

Probation, the public and what is possible: an interview with Andrew Bridges

Management of offenders after release is a flashpoint in the public and media debate about crime and the criminal justice system. **Enver Solomon** and **Roger Grimshaw** of CCJS interviewed Andrew Bridges, HM Chief Inspector of Probation for England and Wales, about balancing risk, rights and public expectation.

Enver Solomon: Can you remember a time when work with offenders who have committed serious, violent and dangerous acts was under intense public and political scrutiny in the way it is now?

Andrew Bridges: I think it is just part of a wider changing attitude to public expectations and public services generally. In the early 1970s one suddenly saw it happen for social services in relation to child protection. It was very striking, the different expectation of them in protecting children and on us in protecting society from offenders, and I commented on that at the time, when I was a student. I notice that in the health service, there is more grievance nowadays over health issues, most of which arise from the fact that when there is more opportunity for a public service to

to be the main failings? The root problems in the system?

Andrew Bridges: Well, the first question is what do you mean by “going wrong”? If you mean that people who have committed offences before go out and commit nasty offences again, that’s something going wrong, but the assumption behind the question is that a public servant made a mistake and made that happen. Now the starting off point for the answer is, if an offender commits a serious further offence, they are responsible for it. Then there’s the next question, “Is there something that any public servant could reasonably have been expected to do that might have made that less likely to happen?” That’s a fair question, and those are the questions we answer when we do serious further offence reviews, and you’ll see that

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do good, then there is more opportunity for disappointment in what the public service is achieving. These gradual changes in public expectation manifested in regards to probation, but in an extreme form because people who do very nasty things will perfectly understandably cause a huge amount of public concern. So I see it as a particular manifestation of a general development in terms of public expectation and risk in general, and public services in particular, and what public services can do to keep risk to a minimum.

Roger Grimshaw: This year you published reports on two inquiries on behalf of the Home Secretary, looking at serious, violent crimes committed by people whilst under probation supervision. One concerned the case of Anthony Rice and one the cases of Damien Hanson and Elliot White. What have you found

there is not a generic answer to that question. It is possible for somebody to exercise quite poor practice and the most striking example that’s already on the record from our report is if you ask an offender to report to a probation officer inside a geographical area that they’re excluded from, by condition of their licence, you’re giving them a very, very poor message. That doesn’t mean you’ve made the offender commit the murder, but it does mean that the offender gets the message that “The way I’m being managed by this public servant doesn’t make a lot of sense, and it doesn’t really matter what I do. They don’t know what they’re doing”. Those are contributing factors, but they don’t cause somebody to commit a murder.

Roger Grimshaw: In effect what you are saying is that these are very difficult cases to deal with. In what way are they so difficult?

Andrew Bridges: Well, for a start you've got to do two things at once. You'll see that our assessment in the Anthony Rice case was that people in those panel meetings tended to focus on whether the restrictions were fair or disproportionate. Because they were constantly being challenged by Rice and his solicitor, they spent much less time on whether those restrictions were being effective. So why is it difficult? Because you're having to do both things at once. Another thing is you've got a solicitor constantly challenging you on the subject of *fairness*, and you don't have an external challenge on the subject of *effectiveness*. You have to remember to do that latter subject yourself, and how many other cases are you managing at the same time? There is pressure. That's what makes it difficult. Not impossible, difficult, and we are asking public servants to manage both of those things at the same time, while being constantly challenged by legal representatives.

Enver Solomon: Do you think there's a conflict, for someone working on these very difficult and challenging cases, between having to look at human rights considerations that are put before him by an offender's legal representatives and also having to take public protection considerations into account, given that public protection is currently seen as a priority?

Andrew Bridges: I think that's a very good question because I do want to say that there is a conflict between them, but I'm not saying that they are incompatible. So what you are trying to do is manage two things alongside each other, which at certain points are in conflict and you have to find the appropriate resolution so that both needs are met.

Enver Solomon: In terms of trying to categorise seriousness and dangerousness, do you think it's possible to actually talk about a group of offenders who are dangerous and a group who aren't?

Andrew Bridges: In those simple terms, it almost certainly does not work. We're talking in general about the infinite variety of human life, and even amongst people who have committed offences, you are still talking pretty well about the infinite variety of human life. We can all recognise the extremes, so if you've got at one end of a continuum, extremely dangerous, repeat, serial or violent offender, we can recognise that person as dangerous. At the other end of the continuum, some first offence for shoplifting or whatever, that they're a very low risk, but there is an infinite number of tiny steps leading from the green end of the spectrum to the red end of the spectrum, so when you are forming categories (and it's the same thing that the insurance companies do), you create categories of risk. But the dividing line between each category is simply one that we've drawn in order to create the category as a construct, and we have found it helpful in practice to construct the low, medium, high or very high construct and at the moment the line seems to be somewhere around the seven per cent line, that you can find offenders who are just on the medium side of that line, and some offenders who are just on the high side of that line and the difference between them will be fairly marginal and a matter of opinion. So recognising that the band from not dangerous to dangerous is just an infinite continuum of tiny steps is an important element to understanding this.

Roger Grimshaw: I'd like to look at a different aspect of the relationship with offenders. Besides having good assessment tools and making sure that those working with offenders are best equipped to make those judgements, is it the case that they also need more time to properly get to know offenders who can be manipulative and very cunning, more time to get behind the façade?

Andrew Bridges: I would think that if the average number of offenders that an offender manager had to deal with was less than 30, they would be more likely to do a better job.

Enver Solomon: What's the average at the moment?

Andrew Bridges: More than 30. Depends where you are. It's very hard to give a definitive answer, but it is often more than 30 and of course in acute cases, particular circumstances in a particular area, it can be a lot higher. In terms of planned resource, it would be helpful to recognise individuals working with more than 30 are going to find it hard. There's a lot you can still do even with a high case load, but when you're dealing with difficult people, naturally you'd want less. The relationship between quality and quantity isn't the direct straight line relationship that people would imagine, and that's why I said if you have fewer cases, you are more likely to be able to do a better job. It doesn't always happen in practice.

Roger Grimshaw: The general assumption being though that if individual probation staff are overloaded with a lot of cases, which some people would say is happening already, and also might be a consequence of more people coming into the system, then they're going to find it harder to work effectively with particularly challenging individuals?

Andrew Bridges: Well I've said it makes it more difficult when you have more. The Government will perfectly, correctly say they're spending a third more in real terms on the probation service now than eight years ago. One then has to look at where those resources have gone, and some of them have gone on providing facilities that didn't used to exist, so that's an opportunity to do good, such as drug treatment and testing orders that simply didn't exist beforehand. Now the benefit to the individual offender manager is potentially a good one, but of course it does mean that they haven't had their case numbers reduced. They're still working with a high number and I think there's evidence to suggest that it's probably higher now than it was eight years ago. But what you've got is in some instances more facilities that you can use, though that's still more work for you to do to enable that person to access those facilities. So the relationship between quantity of work and quality of work is extremely complex.

Enver Solomon: Looking at the system overall, do you think that it might become too risk averse with fewer people who have committed serious crimes being released?

Andrew Bridges: There are certainly pressures to make it more risk averse. I can't tell you whether it will become more risk averse, but you can see the pressures that make that more likely to happen as it becomes more apparent that some quite difficult offenders are being managed in the community, even though they always have been in the community, usually with

less management than they have now. But as there is increased public awareness, one of the pressures will be, why can't these people be kept locked up for longer? And the policy move has been in that direction as it was when the 'Indeterminate Sentences for Public Protection' (IPP) came in under the 2003 *Criminal Justice Act*.

Enver Solomon: As a consequence, isn't there a danger that people might get sucked into a system of extended punishment and control as a consequence of their offence category, rather than their individual behaviour?

Andrew Bridges: It might. Just to use IPP as an example, there is a point where you've finished serving your sentence and you should be released if you're assessed as sufficiently safe to let out. And in fairness, what they're trying to assess is that person's likely behaviour, rather than re-sentence them for the original offence, so I don't think that is the biggest risk in terms of consequence. I think it's more likely to be that as you become more aware of the potential for being exposed to criticism, the borderline cases might be more likely to fall by staying in than out, and one could understand why. A lot of these are very, very difficult decisions and a lot of them will do fine if they're released. People won't notice the ones who do fine because we are in the business where success is where nothing happens. And if we were a completely rational society, we would make some assessment about using these categories of risk we were talking about earlier, we would say, "It is worth it that say one in hundred commits a dreadful further offence if the other 99 are all right". But that's an awfully difficult assessment to make in rational terms, because none of us would want to be the victim of the one who reoffended. But in effect even if we don't make it consciously, by default that's the kind of decision that as a matter of public policy we're carrying out in practice. You can't predict an individual perfectly – you can only predict groups. Therefore how many dreadful crimes are you prepared to tolerate in order to have this large number of people out of prison and being successfully rehabilitated? Those are the two sides of the scale that one is in effect trying to balance up. Don't ask me what the figure is, because I'm not able to say. That is in effect a matter of public policy. Because in a sense, it isn't a matter for somebody on the inside to say, for example, "Society should accept three murders for every 97 people rehabilitated". It isn't for us to say.

Roger Grimshaw: I think the question is not exactly what the acceptable rate of failure might be but how can an acceptable rate of failure be determined and by whom?

Andrew Bridges: I've no idea, because I think in practice... how can it be determined, theoretically, the judgement of what's acceptable to society...how would you determine that? No idea.

Enver Solomon: In a way, don't you think this is the crux of the problem, that we actually haven't come to any consensus and I don't think that there's an agreement...

Andrew Bridges: We haven't agreed that's the question yet. It would be helpful if we agreed that was the question.

Enver Solomon: And also perhaps there is a lack of consensus between politicians and those working in the system about an acceptable level of failure.

Andrew Bridges: I don't think we're even addressing that as a question. Because, for all the obvious reasons, it is so sensitive, you can quite understand why people wouldn't want to pose it in that way. I think that's understandable.

Enver Solomon: But if there was a more honest assessment by those in power that actually it's impossible to create a fool-proof system and that things will go wrong, wouldn't that assist in more effectively managing the public's expectations?

Andrew Bridges: I think we should try to make it clear that that is what the question is. It's perfectly understandable that people don't want to pose that baldly and as a question, and it would be a very tough thing for a politician to pose that question explicitly, and I think that's understandable.

Roger Grimshaw: Looking at a particular new policy proposal, the 'Violent Offenders Orders' that are going to be in the proposed new *Criminal Justice Bill*, my understanding is that people who have been sentenced for particularly violent and dangerous acts will be subject to additional requirements... do you think it will make a difference?

Andrew Bridges: I suppose I'd rather speak generally than specifically. Any new measure gives an opportunity to intervene in a way that might make harm to the public less likely, and it's also unfortunately an opportunity to fall short, to make a mistake, and there is a difficult trade-off there, particularly because it contributes to the public expectation that something is being done and contributes to the public expectation perhaps that more is being done than is possible.

Enver Solomon: Overall, would you say it's a good idea, a workable idea?

Andrew Bridges: The general point is that you can think of measures that will help to reduce the risk in a number of individual cases, and naturally I am going to be all for applying those measures to the right offender at the right time, where it seems probable to make them less likely to be at harm to the public. There's a contrary point here, which is it always sounds to the public as if you are doing something more than what it is possible for you to do with that particular intervention. It always sounds as if, "Ah, you're saying if you do that, we will be safe". I think that's the message that people hear. "Oh, you're saying that's another thing that will mean that risk has been taken away from me", and that of course is a hugely higher expectation than it is possible to achieve, so it increases the mismatch between expectation of what people are doing and what is possible to achieve. That gap is getting paradoxically wider, so what people can and are doing is going up like a gentle slope, whereas what people are expecting to be done is going up on this much steeper slope. Both are going up, but the gap's getting wider, because the expectations are rising faster than what's possible.