

# Restructuring NOMS and reducing cultural divides between prisons and probation: a cautionary note

Philip Whitehead warns that recent reforms have had a negative impact on the work of probation.

*When probation emerged a century ago it was grafted onto a criminal justice system with well-established prisons. Nevertheless for the first time in British penal history it was possible to impose a Probation Order as an alternative to Victorian punishments. By the 1960s, a time of change for probation (Whitehead and Statham, 2006), the Advisory Council on the Treatment of Offenders published its report on after-care that had a significant impact on the relationship between probation and prisons (Home Office, 1963). By 1967 an expanding probation organisation became the Probation and After-Care Service which began to fill social work posts in remand, detention, and borstal allocation centres, thus drawing probation closer into the custodial orbit.*

Then, during October 1993, the Home Secretary's speech at the conservative party conference announced a 27 point plan on law and order which included building six new prisons, secure training orders for 12-14 year olds, and a review of community sentences to make them more punitive. This was a difficult time for probation and it was possible it would not survive in what had become an unsympathetic climate for social work. Even though probation has survived, primarily because of its willingness to assimilate the 'What Works' agenda since 1997, prisons gained the

upper hand during a period when the Conservative and Labour parties were doing battle to become the natural party of law and order.

## Reducing the cultural divide

After decades of ideological and organisational distinctions between prisons and probation, notwithstanding closer co-operation since the 1960s, a period of consultation was established in 1997 to explore how these two organisations could be better integrated. Accordingly the *Prisons-Probation* review (Home Office, 1998) considered modernising the organisational framework of probation to reduce the *cultural divide* between the two institutions. Even though the review considered merging the two organisations into a single entity, at this stage it was not pursued. Later, in 2002, Patrick Carter was asked to review correctional services which addressed prison overcrowding, lack of help for short-term prisoners, lamenting how no one agency had responsibility for offender services. Consequently the concept of end-to-end management emerged and a single agency to deliver it – the National Offender Management Service (NOMS). What was suggested during 1997/98, that is reducing the cultural divide, was now put into effect as prisons and probation were brought closer together. There would be a Chief Executive and National

Offender Manager; ten Regional Offender Managers responsible for commissioning services – both custodial and community provision – for the effective management of offenders. Importantly the goals of effectiveness, better performance, and target achievement, would be sharpened up through a mechanism of contestability in a market economy. Therefore the work currently being undertaken by probation could be awarded to other organisations within the public, private, and voluntary sectors. Notwithstanding this further rapprochement between the two organisations it can be argued that probation maintained some independent representation within the Home Office. But this was about to change.

## Restructure the restructuring

The Ministry of Justice was created in May 2007, which assumed responsibility for probation and prisons following changes at the Home Office. Subsequently, in 2007, Lord Carter published another report, this time on prisons. One proposal was to reappraise the NOMS Headquarters function, so that the initial restructuring of offender services associated with the creation of NOMS during 2002/03 would itself be restructured. This was initiated during January 2008 to improve the efficiency and effectiveness of managing offenders. By March 2008 it amounted to bringing probation and prisons even closer together within a streamlined Headquarters, and the rationalisation of regional structures. With this latest bout of restructuring Phil Wheatley, Director General of the Prison Service, became Director General of NOMS. Intriguingly probation, in the form of the Director of Probation (formerly Roger Hill), no longer exists separately from, nor has parity with, the Director General. In other words, within a restructured NOMS probation no longer occupies an equal position alongside Wheatley. Rather the post was downgraded and currently sits alongside seven Directors who are responsible for a range of managerial functions. By the autumn of 2008 it became clear

the Director of Probation would not be replaced when Hill became the Director of Offender Management in the southeast region. Therefore streamlining has greater implications for probation than prison, even though the Minister of State, David Hanson, denied this was a merger or even the prison take-over of probation at the NAPO Conference during October 2008.

Changes at the national level were established on 1 April 2008; further regional changes should occur by April 2009. This means that each of the ten regions will appoint a Director of Offender Management (from ROM to DOM) to co-ordinate and commission all probation and prison services from the public, private, and third sectors consistent with the Management of Offenders Act 2007. In fact such arrangements were put in place in London and Wales during 2008, which means, for example, that the Prison Service London Area Office and the Regional Offender Manager were formally merged into the Director of Offender Management. It may be suggested that these latest changes are largely cosmetic; primarily concerned to reduce costs; and will hardly be noticed lower down the organisational structure by prison officers and offender managers (formerly probation officers). On the other hand senior managerial and organisational reconfigurations could culminate in the declining influence of probation throughout the entire criminal justice system. If this materialises two substantive points are offered for reflection.

Firstly it may be suggested that initiatives designed to encourage organisations to form multi-agency partnerships and therefore reduce cultural divides, is a laudable objective with more positive than negative implications. By contrast when organisations are coerced into moving closer together by political dictat, the end result could be that the distinctive contributions of each institution are considerably weakened. Accordingly such developments can harm those necessary checks and balances within the criminal justice system, which rely on the disparate

influences and unique contributions of its component parts. In other words competing and sometimes discordant voices heard from within different organisations can be a sign of health rather than malaise, particularly when producing policies that respond effectively to offending episodes. Moreover testing-out the logic of arguments; the challenge of alternative perspectives; listening to and learning from each other's core organisational values and responsibilities; plotting a way through contrasting positions which includes critiques of government initiatives; are all necessary mechanisms to maintaining the strength of different organisations as democratic institutions. Intriguingly this perspective finds some support from a barrister from the northeast of England who contributed to research by the author (Whitehead 2010, forthcoming). He stated that

*The probation service has changed beyond recognition over the course of the last ten years. The shift of the probation service has left the criminal justice system unbalanced. There is too much emphasis on punishment and a void where there should be an agency dedicated to values of befriending and assisting.*

In other words probation should have a clearly articulated rationale, which is different to other criminal justice organisations, and arguably this difference should be strengthened rather than diluted through narrowing cultural divides.

Secondly, the view can be advanced that rationalisation and streamlining organisational functions to conserve limited financial resources is another understandable objective. Organisations should resist becoming bloated on the back of taxpayers' money and the principles of economy and efficiency can be compelling. However criminal justice should not solely be guided by economic principles and business mentalities, encapsulated by New Public Management. This is because dealing with people who offend, inflicting punishment, and recourse to community or custodial disposals,

provoke complex moral issues which takes the debate beyond financial, bureaucratic and managerial priorities. Probation, until recently, constituted a challenge to punishment and imprisonment and by doing so made a distinctive contribution throughout the twentieth century to criminal and social justice. But this distinctive sphere of influence will be eroded, if not destroyed, by further restructuring if the prison agenda dominates the probation ideal.

What is currently happening, and being allowed to happen from within the probation domain itself, is not in the interests of either organisation. This is because a strong probation service which has a distinctive and separate voice within NOMS, and which is allowed to promote its ideals, can help to ensure prisons are used as a last resort for more serious offenders, reduce costs and limit pressure on hard-pressed staff within overcrowded prisons without compromising the goals of efficiency and effectiveness. The language of multi-agency partnerships can be positive, but reducing 'cultural divides' between organisations can produce negative outcomes which are in no one's best interests except, it seems, political decision-makers. ■

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**Dr Philip Whitehead** is a Senior Lecturer in Criminology at Teeside University.

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