real risks that, as the real and active costs of commissioning services go up, the quality and value added will decrease as companies seek to carve out profits and protect shareholders from losses. Fundamentally, CRC interventions will be shaped by radically different moral constructs and shareholder pre-requisites to already well-established and honourable public service principles.

In years to come the whole fabric which has been laid over 107 years of probation's heritage will fade away and no longer shine. Currently, numerous examples exist of how

private sector companies continue to face the wrath of the media, government, public and legal scrutiny. I beg to suggest, you have not encountered this with probation's governance of public money, who through difficult times have earnestly sought to strive to add value to its performance outcomes.

The Government is well versed in the complexities of inter-agency and commissioning arrangements. The proposed arrangements will add additional tiers into an arena where public good rather than shareholder profit has been the main driver. Further, the already extremely complex local commissioning arrangements may further escalate inequality and discrimination of access to a range of provider services as both sides seek to meet their legislative responsibilities. CRCs will be required to commission services for themselves. Can the government be confident that they will approach this task with the same degree of transparency and integrity as is currently demonstrated by probation?

So what will these additional commissioning costs look like? Currently, they include drugs, alcohol, primary care and mental health services and those services underpinning probation's core business, i.e. accredited programmes, employment and training, seconded housing workers, citizens advice, drug intervention programme and drug rehabilitation, alcohol treatment and mental health treatment requirements. Whilst proud to have been part of the Bradley Review, mental health treatment requirements even after 8 years remain a missed opportunity. These additional costs will bring significant risks into an already fragile and delicate market. Let alone, all those other innovative and excellent programmes championed by Probation Trusts, including restorative justice, victim support, offender health trainer and women's programmes to name but a few.

I concur with the Chief Officer's view that existing arrangements work because they are built on core stakeholder shared values, which are driven neither by incentives or shareholder expectations of profit. They are underpinned by a sense of moral justice and what is right. That is not to say that we should not be driven by performance expectations or reduced re-offending rates, or indeed a commitment to recovery and offenders paying their 'just desserts'. Indeed, these have become the primary drivers of probation success as we reach a wider population by pro-actively engaging with those harder to reach and ever more entrenched individuals.

I make no apologies for quoting Sarah Chapman when speaking about specialised women's interventions, as this type of niche service is likely to be lost altogether as the links between large, prime contractors and smaller local providers either break down over time or do not emerge at all. Crucially, those tailored services are simply more expensive. Through commercial necessity, providers are likely to prioritise the cheapest solution, rather than the best.

Recently G4S told BBC local news that with new and unqualified staff in their multi million pound prison (Oakwood) they have struggled to get the basics right and this has resulted in resignations. Securing the cheapest option does not equate with value for money. Private companies have proven to be ruthless and with forecasted reductions in staffing levels in CRCs and the high proportion of complex, highly chaotic and dysfunctional offenders, breakdown is not only likely but inevitable.

Probation has long been a driving force behind transparency and local accountability. Indeed, it is that degree of trust and probation's rich heritage that makes local commissioning, though complex, reliable and productive. Sadly, the same could not be said of major players currently in the market. Probation has already evidenced its pedigree and commitment to public safety, reducing further victims of crime and spending wisely from the public purse. Likewise, I echo many MP's concerns about whether the Police and or other Public/Charitable Trusts and Third Sector organisations will feel confident in data/Intelligence sharing with private companies.

Your manifesto refers to a commitment to localism. Yet, by the very nature of the split between CRCs and the NPS, regional areas of responsibility and a diverse range of providers this increases the risk of fragmentation and missed opportunities. Existing arrangements, albeit stretched, work well because there is a commonality of a shared focus and outcomes. Now, it is proposed the same level of engagement will occur with significantly depleted resources. Whilst your Government affirms fragmentation will not occur, by its very nature if you take away fifty or sixty percent of a cake's ingredients it can no longer be considered a whole cake. I find this thinking incomprehensible.

Integrated Offender Management arrangements across the county epitomise localism at its very best. Based on integrity, trust and ever-evolving understanding it has taken years to forge these relationships and what now emerges is a fully integrated and unified approach. Its success speaks volumes. Likewise, there are many innovative women's projects, restorative justice, guns and gangs programmes, independent domestic violence forums and victims projects, and alcohol and drug recovery hubs all underpinned by local probation arrangements. There are no hidden agendas. Probation is found at the forefront of many innovative partnerships, planting those mores, norms and values which underpin our excellence and which have led to probation being held in high regard and mutual respect.

I currently manage a team whose members will shortly, at your direction, be split into two with no real consultation. Part of my role is to manage court services, and part of it a substance misuse offender management unit. Many fearful of not having a job or not being able to pay their mortgage will not protest, but I hope they will be OK. Others, are rightly incensed about being forced into a situation that they truly believe is neither of their own making or can be justified by any failure to deliver a public service. In fact, my team's efforts will shortly be recognised as they receive Staffordshire and West Midlands' Working Together award for Partnership innovation.

Whilst I value your acknowledgement of probation's unstinting duty/efforts over the past decade, your actions speak louder than any words, when it comes to taking out the very heart of our essence, our staff. You may wish to re-design the future of Criminal Justice Services but the spirit of Probation dies on the 31st March 2014. Indeed, whilst it may be said that probation lives on, it lives on in name only, its substance and vitality is its long heritage of public service, founded on Christian values/principles and social justice will be lost.

Currently, I have three journeys: on twitter, probation's heritage, and my own life experiences and 30 years' service to the community. I intend to continue with my journey and draw strength from both dedicated probation colleagues and the twitter community. Shortly, all three paths will join and I sense a new journey ahead. I am fundamentally clear in my opposition to your proposals but if given the opportunity probation would want to continue to serve the Government for another millennium.

Future tweets will continue to reflect my TR journey, including decisions which I must make about my own future career. I hope and pray that I have the courage and faith to remain true to my belief. Whatever route my new journey may take I am not able to work for a Community Rehabilitation Company. I hope that having shared a little of my essence and drive that you might understand.

I wish to end on a quote from MP John Healy, a former Probation Officer:

'The probation service is leaner, fitter, better and more focused than ever - certainly compared with when I worked as a probation officer - so we have the opportunity, should we wish, to extend support to people through a proven organisation.'

I echo and commend these sentiments and implore you to reconsider your Transforming Rehabilitation agenda and allow the Probation Service to continue to transform the future of criminal justice beyond April 2014.

Sadly, speed and hasty changes will do little to reduce the numbers of victims of crime or indeed further reduce re-offending rates. Probation will steadfastly seek to do its very best within the constraint placed on it by the will of the government and in its drive to sustain its integrity and excellence, irrespective, of what happens to it.

Lastly, private investment and social enterprise and working alongside partners aren't the issues at stake. The issue is that the Probation Service has consistently evidenced that **WHAT WORKS IS ALREADY BEING DONE.**

*Thank you for your kind attention,
Ian Gould
Senior Probation Officer, Sandwell LDU*

P.S. You are most welcome to come to Sandwell and see a glimmer of our Heart in Action

Dear Mr Grayling,

I have often heard it said that you feel confused by the proliferation of voices from practitioners and academics alike, bemoaning your plans for probation. I'd like to offer you some thoughts writing from the somewhat unique perspective of being a Senior Probation Officer, Sessional Lecturer in Criminal Justice, Theology and Criminology PhD Student and Branch Chair of NAPO Merseyside.

To commence, I felt immensely proud of the efforts made by practitioners, academics and politicians, who have stood together in unity to confidently share their conviction that they must take up the fight for what they believe in with regards to Transforming Rehabilitation. I am sure that you cannot fail to agree with me on this point at least, that a workforce that is committed to engaging in action at personal financial sacrifice over the way their job is undertaken provides the context for healthy debate and demonstrates the passion and commitment to their work that is so sorely missed from many organisations. Further, I am sure you will also agree that it is only when people listen to a variety of perspectives and genuinely consider the underlying narratives, that there is any chance of achieving a successful and inclusive outcome for society. In relation to criminal justice, a previous Conservative government demonstrated this in the preparation and implementation of the Criminal Justice Act 1991. Whilst the outcome of the Act may not have been welcomed by all, there could be no doubt that the research that went into it was thorough and considered and had a genuine ear towards the thoughts of practitioners and academics. It is at this point that I see a difference between previous considered approaches to change, agreeable or otherwise, and that which has underpinned Transforming Rehabilitation.

It is often argued by opponents of Transforming Rehabilitation that the proposals are ideological and not based on evidence. The lack of informed meaningful debate with academics and practitioners would suggest it may well be the case that the evidential basis is minimal for the changes; as Jeremy Wright recently said when challenged about the evidence, it is common sense. However, I would like to offer an alternative narrative in this respect. There are considerable hermeneutical difficulties with saying that the proposals are common sense; especially when they do not appear to reflect the common sense of practitioners or academics; or for that matter the many members of the public who have spoken to any of us who have taken to the streets to talk to the public about the changes. You will no doubt by now be well versed in the evidential opposition to your plans; so I would like to offer an alternative narrative focusing on the ideological opposition, and why ultimately, your plans will be of great concern and doomed to failure even if they succeed in being implemented.

Of course, practitioners are concerned for their jobs and terms of conditions of service; they are worth every penny that is spent on them for the difficult work they undertake, but this is not just an economic battle; indeed, it is precisely the economic philosophy which is being opposed. Transforming Rehabilitation is focused on the language of consumerism and the customer. Underpinning such a philosophy is an understanding of people that claims what motivates and underpins good practice is choice, competition and cash incentives. Practitioners are worth their wages, but that is not what motivates them

to be practitioners who are recognised world over, and with multiple accolades, as excelling. Our ideology is that of comradeship; with each other, with the probationers with whom we work, and with the communities we tirelessly serve. Our practice is motivated by an understanding of humans that emphasises care, compassion and commitment as being the concepts that enables change. This is why it is so important we continue to take on the challenge of Transforming Rehabilitation. We reject profiteering based on an economic modelling of society instead believing that practitioners and probationers alike should be treated with dignity as humans and not as commodities through which shareholders can make money.

You may feel that this is an objectionable proposition; but this is why we believe it is worth saving probation, and why Transforming Rehabilitation is ultimately doomed to failure. In your previous department, the imposition of economic modelling for service delivery succeeded in being implemented but has not improved services, at least according to the independent parliamentary reviews. In other areas of competed public service delivery there are countless, and growing narratives, of economic incentives only breeding innovation in the means by which the incentives will be achieved, and not in the service delivery. So we return to evidence; evidence only makes sense in the light of ideology from a hermeneutical perspective. You have our evidence, and you have our ideology. Mr Grayling, it is your choice. Your ideology appears based on greed, ours based on compassion and servitude of the community.

I would therefore urge you, Mr Grayling, to pause, think about the type of society you want, and to choose understanding the evidence and not the influence of your own ideology on interpreting the evidence, knowing that you can feel as proud of your decision as we feel in our opposition to Transforming Rehabilitation.

Dave Wood

Senior Probation Officer and Branch Chair of NAPO Merseyside

COMMUNITY JUSTICE FILES 31

Edited by Nick Flynn, De Montfort University

The following provides details of key government papers on ‘Transforming Rehabilitation’, government papers on rehabilitation more generally which sit alongside the ‘Transforming Rehabilitation’ reforms, and position statements and responses to ‘Transforming Rehabilitation’ by other bodies including non-governmental organisations.

Proposals for ‘Transforming Rehabilitation’ were published initially by the Ministry of Justice in ***Transforming Rehabilitation: A Revolution in the Way we Manage Offenders, 2013***. This set out how the Government intends to fund rehabilitation in the community through a new system of ‘payments by results’, and to reconfigure the way probation services are commissioned and delivered in the future. The document asked for views on the proposals, including on the detailed specifications and operational design of the new system. The consultation was completed on 22 February 2013 and the Government responses to the consultation, ***Transforming Rehabilitation: A Strategy for Reform*** and ***Transforming Rehabilitation: Summary of responses*** were published three months later in May 2013. *Transforming Rehabilitation: A revolution in the way we manage offenders, 2013*; *Transforming Rehabilitation: A Strategy for Reform*; and *Transforming Rehabilitation: Summary of responses* can all be found at:

<https://consult.justice.gov.uk/digital-communications/transforming-rehabilitation>

The call for organisations to bid for rehabilitation services, as set out in the Government’s Transforming Rehabilitation Strategy, was made in September, 2013. Potential providers were asked either to bid directly with the Ministry of Justice to deliver services (Tier 1 providers) or to sub-contract with Tier I providers including through grant funding arrangements (Tier II and Tier III providers). The deadline to register bids was 14 November, 2013, and it is intended that all contracts will be awarded and mobilised by 2015. To facilitate finding the 21 new Community Rehabilitation Companies (CRCs) who will deliver rehabilitation services currently undertaken by the Probation Service, the Government has published a series of documents on the competitive tendering process. These include the following:

- A formal notification of the launch of the competition: A ***Contract Notice***;
- A ***Principles of Competition Document***;
- Details of ***The Tier II and Tier III Registration Process***;
- A ***Target Operating Model – Rehabilitation Programme***;

- Details of the new funding arrangements: **Payment Mechanism – Straw Man**;
- A refinement and updating of the funding arrangements in the light of feedback received in response to the proposals: **Payment Mechanism – Market Feedback and Development Considerations**;
- Modelled data for 2005 to 2010 showing the number of offenders in each Payment by Results cohort and the 1-year re-offending rates among those offenders in each of the 21 new Contract Package Areas (CPAs) - **Modelled management information on offender cohorts and re-offending in the 21 planned Transforming Rehabilitation Programme Contract Package Areas**.

All of these documents can be found at:

<http://www.justice.gov.uk/transforming-rehabilitation/competition>

Transforming Rehabilitation: A Summary of Evidence on Reducing Reoffending, 2013

In order to “support the work of policy makers, practitioners and other partners involved in offender management and related service provision”, the Ministry of Justice has published an “overview of key evidence relating to reducing the reoffending of adult offenders”. Assessing a range of factors including drug misuse, attitudes to offending, accommodation and employment problems; as well as factors associated with desistance from offending such as motivation, hope and the strength of social relationships, the report concludes that “good quality supervision, case management and holistic, tailored approaches can support and enable rehabilitation and reintegration”. *Transforming Rehabilitation: A Summary of Evidence on Reducing Reoffending, 2013* can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/243718/evidence-reduce-reoffending.pdf

Rapid evidence assessments on intermediate outcomes and reoffending

The Ministry of Justice has published a series of papers which assess the literature on intermediate outcomes relating to various interventions with offenders including: arts projects, family and intimate relationships, mentoring, and peer relationships. Links to the reports can be found at:

<https://www.gov.uk/government/publications/rapid-evidence-assessments-on-intermediate-outcomes-and-reoffending>

Reforms for female offenders will improve family ties and employment links

On 25 October 2013, the Government announced proposals to improve family ties and employment links for female offenders. In re-rolling all women’s prisons as ‘resettlement prisons’, the new model aims to imprison female offenders as close to their homes as possible, and to forge links with local employers, thereby providing practical training relevant to work opportunities in local labour markets. The announcement coincided with

the publication of three reports highlighting the distinctive needs of female offenders compared to males. These are:

- **Government Response to the Justice Committee’s Second Report of Session 2013-14: Female Offenders**
- **Stocktake of Women’s Services for Offenders in the Community**
- **Women’s Custodial Estate Review**

The press release of the announcement, including links to the above reports can be found at:

<https://www.gov.uk/government/news/reforms-for-female-offenders-will-improve-family-ties-and-employment-links>

Clinks: Transforming Rehabilitation

Clinks, the representative organization for the voluntary and community sector working with offenders, has developed a live webpage to keep organizations updated as new information on ‘Transforming Rehabilitation’ becomes available. The website includes: competition updates, information on timescales and funding, a list of organizations that have registered an interest in providing rehabilitation services, and training and events. Clinks has also published a discussion paper *Rehabilitation: What Does Good Look Like?* which provides an overview of ‘Transforming Rehabilitation’, summarizes key relevant research, aims to stimulate debate on key issues affecting the voluntary and community sector, and explores the need for a clearer vision of what ‘good’ looks like in the rehabilitation of offenders. The Clinks website can be found at:

<http://www.clinks.org/criminal-justice/transforming-rehabilitation>

Rehabilitation: What Does Good Look Like? can be found at:

<http://www.clinks.org/sites/default/files/What%20does%20good%20rehabilitation%20look%20like.pdf>

Probation Chief’s Association: Evidence to the Justice Select Committee on Transforming Rehabilitation

The Probation Chief’s Association (PCA) has raised concerns with the Justice Select Committee that the proposed operating model for ‘Transforming Rehabilitation’ “could increase risks to public safety through fragmenting offender management, ongoing risk assessment, service delivery, and enforcement functions across the National Probation Service and contracted providers of CRCs.” Doubts were also raised about the time available for proper testing of the new model “especially as much of the detail over roles and functions have yet to be defined”. The PCA has also published its views on ‘Transforming Rehabilitation’ in a Parliamentary Briefing, *The views of the Probation Chiefs Association (PCA) on the Transforming Rehabilitation programme*. This concludes:

There are flaws in the business case and rationale behind the Transforming Rehabilitation programme: Probation Trusts are high performing public

service organisations, yet they are to be replaced by an untested model. It is also not clear that the reforms would achieve any substantial public savings, or whether an inclusive and competitive market would actually emerge and so not obvious that a key reform – to enable through-the-gate services for supervision for offenders released from short periods of custody – could in fact be funded as a result.

A summary of the evidence provided to the Justice Select Committee as well as a link to a video of the session can be found at:

<http://probationchiefs.org/2013/11/13/pca-give-evidence-to-the-justice-select-committee-on-transforming-rehabilitation/>

The Parliamentary Briefing, The views of the Probation Chiefs Association (PCA) on the Transforming Rehabilitation programme can be found at:

<http://probationchiefs.org/wp-content/uploads/2013/10/PCA-briefings-on-Transforming-Rehabilitation.pdf>

User Voice: Only Offenders Can Stop Offending

The organisation, User Voice, has published feedback gathered during a series of service user led focus groups undertaken to record reactions to ‘Transforming Rehabilitation’.

The report, *Invisible Input: What Service Users think about ‘Transforming Rehabilitation’*, 2013 makes a number of recommendations including:

- Sufficient transparency must be in place to ensure that the results-based incentive system is not detrimental to the needs of marginalised or hard to reach individuals.
- Care must be taken when establishing and then assessing performance targets as over reliance on misleading, or false, targets can often have a negative impact on the services available to those in need.
- Each service user should be given a personalised assessment. This should take into account what steps that specific individual needs to take in order to stop offending. Particular attention should be given to housing, addiction, employment, BME groups, female offenders and mental health issues.

Invisible Input: What Service Users think about ‘Transforming Rehabilitation’, 2013 can be found at:

<http://www.uservice.org/wp-content/uploads/2013/03/User-Voice-Invisible-input-What-service-users-think-about-%E2%80%98transforming-rehabilitation%E2%80%99.pdf>

Re-imagining Futures: Exploring Arts Interventions and the Process of Desistance

A research report into the role of arts in offender rehabilitation has been published by the Arts Alliance. Carried out by Northumbria University and Bath Spa University, *Re-imagining Futures: Exploring Arts Interventions and the Process of Desistance* highlights how the arts can support positive changes linked to desistance from criminal behaviour. *Inter alia*, the report found that:

- Participation in arts activities enables individuals to begin to redefine themselves, an important factor in desistance from crime.
- Arts projects facilitate high levels of engagement.
- Arts projects can have a positive impact on how people manage themselves during their sentence, particularly on their ability to cooperate with others.

Re-imagining Futures: Exploring Arts Interventions and the Process of Desistance can be found at:

[http://www.artsalliance.org.uk/sites/default/files/Reimagining Futures Research Report_Final.pdf](http://www.artsalliance.org.uk/sites/default/files/Reimagining_Futures_Research_Report_Final.pdf)

Through the Gateway: How Computers Can Transform Rehabilitation

The Prison Reform Trust and the Prisoners Education Trust have published a report on the role of computers in prisoner rehabilitation. *Through the Gateway: How Computers Can Transform Rehabilitation 2013* argues that “the digital divide between people in prison and in the community is rapidly widening and will make resettlement more difficult if these skills have not been developed”. It finds that “the main barriers for prisons using ICT to improve rehabilitation are concerns about security, financial constraints, lack of a co-ordinated strategy for using ICT to improve rehabilitation, licencing issues and insufficient central resources”. To overcome these barriers it recommends that “there should be a clear national strategy and Prison Service Order defining the requirement for prisoners to have access to interactive, updated and secure web content”.

Through the Gateway: How Computers Can Transform Rehabilitation can be found at:

<http://www.prisonreformtrust.org.uk/Portals/0/Documents/Through%20the%20gateway.pdf>

The growing influence of social media

For the first time, a major change in Probation has been conducted through the interactive lens of social media: Twitter, blogs, YouTube and online discussion groups. The availability of comment on what has been happening has been immediate, informed and eclectic in content. Press releases, newspaper articles, Ministry of Justice papers, journal articles, Parliamentary debates, conference outputs and many more random pieces of comment and information have emerged quickly, almost instantly at times, contributing to a debate which has largely been open, transparent and comprehensive, at least on the cyber airwaves if not intended or encouraged by official government sources. So, despite attempts by government to impose a 'corporate silencing' by exerting pressure on senior probation staff not to discuss ideas which were in opposition to Transforming Rehabilitation, TR has been the subject of much discussion, much of which has been questioning in content. It was certainly noted that Twitter went silent for a few weeks in the early days of this gagging mechanism but gradually voices re-emerged, sometimes

cloaked in a degree of anonymity, but unwilling to allow such a major transformation of the probation world to pass without comment.

Twitter is a great mechanism for signposting readers to most of the leading blogs in this area. However if you're not a Twitter user you can bookmark some of the major blogs on your computer and go direct to see the latest news. Blogs tend to have their own niche market and I would highlight four which have offered a reasonably comprehensive view of TR developments, though each with distinctive audiences and ideas.

The first is by Jim Brown and the blog is called **On Probation**. It can be found at <http://probationmatters.blogspot.co.uk>. He introduces his blog in this way:

Welcome to the wonderful world of probation! These are the personal thoughts of an ordinary probation officer struggling to come to terms with constant change, whilst trying to do a useful job for society. Sadly, change is so often obviously not progress. I am fully aware that my views do not represent official policy of government, my Service or possibly anyone else - but hey - it's my blog!

Providing news on an almost daily basis, this blog reports and pulls together information from a variety of sources. It is the one blog that also has an active discussion following each successive release so not only do you get the benefit from the blog itself but you see some of the debate and discussion unfold. This blogger has worked tirelessly to bring every item of news to the attention of the reader on what he dubs this 'omnishambles'! The blog frequently quotes from other sources thus making it a useful check on whether you have picked up information from a sometimes bewildering array of useful locations - a priceless and tireless contribution.

The second blog to highlight is written by Joe Kuipers, a probation trust chair and his, sometimes literary, blog is **Fruit - probation review: a new look**. This can be found at <http://joekuipers49.blogspot.co.uk>. This blogger writes from the position of responding to government demands on Trusts to support the transforming rehabilitation process. It gives an original insight into the dilemmas and difficulties facing Trusts in advising and supporting their staff. It has been an important and unique source of many of the official documents which have been sent to the Trusts. Though careful not to breach confidentiality the blogger has provided a nuanced insight into managing an organisation at the point of its own dismantling.

The third blogger to highlight is **Russell Webster**. This blogger has offered two distinct, if overlapping contributions to the debate. Firstly he has blogged on many of the issues arising from TR as well as on many other criminal justice issues with a particular insight into PbR. This can be found at <http://www.russellwebster.com/blog/>. One testimonial states:

Russell's blog is an eclectic mix of topics that broaden my horizons and helps me to see the bigger picture. An essential requirement in the ever changing multi-agency hodge podge the Criminal Justice System sometimes is!

Secondly, he offers links to key publications, comments and indeed any contribution to the debate as owner of a Scoop-it site <http://www.scoop.it/t/probation-review>. Russell has comprehensively pulled together in one place every written piece, without prejudice to its content, so that those wishing to catch up on the huge variety of inputs in the public domain can just go to the Scoop-it site and search.

The fourth blogger to highlight is produced via the infrastructural organisation, **Clinks**, that represents the not-for-profit sector at <http://www.clinks.org/community/blog-posts>. This produces blogs to inform and influence the voluntary sector perspective as it makes decisions about its participation in TR. It states its purpose as:

Welcome to Clinks Blogs. Here you'll find blogs from Clinks staff, and invited others, on matters of interest to the Voluntary and Community Sector working within the Criminal Justice System.

There are many other bloggers that make a periodic contribution to this debate. They only differ from the above examples in terms of frequency and tend to focus on particular issues which excite their interest from time to time. In order to give you a flavour of these blogs I have highlighted the following contributors though they are, by no means, the only ones that have made comments on the TR debate, but they do represent comments from a variety of perspectives.

1. @Probation Officer is available at <http://poofficer.blogspot.co.uk>, described by the blogger himself:

I'm a Probation Officer working in the UK. I've created this blog as a continuation of my tweets, hoping to show the public what we do in Probation and hopefully share my knowledge with some of my colleagues and gain a little bit too!

A more occasional blogger, though prolific tweeter, @Probation Officer's blog has offered a great perspective from a fieldworker and has produced some poignant comments on the impact of the TR changes.

2. The Napo general secretary's blog (<http://www.napo.org.uk/about/napolog.cfm>) by Ian Lawrence has been an important contribution, offering up-to date reflections at the heart of the campaign by Napo against the TR changes. In addition, the Napo Discussion forum, <http://www.napo2.org.uk/phpBB3/index.php> is always worth a visit.

3. Rob Allen blogging at <http://reformingprisons.blogspot.co.uk> on a range of issues, which befits his status as an astute penal commentator and reformer, has also focused from time to time on TR and always offers insightful comments.

4. Academics are making more and more use of blogging as a means of engaging in debate and the dissemination of ideas. There are few examples of exclusive attention to TR although frequent tweeters such as Fergus McNeill, Mike Teague and Paul Senior,

(<http://yorkhull.wordpress.com/category/criminal-justice-musings/>) all offer insights from time to time.

5. In the wider penal reform field, Frances Crook from the Howard League is a trenchant critic of the privatisation of both prisons and probation and tweets regularly as well as blogging on a range of penal reform issues including TR, (for this blog see <http://www.howardleague.org/francescrookblog>). Richard Garside of the Centre for Crime and Justice Studies has also contributed to the debate, and other commentators are invited to blog in a separate section of the blog called simply **Comment**, at <http://www.crimeandjustice.org.uk/comment>. No Offence! has a regular guest blog which has focused in TR from time to time. Their blogs can be found at <http://www.no-offence.org/content.php/190-Guest-Blog>.

6. Less frequently seen are blogs from a supportive position on the TR reforms. Very little emerges from the private sector though there are a few notable tweeters. Right-wing think-tanks do publish, often reflecting their funders as much as any independent position. Most notably the Policy Exchange has spoken most frequently on TR and crime and justice matters at <http://www.policyexchange.org.uk/crime-and-justice>, Max Chambers, its head of Crime and Justice, being a frequent tweeter and commentator.

7. Before I leave this section I must highlight one of the risks associated with using social media. There are examples of contributions certainly on Twitter, and occasionally in blogs, where the veracity of what is being said might be questioned. Always treat contributions with some care if they have no clear history or pedigree. One such blog site announced itself as the Centre for Probation Reform (and can be found at <http://centreforprobationreform.blogspot.co.uk/p/blog-page.html>). It produced a series of blogs in May but there is no trace of this 'organisation' anywhere and despite requests it remains a somewhat coy group given its pretensions to represent certain voices of reform. It was questioned vigorously on Twitter and on blogs, (see <http://yorkhull.wordpress.com/2013/05/06/beware-probation-reform-messages-softly-delivered/>). Following this critique of this group it soon after ceased to publish blogs, though remains on Twitter.

There are many more commentators, tweeters, bloggers and commentators which cannot be included in this short piece, but I hope it has given you some insight into what can be sourced now within social media. I end with the usual qualification at the end of most blogs and open sourced material: all the information is my view only and does not represent the views of any organisation. The debate is out there for you to see, take part now!

Paul Senior, Hallam Centre for Community Justice, Sheffield Hallam University

BOOK REVIEWS

Edited by Marian Duggan

REOFFENDING: A PRACTITIONER'S GUIDE TO WORKING WITH OFFENDERS AND OFFENDING BEHAVIOUR IN THE CRIMINAL JUSTICE SYSTEM

Jonathan Hussey (2012) Bennion Kearney, 204pp. (pbk) £14.99, ISBN 978-095705114 - 0

Jonathan Hussey has taken on a challenging task. He wants to introduce people at the start of their careers in working with offenders, to the complexities of offender management. Laudable though this enterprise is, the result is unsatisfactory.

He does write in an accessible, conversational style. Also, some of the right ideas are put before us - there is much that is sensible and necessary for practitioners in the first two chapters. The chapter on 'The Working Relationship' contains a great deal of useful material, extending from the cycle of change and motivational approaches to issues such as body language and pro-social modelling. There are though a number of substantive problems with his approach.

First of all, the offender is presented to us as though (s)he is waiting for the offender manager to come up with an assessment and a change plan. The professional makes an assessment, comes up with a plan and this is then 'put down on paper and presented to the offender.' (pg 18) The offender you would think is the problem and the professional the answer. Mr Hussey then has to look at how to 'sell' the plan to the offender, which to me suggests he is already in the wrong place to support a change process owned by the person facing change.

The material on assessment is not clear about the complex nature of 'risk', with the terms 'risk assessment' and 'needs assessment' often seeming interchangeable. People coming new to this work need to be able to analyse risks with more precision than this, especially if risks that are easily overlooked are to be incorporated into assessments. It is unfortunate that risk to children gets no mention in the section on assessment, and has no clear profile in his discussion of domestic violence.

Asset-based approaches to assessment - identifying the personal and social capital on which desistance from offending can be built - receive no attention. Offenders are described as if they are an assemblage of needs, criminogenic or otherwise.

In an understandable effort to set some boundaries to his areas of discussion, Mr Hussey oversimplifies the realities of working with offenders. It may be easier for the purposes of the discussion to say you are only going to focus on 'rehabilitation', but the requirement on those working with offenders simultaneously to attend to punishment, public protection, reduced reoffending as well as rehabilitation / reform is an inextricable feature of the professional task. What is more, punishment, reparation, public protection etc can be vital components of an offender's rehabilitative journey.

Mr Hussey understands that change is a process involving all kinds of hurdles, and that a positive working relationship between worker and offender is crucial for success. What does not come across is the importance of the case manager role as itself a dynamic factor in the change process – it is written as if the relationship with the case manager is merely a route to delivering the 'interventions' that are thought to be the drivers of change. Chapters 1 and 2 should be the heart and focus of the book but read like a preamble to what follows.

Subsequent chapters explore the main areas of difficulty that offenders exhibit: substance misuse, domestic violence, violence, sex offending and emotional problems. Useful material is presented but over-emphasis on 'interventions' as the drivers of change continues to undermine the usefulness of this book. In the chapter on domestic violence, Mr Hussey says that should an offender completely deny their behaviour throughout an assessment, 'it is unlikely that the client will be suitable for treatment'. Assistance to the new professional, who in practice is much more likely to be supervising the client in denial, than delivering perpetrator treatment programmes, ends there.

The chapter on substance misuse is weak. You would hope that operating in partnership with specialist treatment services would be the norm, but this gets little attention. Any review of substance misuse treatment must present current thinking about recovery oriented approaches, as well as discussion of methadone prescribing, blood borne viruses (BBV) services and differences between stimulant and opiate use. The need for the 'client' to be a partner in recovery not merely a service recipient, the importance of building personal and social capital, and the growing understanding that people do not recover from addiction as lone patients receiving a professional intervention but by building peer support and starting to make a positive contribution to the well being of others; these factors get little attention in this chapter. New practitioners would be better equipped by becoming familiar with the excellent materials now available through the National Skills Consortium²³ and the Findings service²⁴.

This is a book that takes on a difficult and important challenge. De-mystifying work with offenders and providing introductory reading for those undertaking this work are

²³ <http://www.skillsconsortium.org.uk/default.aspx>

²⁴ <http://findings.org.uk/>

necessary endeavours. Sadly, however, despite presenting much valuable material, I do not think that Mr Hussey 'hits the spot'. The book suffers from an over-emphasis on interventions and insufficient attention to case management, an assumptive world that implies offenders are just recipients of the wisdom and techniques of professionals and not full partners in change, a splitting off of such dimensions as reparation and victim centred work, and a relative neglect of partnership with other community services.

David R Skidmore. Visiting Lecturer in Offender Management, Wolverhampton University

CONTRASTS IN PUNISHMENT: AN EXPLANATION OF
ANGLOPHONE EXCESS AND NORDIC EXCEPTIONALISM

Pratt, J. and Eriksson, A. (2013). Abingdon: Routledge. 272 pp. (hbk) £90.00, ISBN 978-0-415-52473-5

As academics and practitioners become increasingly frustrated at the punitive criminal justice policy and the condemnatory public discourse around offending in the UK, they are inclined to look to the *Scandinavian nations as examples of an alternative approach*. Pratt and Eriksson's excellent book provides a detailed account of these differences in approach to criminal justice, locating penal policy in a social and historical context. The book provides hope to Anglophone penal reformers in identifying a different approach but also highlights the scale of the task; the punitive penal policy in Anglophone countries has such strong social and historical roots that it is difficult to see how any significant change could come easily or quickly.

A refreshing aspect of 'Contrasts in Punishment' is how little attention is paid to American influences, with discussion of the Anglophone countries concentrating on England, New Zealand and Australia. This focus means that the material presented feels fresh, interesting and original and provides the authors with a structure to discuss penal approaches without simply highlighting the relative degrees of American influence on each nation. This starts in the introduction where a discussion of recent prison builds in two nations highlights their differences in penal policy. In Norway, a prison is built that has exercise facilities, space for family visits and that looks like the outside world. In New Zealand, every expense is spared as prisoners are required to build their own cells from shipping containers. The photographs, used in the introduction and then sparingly throughout the book, are welcome illustrations of the differences the authors describe. Chapter one sets out the differences in punishment between the Anglophone countries and the Nordic countries of Finland, Norway and Sweden. When set out in this clear and structured way, the extent of these differences is strikingly obvious; the Nordic countries have much lower rates of imprisonment and treat their prisoners very differently. Nordic countries utilise smaller prisons, promote a higher quality of prison life and provide greater opportunities for work and education. Prison officers in the Nordic countries are trained in a different way, relate to prisoners with greater courtesy and less professional distance, and even look different, in terms of the uniforms they wear. These observations of the prison systems are the result of the authors' meticulous research – they toured forty prisons – and are presented in an engaging way. The two contrasting weekly menus, with weights and quantities recorded on the New Zealand menu but not the Finnish version, strongly and visually illustrate much wider differences in philosophy and approach.

Although the description of the differences between Anglophone and Nordic countries is interesting and engaging, it is the authors' analysis of the reasons for this that sets this book apart. They accept the cultural and structural differences noted by other scholars but suggest that these present as many questions as answers: why did cultural and structural differences emerge? What is the link between differences in welfare provision and approaches to punishment? Pratt and Eriksson argue that it is the difference in long-

term values between the Anglophone countries and the Nordic countries that have led to the cultural and structural differences, including differences in welfare and penal policy. The Anglophone countries emphasise self-advancement and individual success, the Nordic countries value inclusion, cooperation and moderation. Nordic languages have two words, *likhet* and *lagom*, that are characteristic of Nordic society and carry strong moral power, but that do not even have direct translations in English – the closest equivalent phrases being equality and moderation. The respective values systems went on to influence the development of the welfare state in the Nordic and the Anglophone countries. The Nordic countries value social cohesion so provide universal, high-quality childcare health and education, as well as generous social assistance. Anglophone countries promote individual responsibility so only offer a low level of means-tested benefits to those most in need.

These differences in long-term values between Nordic and Anglophone countries led to differences in penal approaches and, again, the authors take a well-informed historical approach to the discussion of the differences. Both Anglophone and Nordic countries replaced the use of the death penalty with the introduction of custodial sanctions but the Nordic countries did so more quickly and, importantly, did so with the intention that prisons should be places of rehabilitation, not punishment, and that they should remain a part of the community, a place where community values could still be demonstrated. Anglophone countries used imprisonment to create division and separation, Nordic countries promote cohesion. These differences only increased over time to the extent that now in Nordic societies there are increasing links between prisoners and the wider community, while in the Anglophone countries prison numbers continue to increase as the conditions worsen.

Pratt and Eriksson make no secret of their preference for the Nordic approach and readers will be persuaded that that an approach to penal policy that promotes inclusion and moderation is more humane and more desirable than the exclusionary punitiveness promoted in the Anglophone nations. It is a cause for some hope and optimism that these inclusive values can still exist and prosper and, as the authors describe in the final pages, hold society together even following the most horrific of crimes. That said, it is no criticism of this outstanding book to say that it does make sometimes frustrating reading for those who live and work in the Anglophone countries described. If the differences in penal approaches are a reflection of differing values that are deeply held with long historical roots, is there any prospect of successfully campaigning for reform? Depressingly, division, intolerance and exclusion are embedded in Anglophone culture to the same extent as *likhet* and *lagom* are characteristic of the Nordic societies.

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JUSTICE REINVESTMENT: CAN THE CRIMINAL JUSTICE SYSTEM DELIVER MORE FOR LESS?

Chris Fox, Kevin Albertson, and Kevin Wong (2013). Abingdon: Routledge. pp 241 (hbk)
£85.00 ISBN 9780415500340

This book is a timely examination of the Justice Reinvestment movement, with a concentration on the United States and the more recent adoption of it in the UK. It is impeccably researched, and although dense, the writing is concise and a delight to read. The authors open the text by defining JR: 'At its heart, Justice Reinvestment (JR) postulates that it is more economically efficient to prevent criminality in a neighbourhood than it is to try to live with crime and the consequences of crime' (p 1). The authors extend the literature by focusing on the holistic goals of JR and placing it within a framework of social justice, rather than a limited economic scope, which the UK and US criminal justice systems have narrowly focused on in their application. Fox *et al.* argue:

The current approach to crime is largely ineffective and inefficient, and has little evidence to support it (p 4) ... Our model suggests that an individual offender has the ability to make choices – albeit constrained ones – and has both rights and responsibilities in relation to the society or community within which they live (p 6) ... we suggest that the most efficient way to a just society is to reduce criminality at source though investment in social justice (p 7).

They use this framework to discuss, theorize, and critique current JR efforts, frequently guided by the work of Tucker and Cadora's (2003) work on community reinvestment strategies and Ward and Maruna's (2007) *Rehabilitation. Justice Reinvestment* is an outstanding resource for all players in the criminal justice system seeking to understand the implementation and implications of governmental reinvestment, and how this can be broadened to an effort to indeed incorporate 'justice' back into the system and into communities.

The book deconstructs JR – its definition(s), development, theoretical and philosophical foundations, and usage – and concludes with a 'where next' for this movement. Chapters 1 and 2 provide a thorough literature review and account of the current context and climate in which criminal justice services are being delivered and reconsidered. Chapter 3 describes the history and growth of JR, its roots in the USA and how it has been adopted in recent years within the UK. This section outlines the 'basics' of JR and identifies four main stages to the JR approach: the use of 'justice mapping' to identify the individuals and communities that are most impacted by criminality and incarceration; provision of options to policy-makers for the generation of savings and increases in public safety; implementation of options, quantification of savings and reinvestment in targeted high-risk communities; and measurement of impacts, evaluation and assurance of effective implementation (p 28). The authors remind the reader that 'Justice Reinvestment is not itself a policy, but rather an approach to public policy making' (p 34), whereby 'the distinguishing feature of JR is its reliance on economic theory for its validity' (p 29). Following this are three further factors which distinguish JR from other approaches to

rethinking criminal justice systems: it is a data-driven exercise; it is committed to the use of evidence in shaping services; and the concentration on efficiency. Chapters 5, 6, and 7 describe these three features in detail and illustrate with case studies.

It should be observed that there is a lack of moral language in these identified stages and distinctive features. What was absent, from this otherwise outstanding text, was the consideration of the justice-morality link when considering a model that is driven by economic austerity: can a criminal justice system can be socially just if driven by finance efficiency? Hegtvedt and Scheuerman (2010: 354) note that, 'Without consideration of "justice for all," issues of morality rarely arise'. It would seem that in order to achieve the authors' preferred application of JR – one that seeks to address social justice through greater equality and resource distribution, thus reducing criminal engagement and the need for criminal justice interventions – fiscal prudence and social ethics must somehow be rectified, beginning with the tone and language of policy making.

Perhaps the best aspect of this book is its contribution to the analysis and theorisation of JR. The final chapters highlight the implementation of programmes that capture the JR ethos: ones that promote the 'intrinsic rewards of building social capacity and tapping into community resources to prevent offending and re-offending' (p 173). Likewise, the book evaluates other schemes that may miss the mark, most notably the UK's current focus on Payment by Results (PbR): 'Notwithstanding, even if appropriate evaluation shows that PbR schemes may save money, they will do nothing to address community problems which give rise to offending in the first place' (199).

Despite some minor critiques, the book presents an unparalleled (and exceptionally written) examination of Justice Reinvestment, while perhaps providing a warning of 'doing without knowing' – implementing underdeveloped and under-researched schemes – guised as 'just'.

Bethany E. Schmidt, PhD candidate, Institute of Criminology, University of Cambridge

Reference

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