



## WRITTEN EVIDENCE SUBMITTED BY THE PROBATION INSTITUTE

The Probation Institute (PI) is an independent centre of excellence on probation practice. It applies rigorous standards to the assessment of research and best practice. The Institute provides professional leadership for probation workers, and all those who deliver services that protect the public and rehabilitate offenders. It acts to link probation professionals across the private, public and voluntary sectors. We believe that the maintenance of cohesion in a recently fractured sector is important and should be facilitated wherever possible. The Probation Institute is well placed to illustrate and promote best practice and to provide the glue that binds a fractured service together. In addressing the questions posed in the remit, we focus on issues of capacity, confidence and competence.

### 1. Comment on Governmental steps to address the issues facing probation services

(a) *Effect of 2017 changes on the delivery of probation services – consequent upon the internal review of Transforming Rehabilitation? (TR)*

From the outside, the only visible sign is the injection of significant extra funding in the direction of the CRCs. What impact this may have on Service delivery is unclear, and, charitably, perhaps too early to gauge. The promised “probation review” earlier this year has remained ‘internal’ and it is therefore difficult to comment upon.

(b) *Are strengthening inspection standards and creating joint performance measures (between probation services and prisons) the best ways of improving performance?*

Probably not. HMIP inspections recently have painted a generally unflattering picture but sadly, all too often this leads to enhanced levels of defensiveness on the part of service suppliers. A siege mentality is developing.

(c) *What should be the Government’s priorities to improve work between departments on the delivery of services needed for effective rehabilitation?*

Effective rehabilitation of offenders requires that the individual is in a sufficiently stable lifestyle including stability of finance preferably in employment, housing, health and key relationships. Probation alone cannot address these needs and must work locally with health, adult social care, housing and employers. Central Government departments of Health and Adult Social Care, Education, Employment and Local Government must recognise and prioritise their responsibilities towards the rehabilitation of offenders at community level and must support local delivery of collaborative services. The Police - Home Office - also have a responsibility to recognise effective rehabilitation as one of the key factors in preventing crime.

### 2. Impact of reforms on: -

(a) *Sentencing behaviour*

The impact of TR reforms on sentencing has been to distance sentencers from service delivery and reduce their understanding of what is available, and their confidence in it. The determination to observe the mantra “Justice delayed is justice denied’ has arguably been at

the expense both of the proper dispensation of justice, the proper assessment of risk and the most effective and efficient use of community disposals. Primarily here we would observe that the wholesale demise of full written pre-sentence assessment reports in favour of either oral or short format written on-the-day reports has, in our view, led to proper risk assessments being compromised, and the most appropriate community disposals being neither explored or supported by reasoned argument. This problem has been further exacerbated by the lack of knowledge and understanding on the part of both sentencers and NPS staff of what disposals are available within CRCs, the lack of suitable community sentencing options in some areas and/or their poor quality and the perverse incentives and financial pressures bearing upon both the CRCs and the NPS in respect of case allocation.

*(b) Recalls to prison*

The size and composition of the prison population bears heavily upon the reforms to the Probation Service (see below). The whole question of prison recalls, as well as effective breach policies within Probation is of significant concern both in terms of risk management, proper supervision generally as well as a contributory factor to the size of the prison population.

*(c) Serious further offences*

Given the nature of probation work, these will always occur and statistically, most will arise amongst current cases considered 'low risk'. That is not to say that risk assessment and management is not a primary task of all providers of probation services. Great strides have been made in this respect over the preceding 20 years. The impact of TR reforms in this context has been to introduce a financial and contractual (threat) element into the equation which is unlikely to be helpful. Where there are SFOs the natural if unhealthy instinct is to find a scapegoat(s). This is unhelpful since examination of such occurrences should primarily be aimed at learning lessons and making adjustments to future practice to minimise the likelihood of similar mistakes being made in future. A review of the entire SFO process might be timely in the light of new Probation structures and providers.

Knowing a case, knowing an individual and knowing their life, their family and their environment are all a good basis for minimising risks. This requires sufficient time to develop such knowledge and excessive workloads do not allow this. Optimal workload arrangements are key and this requires addressing urgently. Knowing a case also involves not only studying the case thoroughly, sharing information appropriately, seeing the individual regularly but also seeing him or her in their home environment – being noseey.

**3. Effectiveness of Government measures in addressing issues arising from the division of responsibility between the NPS and CRCs in the delivery of probation services**

Whilst this division exists, it is critical that the fissure between the two is bridged wherever and whenever possible. Equally there are barriers between CRC providers which must be minimised. The concepts of 'commercial in confidence' and 'risk management' do not sit well together. All parties, both in the NPS and all CRCs must be able to learn from each other's successes and failures for 'best practice' to flourish.

The exchange of information and the systems in place to achieve this are key, as is a commonality of knowledge and training. Staff exchanges, at least between the NPS and CRCs, should be better facilitated and structures should not be allowed to develop which jeopardise the ready movement of staff across the sector. Common training and qualification structures should be the aim and the legacy systems for joint training (e.g. Probation officer Qualifying training) should be actively protected to prevent a two tier set of qualifications for Probation

Officers. Good continuous professional development (CPD) arrangements which promote a sector wide understanding and appreciation of issues and current developments is key and should be a priority in any approach to bridge the gap between the NPS and the CRCs. The Probation Institute has developed a Position Paper 1/17 on *Continuous Professional Development in Probation, Rehabilitation and Resettlement*. Additionally, more attention could be paid to the training/CPD needs of practitioners operating in a new world of commercial constraints, commissioning, procurement and managing contracts – this primarily for CRC staff. For NPS staff there are things to be learned about working with the private sector – an equally novel experience.

The division has also resulted in one group of staff (NPS) being responsible for all the high risk work. There are significant dangers associated with an unremitting caseload with no light(er) relief- professional burnout for one. Equally there are problems associated with training staff and throwing them in at the deep-end with no prior experience of learning how to swim in the shallow end. *The expectation of being fully functioning on day one in post does not fit well with models of professional development.*

The provision and funding of programme work has been a source of concern, particularly for CRCs since the split. Undoubtedly there are some economies of scale to be achieved through group work and equally it can be an effective tool for addressing issues and reducing risk of both harm and reoffending. Sadly, it has taken a significant knock since the split with structure, knowledge and provision being lost through change and fragmentation. Take-up has not been as expected and this is in large part consequent upon sentencing decisions and the information upon which these have been based - See 3a. above. However, the funding formula for programme work should also be revisited.

## **1. Proposals that the Government might consider to address the issues facing probation services**

- i. The TR Programme had the stated intention of encouraging diversity of provision and innovation in Probation. It abolished the existing structure of Probation Trusts which had been set up less than 5 years previously, also with the intention of creating a more flexible, innovative service. The Trust structure was not allowed to develop its potential to achieve this and had been denied many of the freedoms from centralised control that had originally been promised. Nevertheless Probation provision was of a generally high standard as reflected in the published performance data and by the receipt of the European Excellence Award in 2011.
- ii. A common understanding of the expectations of case supervision and management. There has been a system of National Standards which was arguably over-prescriptive in its later iterations, disempowering and deskilling practitioners and acting as an enemy of quality, but which has now almost entirely been lost as a consequence of TR - witness the resort in some areas to supervision by telephone or text. The PI would endorse the intentions of the recently published HMIP Consultation on Standards.
- iii. With the demise of National Standards, it has become increasingly difficult to calculate workloads for front-line practitioners and thus a viable methodology for workforce planning. Unless workloads are manageable and unless workforce planning and training requirements reflect the reality of what is required to do the job properly, then serious problems with service provision will persist.

- iv. For years, Probation has been dogged by sub-standard IT systems – both software and hardware. Some CRCs have made significant progress in this respect as indeed have other parts of the MoJ such as CAF/CASS. However not only must the systems be efficient and robust but they must also talk to one another and practitioners must be able to readily access information on offenders across the country.
- v. There has been much talk of the ‘de-professionalization’ of the Service and this is keenly felt by many practitioners. This is a trend which must be reversed. If nothing else, it is imperative that it can be demonstrated to inspectors of probation work that the staff are properly trained and qualified – though indeed there are more basic reasons to insist on a professional workforce. Training, qualifications and continuous professional development should all be properly provided and regulated. The unions, Napo and UNISON, have argued in favour of a license to practice and we would endorse this call. Regulation should be the responsibility of an independent body with responsibility for regulating all key practitioners managing offenders across the HMPPS, CRCs and the third sector. Regulation should include compliance with a single code of conduct and ongoing evidenced commitment to continuous professional development. The Probation Institute has developed a Policy Statement 2/17 *A Regulatory Body for Probation, Rehabilitation and Resettlement staff* and has a voluntary register already in place.
- vi. The basics should be done properly. Preparation from the outset is key. Risk assessment is based on the careful collection of relevant case information. This will include previous convictions, safeguarding and domestic abuse intelligence and even the very basics such as household members.
- vii. The loss of ‘supervision’ as a basic requirement of community orders and its replacement by Rehabilitation Activity Requirements (RARs) is not readily retrievable being founded, as it is, in primary legislation. However, the fact remains that there is no common understanding amongst sentencers, practitioners and service users of what RARs are. This must be urgently addressed. Equally, as a fundamental element of supervisory work within CRCs, the funding formula does not adequately reflect this fact. Good practice guidance, such as that developed by the Probation Institute at a recent professional conference, should be developed and disseminated and the funding formula should be reviewed.
- viii. Meeting places to conduct supervision should be appropriate. Home visits are usually appropriate, likewise prison visits for prisoners. However, the bulk of supervision will always take place in an office environment but here the arrangements should be appropriate to ensure safety, confidentiality and a comfortable setting to discuss matters often of some discomfort. Open booths in an open office setting are never appropriate and should be banned. The Probation Institute Position Paper 3/16 on *Office Arrangements* sets out good practice.
- ix. The Payment By Results mechanism (PBR) is opaque, resource intensive and unlikely to ever operate effectively.
- x. NOMS promoted the idea of end-to-end offender management. The idea of walking alongside the offender on their journey through the justice system with the aim of providing guidance and signposts aimed at achieving a return to inclusion in law abiding communities is fundamental to the concept of Probation. This has been rather lost as those who offend have become more commodity than human. It would be good to

rediscover this central tenet. To the greatest extent possible a regulated probation worker, be they from a government agency, a private company or a voluntary organisation should share the journey from beginning to end.

## **6. Short term changes**

### **A. How to improve Through-the-Gate provision**

Prior to TR, provision for prisoners sentenced to 12 months or less was organised on a voluntary basis. There was general acceptance that something better was required so that such prisoners were not simply warehoused whilst their community ties were fractured. However, the inclusion of such prisoners under a statutory supervision scheme was totally unfunded and as such, success was always unlikely. Without funding a more effective solution is likely to be found in commuting as much of this sentencing to community provision where risk and seriousness considerations allow. The ultimate step in this direction would be to abolish custodial sentences of less than one year. Whilst such sentences continue, good retention of home links is essential and this can best be supported by good and regular contact with community based Probation Services as well as better use of Release on Temporary Licence (ROTL) – though both these proposals have a cost implication that cannot be ignored.

### **B. Proposals to increase voluntary sector involvement in the delivery of probation services**

Some good innovative work has been initiated in the voluntary sector. In addition, the relationship between service users and voluntary support is important and different from the involvement of statutory agencies and this difference should be nurtured. Greater voluntary sector involvement might be achieved by firstly not exploiting this provision – and this means regular and guaranteed income flows. Secondly, there should be better inclusion of voluntary agencies in a holistic approach to community justice, incorporating a structure allowing and facilitating the sharing of training, expertise and staffing across the sector. This would have career progression as a central pillar. Practitioners in the voluntary sector with responsibility for supervising part of a statutory order should also be regulated. Concerns about the loss of small BAME organisations to the system has been highlighted by the Lammy Report.

Restorative justice is a concept which fits well with the involvement of voluntary agencies. Its growth could and should be promoted and whilst it would require significant front-end funding, being a time-consuming concept when properly undertaken, long-term savings through reduced re-offending are the prize.

## **7. The future of Probation Services**

*When should there be a review of the future of the Transforming Rehabilitation model and the long-term plan for delivering probation services?*

The split into two different and separate structures has not been a success to date and the gulf between the two sides (NPS & CRCs) has been difficult to bridge. An early decision to review the current model would be sensible and then consideration of the different ways in which this might be effected together with an assessment of what might be the governance structures could be made. Integration of service delivery in whatever format is a recipe for better coordinated practice.

A strong incentive to review at an early stage revolves around future time-lines. One of the main criticisms of the TR programme was that it was introduced in too much of a hurry and with no proper testing/piloting of the concept. Two years was the time allowed to implement the TR programme in Probation but a better timescale for such a radical restructuring might

have been double that. So if further major changes are envisaged to the manner in which Probation Services are to be delivered in the future, then it would not be too soon to start now. This should be concluded before new contracts are out in place.

#### *Further recommendations*

- a. The future of probation services is inextricably linked to what happens with prisons and penal policy. This fact was acknowledged by the creation of the National Offender Management Service (NOMS) in 2004. Sadly, this was an imbalanced amalgamation in which the rehabilitative culture in Probation has been marginalised. If we are serious about rehabilitation, then this has to change. One approach to change might be in taking a more collaborative approach to professionalization – continuing work on raising the level of recruitment, training and qualifications of prison staff, and opening up greater opportunities for practitioners and managers from both services to move into prison and probation roles for periods of time.
- b. The main source of additional funding that may be released, at least cost, is through a reduction in the prison population and then, also linked, by a long term reduction in re-offending (the worst re-offending rates emanate from short-term prisoners and young people incarcerated.) Alternatives to short term prison sentences should be energetically promoted. Community sentences should be utilised at the lowest appropriate level commensurate with seriousness of offending and risk to the public. The work of Community Justice Scotland in supporting restrictions on the use of short-term custody has led to an increase in community sentencing there.
- c. Imaginative and effective uses of modern technology should be explored and piloted, but the computer is not king, it is a tool. In all its guises it should be used wisely whilst not losing sight always of the centrality of the personal relationship between supervisor and supervisee. Electronic monitoring, is an example of useful technology that has been misused. In other jurisdictions it is used more imaginatively to enhance and support supervision.
- d. Inclusivity of stakeholders – consultation and dissemination of information should adequately reach all parties – notably victims but also courts and service users.
- e. Innovation comes from the bottom – listen to your staff – as well as other stakeholders.

#### **CONCLUSION**

There is much to be done to improve service delivery as noted in successive HMIP reports. However, where practice is good it is often down to the creative and dedicated work of professional practitioners. The Probation Institute seeks to ensure that the professional standards of each worker is protected by timely regulation and the development of a mandatory probation register. This is an important marker for the right to continuous professional development, career development and transfer between agencies, maintenance of consistency in practice, job competence and appraisals, and for integration of professional practice across the public, private and voluntary sectors.

**Submitted on behalf of the Probation Institute by the Chair Professor Paul Senior, ACEO, Helen Schofield with the following input from PI members, Directors and Fellows – Mike McClelland, Kate Blamford, David Walton, Nick Smart and Professor Dave Ward.**