

# Doing with or doing to – what now for the probation service?

**Lol Burke and Steve Collett consider the key policy drivers which have shaped probation and what the future holds following the restructuring of the Ministry of Justice.**

*In January 2008, the latest organisational restructuring involving the Ministry of Justice saw NOMS split between 'delivery' and 'strategy', with responsibility for the former being assumed by the Director General of HMPS. The full implications of the latest restructuring are not yet clear, but there are concerns that the probation service as a distinctive 'voice' within the criminal justice system will be lost in the name of greater harmonisation with a much bigger and politically more powerful prison service. We have arrived at a critical moment in the history of the Probation Service but one that has been foreshadowed for some time by a range of politically driven imperatives. Among these, we consider that three have had and will continue to have a particular impact on probation. These are: moving centre stage, correctional drift, and modernisation.*

## **Moving centre stage**

Until the early 1970s, there had been what was commonly referred to as the *Butskellite* consensus around penal policy and the treatment of offenders. In essence, there was a loose agreement across the mainstream political parties that a relatively liberal approach to offenders should not be undermined by naked party politics. During this period, the Probation Service was often lauded for its work, but it remained a *Cinderella* service in

terms of resources and influence. It was important in the development of victim support schemes and a whole myriad of local voluntary organisations and groups that provided services to offenders and their families. These groups often looked to the Probation Service for expertise and managerial support. It is also fair to say that during a period where State provision was viewed positively, the Probation Service was also taking on new responsibilities such as parole as well as taking over tasks previously carried out by voluntary organisations—for example the Discharged Prisoners Aid Society from which its role in statutory aftercare grew. In other words, the relationship between the Service and the voluntary sector was close and mutually supportive, sometimes with the voluntary sector acknowledging the need for the State to take over responsibility.

However, as the consensus across the political parties began to break down, it was inevitable that Probation would not be left to operate on the basis of benign tolerance or 'penal welfarism' (Garland, 1985). At the end of the 1980s, significant debates took place, which not only led to the shaping of a surprisingly liberal 1991 Criminal Justice Act but also signposted a very different future for Probation. John Patten (1988) captured the dilemma facing the Probation Service during this period in his challenge that the Probation

Service could move *centre stage* in the criminal justice system. This involved a move to a more instrumentally important role within the overall criminal justice system and in the immediate aftermath of the 1991 Criminal Justice Act increased resources.

## **Correctional drift**

Moving centre stage—albeit short-lived—came with a price, particularly when the breakdown in political consensus presaged a much more rampant politicisation of crime, disorder, and anti-social behaviour. This newly found instrumental importance, within a highly politicised environment, took probation down a correctional path. In essence, the Probation Service became a law enforcement agency to which the offender came in order for their court imposed punishment to be administered upon them. It could be argued that this led to a clearer focus on reducing re-offending. The care/control debates of the 1970s can in retrospect be viewed as somewhat self indulgent—with endless talk about values as if they were ends in themselves rather than as the means of supporting effective practice that would reduce re-offending and protect the public—and which often forgot the needs of victims and the wider community. The Probation Service currently is a much more effective and focused organisation than it has ever been, but a correctional focus has come with a cost in terms of the service's withdrawal from the offender's family, their communities, and its traditional partners in responding to crime and re-offending.

## **Modernisation**

Third, there have been the imperatives of public sector modernisation under Blair and now under Brown—particularly the emphasis on contestability and the encouragement of a mixed economy of delivery within the correctional services. However, it would seem that the promotion of a mixed economy has been more about the ideological imperatives of the government than a clear vision about

wider community engagement. From 2001, the National Probation Service became a command and control organisation driven by targets, cash linked incentives, and control from the centre. There have been some major gains with the formation of a national service, but it could be argued that it has made the organisation more insular in relation to some of its traditional partners in the voluntary and wider community sector. No sooner had the National Service been set up with strong central leadership and greater influence at the Centre of Government than plans were being drawn up to deconstruct these arrangements despite clear successes in delivering against government targets.

### So where does this leave the Probation Service?

Although the National Probation Service will continue to exist in the sense that there will initially be 42 Probation Areas/Trusts covering England and Wales, we are at the beginning of a process of moving from a truly national service with a strong centre and influence to a model of preferred providers delivering services through service level agreements and in the case of Trusts, legally binding contracts. That, in fairness, is a pretty rough representation of how the *new world* will operate, and the most recent announcement to re-create NOMS as an agency that integrates prison and probation will undoubtedly change the landscape again. It is all the more impressive then that against the turmoil of the past 4 years and uncertainty about its future, the probation service can point to a number of significant achievements. A quick stock-take reveals the following:

- An impressive range of interventions and multi agency initiatives that generally have public, sentencer, and, most importantly, offender support. This is coupled with emerging evidence of very significant impact on re-offending rates against predicted reconviction rates.

- A system of offender assessment that has become the backbone of offender management and public protection.
- An offender management model post-Carter that has the full support of Prison, Probation, sentencers and (when asked) offenders.
- Governance arrangements at a local level that are a significant improvement on the old Probation Committees.
- A clearer focus on what constitutes the organisation's core responsibilities and a shift in responsibility for social provision to the appropriate providers. In this context, the report of the Social Exclusion Unit (2002) and the subsequent Reducing Re-offending Action Plans have been important. Reducing re-offending as distinct from crime prevention has now become the business of the probation services key partners outside the criminal justice system, and the Local Government Association in two recent reports has given clear leadership to local authorities to embrace reducing re-offending and not just crime prevention.
- The services' partners within the local criminal justice system, particularly though the advent of local criminal justice boards, depend on its key contributions in a way that has not always been acknowledged or understood. In this respect, the organisation is strategically important in its own right as well as often being the vital oil in the machinery of the local criminal justice system.

However, amidst these clear and significant improvements, in terms of both delivery capacity and the wider environment within which it operates, there are major concerns that reflect the other two remaining themes of correctional drift and modernisation:

- Modernisation has led to a prolonged period of uncertainty and according to Raynor (2007) 'hyperactive over-legislation' which has undoubtedly affected

staff morale and has led to what Robinson and Burnett (2007:333) term 'initiative confusion' and 'change fatigue' among the workforce. In their study of staff experiences of modernisation, the authors found that 'whilst practitioners are utilising a range of coping strategies, and many clearly remain motivated in the context of their work with offenders, some staff (most notably longer serving staff) are experiencing a degree of alienation within their role, in the sense that NOMS—not least with its terminology of "offender management"—is distancing them from some of the values which underpin their continuing commitment to the work'.

- Correctional drift has reinforced an increasing distance and separation between the day-to-day work and operation of Probation within its local communities and our understanding of crime, offenders, and the concerns of communities.
- A correctional framework driven by the unerring requirements of public service modernisation encourages technicist and rigid responses to situations rather than real engagement with individual offenders, their families, and their community networks. Whether its command and control or the mechanism of commissioning and contestability, a magic bullet for solving crime does not exist.

However, all the evidence is that real commitment to offenders as individuals, imaginative offender management integrated with properly focused interventions, and supportive wider social provision offers the best hope of rehabilitating offenders. The attention of practitioners, managers and board members should be focused on these challenges and not on the bureaucracy of ever more detailed and complex service level agreements. There have been some significant improvements in performance, but this has been at a considerable cost to the organisation. Ultimately, the way forward for

probation lies in being able to deliver those aspects of criminal justice policy that quite rightly should remain centrally shaped and determined—broad sentencing policy, offender management, and enforcement, for example—with local responses to local crime that are increasingly sensitive to local needs and public engagement. At the local level, guilt or innocence sometimes seems irrelevant in the context of enduring problems of relationship breakdown, the impact of drugs, alcohol, education, and skills deficits combined with limited employment and housing opportunities. Probation must become part of a wider multi-agency local response that contributes both to identification and resolution of

local problems and engagement with the full range of diverse communities to develop confidence and deliver reassurance. Ultimately, systems (as important as they are) tend to process individuals; Services can aspire to engage the relevant participants whether they are victims, offenders, or the wider community. If there is one agency whose history and experience demonstrates that it can bring commitment and expertise to that enterprise, it is the Probation Service. ■

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