

# Probation work and NOMS

Mike Hough and Rob Allen assess the impact of the new National Offender Management Service on probation.

With the centenary of the probation service less than a year away, it looks increasingly unlikely that probation work will continue into its second century in a shape that has any significant continuity with the past. Following the Carter Review (2003), probation is in the process of radical 'modernisation'. The intentions are laudable: to reduce re-offending, and thus contain the burgeoning prison population. But the strategy carries big risks. The NOMS reforms have three main elements that relate to probation:

- Integrating the work of prison and probation services, so that offenders are no longer lost in the gap between the two organisations.
- Introducing a mixed economy of providers in order to drive up probation performance through competition.
- Extending centralised control of probation work with the creation of probation trusts, accountability for which pass from Probation Boards to the Home Secretary.

## Practicability: too far, too fast?

There is widespread concern in Parliament, and among academics and practitioners about the practicability of the reforms on the scale and in the timescales envisaged. The probation service is reeling from a process of continuous organisational and cultural change that has been in process since the early 1990s. It is questionable whether it has sufficient resilience left to allow it to respond constructively to yet more radical change.

The last major structural change was in 2001, with the creation of the National Probation Service, and probation areas are only now beginning to recover from the upheaval. At present the service is grappling with the introduction of the sentencing framework set out in the 2003 Criminal Justice Act. The Act drew together the wide range of different orders overseen by probation officers into a single new generic community order. The new sentencing framework does not simply apply new labels to old sentences: it involves significant changes in working practices.

To many, therefore, it seems that the Government is trying to move too far too quickly. Hurried reforms could inflict serious damage on the probation service. Critics question the wisdom of introducing not one but three sets of major reforms *in parallel*, hard on the heels of a major organisational restructuring and a major sentencing shake-up.

But what are the pros and cons of the different elements of the NOMS proposals? It is clear that they do not *necessarily* form an interdependent package. The proposals for a more seamless form of 'correctional supervision' do not require greater involvement of the private sector in probation work and could be achieved within the existing framework of probation boards..

## Seamless offender management

The aim of seamless management of offenders leaving prison is the least controversial element in the NOMS proposals. The

idea that prisoners should serve their sentences close to home and that interventions should be planned and organised "through the gate" seems unarguable. The National Offender Management Model being piloted in the North West of England is testing the viability of the Offender Manager role – the single probation officer who will take responsibility for the supervision of an offender under sentence *throughout* the course of the sentence. Perhaps the key issue here is whether the Offender Manager (OM) role serves to improve the continuity and coherence of offender supervision, or whether it actually fragments it.

It is becoming increasingly clear that as in other forms of 'people-changing' enterprise, the quality of the therapeutic relationship is a key component of effective probation work. A positive and constructive relationship is likely to be a more important determinant of outcomes than the particular programmes on which offenders are enrolled. If the OM evolves simply as a bureaucrat who schedules the various resources required to meet offenders' needs, something of critical importance could be lost from probation work. If on the other hand the OM combines case management with a significant degree of personal involvement with the offender, the gains could be considerable – especially for those offenders serving prison sentences. However the Government's current proposals (Home Office, 2005) involving the separate commissioning of offender management and of 'interventions' reduce the probability of this actually occurring. It remains unclear what if anything will remain of the probation service's historic role in advising, assisting and befriending, and whether a new approach designed to shore up gaps in provision will actually create new fissures.

## Contestability

The Carter vision of correctional services includes a probation system braced by the tensions of market place competition. Precisely how constructive these tensions will actually turn out to be is unknown, and the answer probably turns on the *extent* to which probation work is split up between the three sectors, and on where the *line is drawn* between purchasers and providers.

It is easy to envisage greater private or voluntary sector involvement in *some* aspects of probation work. These include fairly simple functions involving control or surveillance – where private companies have experience – or areas in which the voluntary sector has developed particular expertise – providing housing, employment, training, education, substance abuse services, mentoring and services to families of offenders. Such arrangements would, however, probably stand the best chance of success if the commissioning was done locally, by Probation Boards, and thus integrated fully into local provision, rather than regionally.

Whether non-statutory organisations can or should take on other aspects of probation work is more debatable. Preparing pre-sentence and other court reports, for example, must surely be carried out by organisations with no financial interest in the outcome. Sentencers would rapidly lose confidence in proposals drawn up by organisations that stood to make profits from the

outcome. The difficulty here is that as soon as probation areas have to compete with the private and voluntary sectors for contracts that involve the supervision of community orders, all parties – including probation – have a vested interest in the recommendations put to sentencers in court reports. The solution to this problem – the commissioning of court reports separately from the commissioning of interventions – will result in great organisational fragmentation and less seamlessness.

There is also a large question mark over the capacity of the private sector to carry out the full range of work involved in the supervision of community orders. The key issue here is whether private sector bodies can secure the trust of offenders in relationships that involve the offer of *coerced help* that characterises probation work at the more complex end of the spectrum. There may be some distinctive values to be found in public and voluntary sector organisations that cannot easily survive shareholder interests – and that offenders are sensitive to these values.

It would be doctrinaire to argue that public and voluntary sector bodies will always outperform private sector bodies in such work. However, it is easy to imagine how the ‘bracing tensions’ of the market place might actually crush traditions of public service that are currently much more evident in the public and voluntary sectors than in big businesses. The more that the former have to engage in competition for contracts, the more one would expect them to adopt the perspectives and values of the latter.

Another early casualty of contestability is likely to be the spirit of common purpose and co-operation that currently characterises partnership between public and voluntary sector providers. Successful probation work may require a sense of joint enterprise, trust between different providers and a commitment to shared goals. To what extent can competition remain friendly and constructive when livelihoods are at stake? We do not yet know the answer to this question. However, creating a matrix of providers from the statutory, voluntary and private sectors could result in a fragmentation that far outweighs the unifying effects of combining the prison and probation services.

## The governance of probation work

Proposals to abolish probation boards and to replace them with new probation trusts are an inevitable consequence of contestability. If Regional Offender Managers are to commission services at local level, then statutory responsibility for probation work must migrate from the local to the central level. This may appear an arcane and secondary issue – but only if one ignores the critically important local dimension of probation work, and its links with wider social policy initiatives to tackle exclusion, regenerate communities and renew civil society.

As with much of government policy, the NOMS proposals demonstrate an unresolved tension between a commitment to localism and to civil renewal, on the one hand, and to a ‘command and control’ approach to reform on the other. The dilemma facing a government eager for rapid improvement in public services is that however attractive it might be in principle, the civil renewal agenda will take some years to achieve. Centrally-driven root-and-branch reform – if it can be achieved – fits within electoral time frames even if it is less than fully compatible with the civil renewal agenda.

The reduction of localism and introduction of competition sits uneasily alongside the recognition by the Home Secretary of the need to form strong partnerships with the local services

that are essential to successful rehabilitation. In this year's Prison Reform Trust Annual Lecture (Clarke, 2005) he noted that the least educated and least healthy people in the country remain those within the criminal justice system. “Their poor education and health does not only damage them. It makes them more likely to reoffend and so a greater danger to society than they need to be.” He also recognised the fundamental importance of a decent place to live. “The goal we must move towards is that every individual who leaves the prison gates should have planned and guaranteed accommodation, which in the vast majority of places is proper housing rather than a hostel or temporary bed.”

What this suggests is rather than creating a new and free floating market in offender-based services organised regionally, the government should seek to embed probation work in the existing network of local public services. Locating such work in local authorities would both provide appropriate governance and accountability and link statutory responsibilities for supervising offenders on community sentences with the provision of housing, social care and education which lies at the heart of effective resettlement.

It would also place rehabilitation of offenders within the wider Local Area Agreement (LAA) framework as part of local efforts to create safe and secure communities. In practice, it would streamline decisions about where best to accommodate people leaving prison, what forms of assistance ex-offenders need to find work and how and where to treat drug and alcohol problems. Crucially it could allow the development of new area-based initiatives such as neighbourhood mediation.

Paradoxically, in relation to prisons the Home Secretary has seen the need for strong community involvement, “very much believing that the way forward in tackling re-offending is to draw in resources from the wider community in order to reduce re-offending... I see these prisons becoming far more engaged with their local communities, and better at building relationships with a wide variety of other organisations” (Clarke, 2005).

While population pressures leave little headroom for such a reform in the prisons in the short term, such an approach is eminently achievable with probation. The reform of the service and the development of LAA's represent an opportunity for a radical reorganisation at a local level. This could build on successful reforms in youth justice where 155 multi agency youth offending teams are operating well in local areas. They would follow a lead from Scotland where community supervision of offenders is undertaken within the criminal justice social work departments of local authorities.

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## References

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