

cjm

update

Una Padel outlines the main provisions of the new Criminal Justice and Court Services Bill

The Criminal Justice and Court Services Bill, published in March 2000 contains a number of major changes to the way Probation Services are managed and the work they will undertake.

A National Probation Service

The most fundamental proposal is for a structural change which will create a unified National Probation Service for England and Wales comprising 42 operational areas matching police force area boundaries. The proposed new service will be led by a National Director with a full range of operational responsibilities and a headquarters staff based in the Home Office. Chief Probation Officers will be responsible for the day to day running and management of the Service in each area and will be directly accountable to the Secretary of State. Local boards will be appointed by the Home Secretary and will supervise the work of the Service in each area within the national framework and according to required outcomes and standards determined by the

Home Secretary. The local boards will employ the staff of the new Service. They will replace local probation committees which currently employ probation staff including Chief Probation Officers. At present local authorities contribute 20 per cent of the funding of Probation Services but under the new plans the unified Service would be entirely funded by central Government.

Another aspect of the restructuring is the proposed creation of a non-departmental body to be known as the Children and Family Court Advisory and Support Service (CAFCASS). It will take over the responsibilities of the Family Court Welfare Service, the Guardian ad Litem Service and part of the Official Solicitor's Office.

Community Sentences

An extension in the use of electronic monitoring is proposed to create a new, electronically monitored exclusion order. This would operate as a 'reverse tag' where an alarm would be triggered if a specific tagged offender entered a prohibited area. The

case for this is that known potential victims of domestic violence, stalking or racial hatred could be alerted in advance allowing time to escape and summon help.

A further proposed extension is the electronic monitoring of prisoners released on parole licence. Although it has been used for prisoners who agree to be released up to two months early on a Home Detention Curfew since January 1999, this proposal would result in far longer periods of electronic monitoring and this may affect success rates.

The use of electronic monitoring to monitor compliance with conditions of community sentences is also proposed in the Bill.

New names for community sentences are also proposed: the Probation Order would become the Community Rehabilitation Order, the Community Service Order would be renamed the Community Punishment Order. The Combination Order would become the Community Punishment and Rehabilitation Order.

Enforcement

The toughening of enforcement procedures for community sentences is described in detail in Carol Hedderman and Mike Hough's article elsewhere in this *CJM*. In summary, under the new system, offenders would receive one warning after the first unacceptable failure to comply with an order and be returned to court on the second unacceptable failure. Unless there were exceptional circumstances the court would then impose a maximum three month sentence for the breach or re-sentence with a longer period of custody for the original offence.

Drug Testing

New provisions outlined in the Bill provide for courts to order

drug tests on defendants charged with property crime, robbery and Class A drug offences (the trigger offences) or any offence suspected to link to the misuse of heroin or cocaine/crack. The results of these tests will be used to inform subsequent bail decisions.

Drug Abstinence Orders are proposed requiring offenders to abstain from the use of Class A drugs. The Bill does not make it clear who would be responsible for supervising these orders, but the supervising officer would have the power to request samples for drug tests throughout the order which could be made for periods of six months to three years. There is no treatment aspect to the Drug Abstinence Order, unlike the Drug Treatment and Testing Order which is about to be introduced across the country following successful pilots. It will be interesting to assess the level of support among sentencers for this additional proposed measure.

Drug abstinence requirements may also be introduced as a condition of Community Service, or on release from prison on licence or supervision after serving a sentence for a 'trigger' offence.

Breaches of Drug Abstinence Orders, or of the drug abstinence requirements of other community sentences will be dealt with in the same way as any other breach of a community sentence. If the enforcement clause of this Bill survives as it is, that is likely to mean imprisonment for the second failure to comply.