

Una Padel outlines the Halliday report, drug testing and Child Curfew Orders.

In July the Halliday report was finally published after a two month delay caused by the election. The report 'Making Punishments Work' provides a thorough review of the purpose and principles of sentencing and relates it to issues of public and practitioner attitude and impact on crime reduction.

The 'just deserts' principle was at the heart of the 1991 *Criminal Justice Act* and meant that offenders were to be sentenced on the basis of the seriousness of their current offence rather than their criminal history. Although the Act was amended soon afterwards to allow sentencers to take account of offenders' criminal histories and response to previous sentences, making the punishment fit the crime remained central to the statutory framework. The report suggests that the 'just deserts' approach is inadequate to cope with persistent offenders, and that more should be done to target this group if sentencing is to be more effective in reducing crime. Halliday recommends that:

The principles governing severity of sentence should be as follows: "severity of punishment should reflect the seriousness of the offence (or offences as a whole) and the offender's relevant criminal history; the seriousness of the offence should reflect its degree of harmfulness, or risked harmfulness, and the offender's culpability in committing the offence; in considering criminal history, the severity of sentence should increase to reflect a persistent course of criminal conduct, as shown by previous convictions and sentences."

New guidelines are recommended to help sentencers match sentence severity with the seriousness of offences, setting out 'entry points' and indicating the range of effects that previous convictions should have on sentence severity.

The report is unequivocal in its description of the futility of most prison sentences of less than 12 months, when offenders spend too short a period in custody to participate in any work designed to reduce their likelihood of reoffending, and are not supervised after release. It recommends that instead short sentences should normally consist of a period in prison lasting no more than 3 months and a period of compulsory supervision in the community. Breach of the conditions and requirements which would be part of this could lead to a return to prison. The supervision element would last a minimum of 6 months and a maximum of whatever would take the sentence as a whole to less than 12 months.

Halliday recommends that longer prison sentences should continue to be served partly in prison and partly in the community. Release for most would be at the half-way point and the content of the second half of the sentence would be subject to court review on the basis of proposals prepared jointly by the prison and probation service in consultation with other contributors in the statutory, independent and voluntary sector. Violent and sexual offenders who may present the risk of serious harm to the public would be subject to discretionary release.

Controversially the report suggests that the idea of intermittent custody be re-examined as a way of providing some of the features of

a custodial sentence without the loss of employment, housing etc. The current prison estate does not lend itself easily to this use, but the report suggests that 'community prisons' may be built in the future, and that a review of the 'intermediate estate' - hostel accommodation for offenders owned and managed by the prison or probation services, independent or voluntary sectors - be undertaken to assess how they could best be used to provide 'containment in the community'.

Turning to community sentences the report recommends that a new generic community punishment order should replace existing sentences, with the punitive weight being proportionate to the offence and any previous convictions. It adds that the sentence would 'consist of ingredients best suited to meeting the needs of crime reduction, and exploiting the opportunities for reparation, within the appropriately punitive "envelope".' Sentencers would be able to determine what type of compulsory work an offender would be required to do in the community. Breaches of the requirements of a community sentence would be dealt with quickly and rigorously.

In the course of preparing the report extensive research on public knowledge of and attitudes to sentencing was undertaken as well as research into the attitudes of criminal justice practitioners. A summary of the findings forms an appendix to the report and makes fascinating reading.

The full report is available at www.homeoffice.gov.uk/cpg/halliday.htm. The consultation process is now underway and the consultation letter is also available at that address. Responses have to be in by 31st October 2001.

- In late July a two year pilot scheme was launched in Staffordshire which will involve all suspects arrested for offences under the Theft Act, possession of a class A drug or robbery being compulsorily drug tested to see if they have been using heroin or crack/cocaine. The tests will be taken by swabbing the inside of the mouth and collecting a sample of oral fluid. The fluid will be tested either in a laboratory or on site, and the results used to inform bail and sentencing decisions and to refer for advice and treatment. Staffordshire is the first of three pilot areas to launch the scheme, Hackney in London and Nottingham are to follow very soon. It has been shown that there is a strong link between heroin or crack/cocaine use and property crime. The New English and Welsh Arrestee Drug Abuse Monitoring Programme (NEW-ADAM) found that 69% of arrestees in their sample tested positive for illegal drugs, a third of which were for heroin, and 20% for cocaine. 42% of those reporting illegal drug use and acquisitive crime in the last year said their drug taking was linked to their offending. Arrestees using both heroin and cocaine or crack represented one quarter of the sample in that study but were responsible for more than half of all illegal income reported. They averaged an illegal income of nearly £13,000 per year. An evaluation of the pilot projects will be completed early in 2004 and if successful such testing will be taken up in other areas.

- New legislation came into force on 1st August enabling children up to the age of 15 to be placed on Child Curfew Orders. These orders are designed to protect communities from anti-social behaviour and to protect children from risk. They carry no criminal penalty and are not made on individuals, but in relation to known trouble spots. Until 1st August the maximum age of children covered was 10, and applications for orders had to be made by local authorities. Very few orders were made and consultations took place with the police, local authorities and others before these changes were recommended. On 1st August the maximum age was raised, and police as well as local authorities are now able to apply for Child Curfew Orders. Orders can ban children from trouble spots from 9pm to 6am at the latest. The maximum length of an order is 90 days, but they can be renewed. Announcing this change the Home Office was at pains to point out that these measures should only be used as part of an integrated response to crime prevention.