

Approaching the Centenary – Celebration or Commiseration? Developments in Probation in the UK

1. The views expressed in this paper are entirely those of the author and not those of his employer or the National Probation service. The facts are true to the best of his knowledge.
2. In the year 2007 the supervision of offenders by Probation Officers in the UK will reach its centenary. As we get to this milestone we have enormous achievements to celebrate, whilst going through change that is unprecedented in its pace and magnitude. At the same time the nature of the Service is under a greater threat than ever before. I will seek to outline the hopes and fears as best I can in the time available.
3. The Probation Service in the UK has its roots firmly in Christian tradition in the second half of the 19th century, with Police Court missionaries trying to save fallen women and drunken men. The word 'Probation' appears in legislation for the first time in the Probation of First Offenders Act of 1887, although this did not include any supervision. The 1907 Probation of Offenders Act gave Courts the power to appoint a Probation Officer to supervise offenders on a Probation Order. It was not seen as a punishment, was not a sentence and it required the consent of the offender. The duty of those initial Probation Officers was to "advise, assist and befriend" the Probationers; a duty that persisted to the end of the 20th century.
4. There was no Probation Service and no structure. The pressure for co-operation and co-ordination came from the early Probation Officers themselves and led to the formation in 1912 of a professional association that today is the main Probation Trade Union. Over the next 30 years the Service and structures grew organically and with them the first management hierarchies. These were designed to permit professional supervision rather than the bureaucracy of performance management. The duties of the Probation Officers expanded too and by the late 1960s they were supervising prisoners after their release and working in the custodial institutions. 1976 saw the introduction of Community Service and the concept of being sentenced to pay back something to the community they had offended against.
5. The period from 1979 to the current day has seen an almost constant message from Governments of all persuasions that sentencing needs to be tougher, culminating in the explicit message in 1993 that 'Prison works', and implicitly that Probation did not.
6. Prior to this the 1991 Criminal Justice Act laid the basis of the current sentencing and Criminal Justice System. It also made Probation a sentence in its own right, although consent was still required until 2000. The 1991 Act had the effect of reducing the prison population by 5000 in a few months. However, the 'prison works' message and associated legislative changes resulted in a 50% rise in 4 years, to over 61,000. The political message also changed from rehabilitation in the community to punishment in the community. As has proved to be the case since, the intentions to restrict the use of prison and community sentences to those who needed them was undermined by the political messages and the determination of sentencers to sentence as they saw fit. The political climate was emphasised by the current Labour Government's message on coming to power in 1997 "Tough on Crime, tough on the causes of crime". The effects of this statement have haunted the Government ever since and meant that they have been inevitable hostages to the right-wing media. Every high profile crime has been used to beat the Government for failing in their pledge whilst the Government appears to react with a host of initiatives rather than a coherent criminal justice strategy.

7. This is the climate in which the most fundamental change in over 90 years of Probation history took place – the creation of a National Probation Service. 54 semi-autonomous services were transformed into 42 Probation Areas with a National Probation Directorate (NPD). Central control was established and tough performance targets given. A bureaucracy grew with it and from 2001 to 2003 the number of people employed in the NPD grew from 90 to 460 and the inefficiency of the centre seemed to grow with the numbers.

8. In spite of this huge, and for some, very painful change, in 2002 the Government commissioned a review that resulted in a report published in December 2003. The Carter report, warmly welcomed by Government, recommended that there was a need to:

- Find more effective ways of using resources
- Have Prison and Probation working closely together
- Target sentences
- Have end-to-end offender management
- Have services based on evidence of success
- Introduce competition

9. Also in 2003, a new Criminal Justice Act was passed that built on the sentencing framework of the 1991 Act but also stated explicitly the purposes of sentencing. It required new ways of working with offenders and gave rise to new national standards. The Criminal Justice Act was yet another attempt to target sentencing, both prison and community sentences, at those offenders who needed them and could benefit from them most and to deal with less serious offenders by other means, so husbanding the precious resources of the Prison and Probation Services. The result, since the Act came into force in April 2005, has been that sentencers have responded to the punitive political and national climate by increasing, not controlling, the number of offenders sentenced to prison and placed on supervision. In 18 months the prison population has increased by 5,000 or 7% to 80,000 and the number of offenders on community sentences has risen by a similar proportion.

10. Within 6 months of the publication of the Carter Report the National Offender Management Service (NOMS) was established with a National Offender Manager and 10 Regional Offender Managers (ROMs) to bring closer together the Prison and Probation Services and break down the barriers between them. As originally conceived the ROMs would have direct control over the staff who managed offenders (note – managed not supervised).

11. The people who delivered interventions, or worked with the offenders to help them change, would be managed by another agency, likely to be what was left of the Probation Service, and have their work opened up to competition. Fortunately, this structure has never come to pass and the vision still has a Probation Service supervising offenders, but this is far from certain to remain the case indefinitely. Indeed, there is a very clear threat that seriously under-performing Probation Areas will be put out to tender. The vision still includes interventions being put out to competition but legislation is needed to permit this.

12. So where are we now on this roller coaster ride? There are 3 main strands – NOMS, end-to-end offender management and contestability or competition.

13. Firstly NOMS. It exists, but lacks the legal power to carry out many of its intended functions. It is managing to bring the two services closer together and create the environment for end-to-end offender management to begin working, both hugely important achievements. However, it is bureaucratic, very expensive and lacks controls. There are now 1600 people employed by NOMS and 500 civil servants dealing with it and it has yet to supervise a single offender or

commission a single service. Its very existence is questioned by many in Government, as well as large sections of the wider criminal justice system. There is a feeling, however, best expressed by a Home Office Minister who is quoted as saying that NOMS was a mess but it had gone too far and so we had to continue. As I write, the government is announcing its plans, for the third time in as many years, to establish it in legislation. That it has not succeeded in introducing legislation thus far indicates both the difficulties and the strength of the opposition.

14. Secondly, I turn to end-to-end Offender Management. This is not particularly controversial, indeed quite the opposite as it makes fundamental sense. The concept is very simple; that an offender will have one person supervising or managing them for the entire span of their contact with the Criminal Justice system, irrespective of how long it lasts or where they are in the system providing they live in the same area throughout.

15. This is very different to what happened before, where the person involved with them could change at almost every different stage, and often did as a person moved along their own individual pathway through the system. This led to many discontinuity, many gaps, lack of accountability, lack of co-ordination, duplication and inefficiency and the service being resource, not needs, driven. (I must say at this point that I am deeply indebted to Tony Grapes, who conceptualised and wrote down the Offender Management Model for the use of his PowerPoint slides.)

16. Offender Management seeks to create a single pathway, focused on the individual offender, where the input is determined by their need and risk and is co-ordinated and continuous. This means one Offender Manager for each offender – a pre-requisite for continuity, co-ordination and accountability. Inherent in this is the concept of it being managed, not just supervised. The components of Offender Management are:

- Assessment
- Planning
- Implementation
- Review
- Evaluation

or ASPIRE

17. This, essentially, is the role of the Offender Manager, all of it being underpinned by a universal assessment tool – OASys – used by Probation and Prison staff in the same way and transferred electronically between the two services with the offender as he moves between them.

18. All the other elements are useless without the plan being implemented through effective supervision of the offender. Supervision can be described as the day-to-day personal process of motivating, encouraging and supporting an offender that is delivered by the Offender Manager in the community and an Offender Supervisor in custody.

19. Supervision in the Offender Management Model relies on teamwork. This is not the traditional notion of teamwork in Probation i.e. a group of people doing the same job with different offenders. Teamwork in the Offender Management Model involves a group of people doing different things with the same offender. As such there are complimentary roles and responsibilities.

- The Offender Manager is responsible for the overall plan and if necessary the sequence in which it is delivered.
- The Offender Supervisor has responsibility for actively implementing the plan on a day-to-day basis. Of course, in many cases the OM and OS will be the same person.

- The Key Workers are responsible for delivering the interventions in the order and at the pace determined by the OM.
- The Case Administrator is responsible for ensuring the smooth administration and co-ordination of the work of the others.

20. Effective communication is the key to it all and in time this will be through the means of C-NOMIS, an electronic case management system shared by both prison and probation services. Originally planned to be in deployment as at the moment, unfortunately the main rollout has been delayed by some 12 months

21. So, for the first time ever, Offender Management is a national case management policy that spans an offender's entire experience of the system, ensuring that the same things will happen in the same ways wherever they may be both in the criminal justice system or the Country.

22. But, implementing this is not easy. We are in a lengthy transition phase. Our task-focussed, pass the parcel, model is deeply ingrained in our processes and our culture. Implementation is a process that can only happen over several years and there are many difficulties, particularly as it is implemented in the prison setting. These include:-

- Prison population and community workload that are out of control with prisoners in the wrong place and resources focussed on other priorities.
- A climate of risk aversion and a serious backlog of assessments, including risk.
- Infrastructure – eOASys, C-NOMIS delays and lack of video conferencing.
- The distraction of commissioning and contestability amongst other things.

23. So why continue? The answers are compelling. For the first time there is a single model with universal support, including from Government. There is an unprecedented level of co-operation between the prison and probation services and very high levels of staff enthusiasm. The implementation can be incremental and, perhaps most importantly, there will never be a 'right time'. It is accepted that if it were to stop now the opportunity would be not recur for at least 5 years.

24. And so to the final, and most controversial strand – Commissioning and contestability. The aim is to have up to a third of the Probation budget committed to services delivered in competition. These plans have encountered almost universal opposition. The Government issued a consultation document late in 2005, which attracted 748 responses, of which only 8 were in favour. In spite of this the Government chose to press ahead. Regrettably, every year a very small proportion of offenders under supervision commit very serious crimes but rarely get sustained national media attention or feature prominently in public announcements from Ministers. The results of the consultation were released at almost the same time as the publication of a highly critical report on a murder committed by offenders on supervision; a report that Ministers used to drive forward their agenda for change in the Probation Service and undermine the opposition to it. In doing so they caused the Probation Service to be exposed and undefended, with all the good work it does to manage dangerous offenders undermined. In the months that have followed there have been a series of events attracting quite justified unfavourable media coverage that have provided excellent opportunities for Ministers to explain the work of the criminal justice system and contribution of the Probation Service in particular; opportunities that have not been taken.

25. The latest chapter in this story is, one week before the annual statement of intended legislation, the Home Secretary, the minister responsible for the whole system, gave a speech to prisoners inside a London prison where he chose to announce that the probation service was

performing badly and needed reform – and competition. This happened to be the same day that a one-sided undercover television programme about the work of probation hostels was broadcast and rather than putting it in context he chose to use it to support his views.

26. Don't get me wrong. I am not saying that doing things differently or having them done by other organisations is wrong. As the complexity and sophistication of assessment and planning increase there is a need to focus on what we do best. There has long been a recognition that the Probation Service cannot meet all the needs of offenders on its own and that there are many organisations, particularly in the 'not for profit' sector that can address specific needs far better and cost-effectively than we can. We therefore need to seek them out and work ever closer with them.

27. The Government says that service providers - meaning the Probation Service – should not determine what is needed and how well they are performing. But Probation Areas respond to local need, can commission local services – and many of these alternative providers are local organisations – and can be held accountable. With the right information and incentives or targets they can almost certainly do it better than if it were done regionally or nationally. Regional or national commissioning of services from the private sector has a very poor history in the Probation Service and brings with it the possibility of serious conflicts of interest, for example the potential of the same parent company that runs a private prison also delivering reports to the court. Probation Boards are structured to represent and be accountable to local communities and should have that strengthened rather than removed. Local providers are often small and need to be given assistance to perform as required by being assured of long-term funding, given help with IT and infrastructure etc. This is a model that has wide support but will not necessarily prevail, but the struggle is likely to be bitter.

28. I hope I have given you a flavour of current developments within Probation in the UK. As we approach the centenary we have much to celebrate, but we also are in fear that the very same year will see the beginning of the end for probation as we know it.